

UN Special Rapporteur Attempts to Classify Abortion, “Sexual Rights,” and “Sexual Orientation” as Human Rights

Analysis of Hunt Report, prepared by Thomas W. Jacobson (2004)

Paul Hunt, Special Rapporteur on “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” for the United Nations Commission on Human Rights, abused his authority and egregiously exceeded his mandate in his 2004 Report, which he filed for the Commission on 16 February 2004 (E/CN.4/2004/49). As a U.N. global monitor on health, his primary focus should have been on critical, essential and general health needs, such as clean water, sanitation, adequate food, or basic health care. Instead, Mr. Hunt’s primary focus was on reproductive and sexual “rights,” for which he:

- Arbitrarily declared abortion, “sexual rights,” and “sexual orientation” as international human rights;
- Unwisely sought to disconnect sexual “expressions” and “rights” from reproductive health, which would in effect be disconnecting sexual behavior from marriage or bearing children, or even from age or gender;
- Sought to create and protect a new class of people, “sexual minorities,” identified by their particular sexual deviations;
- Falsely labeled as “discrimination” any legal prohibitions against “same-sex relations” or impediments to homosexual, lesbian, bisexual, transgender or transsexual conduct;
- Arbitrarily declared that everyone has a “right to health,” which “includes entitlement to a system of health,” ensured or provided by governments.

U.S. and Other Nations Oppose Hunt Report

On 30 March 2004, during the 60th session of the Commission on Human Rights (CHR)—March 15 – April 23, 2004—the *United States* reprimanded the Special Rapporteur and objected to the Report by saying publicly that Mr. Hunt exceeded the authority of his mandate, and by issuing an open letter to the CHR Chairman, Ambassador Mike Smith (*Australia*). In that letter, head of *U.S.* delegation Ambassador Richard Williamson wrote the following:

(W)e would like to know the Special Rapporteur’s rationale for his assertion that the right to health encompasses “vested” entitlements—as

opposed to aspirational goals. Such goals cannot properly be interpreted as legally enforceable entitlements that require the establishment of judicial or administrative enforcement remedies at the national or international levels.

The ... report appears to be endorsing, supporting, or promoting abortion. The U.S. Government does not support, promote, or endorse abortion or abortion-related services.

Mr. Jacobson originally wrote this paper in 2004 when he was serving as Representative to the United Nations for Focus on the Family (U.S.A.), from 2001 to 2010.

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In discussing adolescent health, the Special Rapporteur recalls a litany of children's rights. We wonder why ... he ignores the family rights and responsibilities of parents, legal guardians, or other caregivers.

Most troubling, however, is the Special Rapporteur's apparent confusion about what constitutes international human rights law. We would like to know why he appears to believe "General Comments" produced by [U.N.] treaty bodies ... constitute international human rights law, as he has erroneously suggested in his discussion on discrimination on the ground of sexual orientation. In fact, it is not international human rights law.

Finally ... the shorthand phrase "right to health" has become quite common and convenient. However, Mr. Hunt's correct title, which was carefully negotiated, is "Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." We would like to know why he has chosen to use the title "Special Rapporteur on the Right to Health" in official communications to governments, including our own. A title that is inaccurate and misleading. (see www.humanrights-usa.net/statements/0330WilliamsonHealth.htm).

When *Brazil* introduced a resolution on health (L.41) at the CHR, which included the phrase, "Welcomes the report of the Special Rapporteur on ... health," many nations opposed "Welcomes," but finally agreed to the lowest level of recognition: "Takes note of the report."

Subsequently, the *U.S.* prepared these "Talking Points" on the Hunt Report:

- 1) The Report far exceeds the mandate of the Special Rapporteur.
- 2) In the Report, the Special Rapporteur relies heavily on and promotes his personal interpretation ("proper understanding") of international instruments in relation to sexual and reproductive health issues rather than respecting the language of carefully negotiated international agreements.
- 3) Some of the rights referred to in the Report ... are pseudo "rights," which he seeks to impose on member states, "created" by personal whim ... not by consensus in an international forum. For example ... (i) The Report unprofessionally attempts to create *by fiat* a "right to health" ... [and] (ii) ... repeatedly uses the term "sexual rights" despite the well-known fact that the term "sexual rights" has never been recognized nor defined by the international community.
- 4) The Report purposefully delineates and emphasizes sexual health/rights (non-reproductive) from reproductive health/rights (reproductive or abortive) so as to accommodate a very wide variety of non-reproductive sexually active individuals that the Report indicates must have their rights met by the State. Using the logic of the Report it would not be inconceivable for it to be advocated that it is the duty of the state to pay for sex-change operations for transgender individuals as well as fertility treatments for homosexual couples seeking to have children.
- 5) The Report appears to be endorsing, supporting, or promoting an international right to abortion and the use of abortifacients.
- 6) The Special Rapporteur should be officially reminded of his duty to act in a professional manner within his mandate and within the dictates of his title.

When L.41 came up for final consideration on 16 April 2004, the *U.S.* made another statement objecting to the Hunt Report, saying, "We do not believe this report merits noting by

the Commission.” Then the *U.S.* called for deletion of the paragraph (OP-14) noting the Report. Twelve nations stood with the *U.S.*, but 36 voted against deletion, so the reference was retained. The 12, mostly Arab or African, were *Bahrain, Egypt, Eritrea, Indonesia, Mauritania, Nepal, Qatar, Saudi Arabia, Sudan, Swaziland, Togo and Uganda.*

After passage of L.41, the *U.S.* Delegation issued a letter to Chairman Mike Smith, which they asked him to circulate “to the members of the Commission as an official document,” and in which the U.S. reiterated its “concern about the Report,” saying in part:

(T)he United States cannot accept the Special Rapporteur’s assertion in the Report that “the correct understanding of fundamental human rights principles, as well as existing human rights norms leads ineluctably to the recognition of sexual rights as human rights.”

Abortion

Special Rapporteur Hunt’s report posits abortion as a reproductive human right, and claims that governments are obligated to provide or ensure the provision of abortion as one of many “appropriate ... sexual and reproductive health services” (par. 29-30; see also pars. 11, 46). Hunt also uses covert phrases like “forced pregnancy” (par. 25), “unsafe abortions” (pars. 11, 30, 46), “unintended pregnancies” (par. 11), “unwanted pregnancies” (par. 30), and “services” in connection with “reproductive health” (pars. 17-18, 29, 36, 39, 41-42, 44, 46) to promote, claim a need for, or say that governments are obligated to provide abortion services. According to the twisted thinking of some U.N. representatives, exemplified by Hunt, preventing a woman from getting an abortion is tantamount to a “forced pregnancy”; failing to legalize and promote access to “safe” abortions is tantamount to *forcing* women to seek “unsafe abortions”; and unintended or unwanted pregnancies should be “terminated legally.” Hunt also believes that “services”—contraceptives, abortifacients and abortions—should be provided to adolescents without parental knowledge or consent (par. 14, 36-37, 39, 42). Here are a few of his quotes:

Some **traditional views about sexuality are obstacles** to the provision of **sexual and reproductive health services** ... and these views have an especially **damaging impact upon adolescents** (par. 14).

States have an obligation to ensure reproductive health ... including appropriate **services** for women in connection with pregnancy, granting **free services** where necessary (par. 29).

Women with **unwanted pregnancies** should be offered reliable information ... on where and when a **pregnancy may be terminated legally**. Where **abortions** are legal ... public health systems should **train and equip health service providers** ... to ensure that such **abortions** are not only **safe** but **accessible** (par. 30).

States should ensure that **adolescents** are able to receive ... appropriate **services** for sexual and reproductive health (par. 39).

[Government] funding should promote access to a wide range of **services** needed for the enjoyment of the right to sexual and reproductive health, including **services** and information that reduce the incidence of **unsafe abortions** (par. 46).

“Sexual Rights”

Mr. Hunt, acting like an immoral despot and confusing human desires with human rights, sought *by fiat* to create a new category of international human rights: “sexual rights” (p. 2, pars. 52, 54-55)—an undefined term that repeatedly has been rejected in international policy negotiations. He also speaks of “reproductive rights” (p. 2, pars. 18, 51-52, 55), and numerous times seeks to connect sexual or reproductive “rights” with international human rights (p. 2, pars. 8-10, 13, 15, 17-20, 22, 24-25, 27-28, 41, 43-44, 46, 48-52, 54-55). In addition, he appears to imply that if “ill health” can be connected to a government failure to protect or provide for a sexual or reproductive right or service (*e.g.*, an abortion), then this “constitutes a human rights violation” (par. 13). Here are some of Mr. Hunt’s statements:

The Special Rapporteur takes the view that the **rights to sexual and reproductive health** have an indispensable role to play in the struggle against **intolerance** ... and he recommends that increased attention be devoted to a proper understanding of **reproductive health, reproductive rights, sexual health and sexual rights** (p. 2).

[The 1994 Cairo conference, the International Conference on Population and Development] did not explicitly and unequivocally recognize **sexual rights** as distinct from **reproductive rights** (par. 52). [Note: Neither the Cairo/ICPD document nor any other U.N. internationally negotiated conference document contain the term “sexual rights.”]

(S)exual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of **having pleasurable and safe sexual experiences, free of coercion, discrimination** and violence (par. 53).

These rights ... have to be understood in a broader human rights context that includes **sexual rights** (par. 55).

Amazingly, Mr. Hunt also sought to separate sexual activities and rights from reproductive health; that is, disconnecting sex from marriage or childbearing (or gender or age).

Since **many expressions of sexuality are non-reproductive**, it is misguided to subsume **sexual rights** ... under **reproductive rights** and **reproductive health** (par. 55).

“Sexual Orientation”

Mr. Hunt arbitrarily used his report to attempt to create new international human “rights” based on a person’s so-called “sexual orientation”—so that homosexuals, lesbians, bisexuals, and those who practice other types of sexually deviant behaviors could do so without restraint or punishment. He made false assertions about international human rights law when he said,

International human rights law proscribes **discrimination** in access to health care ... on the grounds of ... **sexual orientation** (par. 32).

(D)iscrimination on the grounds of **sexual orientation** is impermissible under international human rights law. The legal prohibition of **same-sex relations** in many countries, in conjunction with a widespread lack of support or protection for **sexual minorities** against violence and discrimination, impedes the enjoyment of sexual and reproductive health by many people with **lesbian, gay, bisexual and transgender** identities or conduct (par. 38).

Arising from their obligations to combat **discrimination**, States have a duty to ... ensure that sexual and other health **services** are available for **men who have sex with men, lesbians, and transsexual and bisexual** people (par. 39).

Sexual rights include the right of all persons to express their **sexual orientation** ... without fear of persecution, denial of liberty or social interference (par. 54).

“Sexual Minorities”

Another tactic Mr. Hunt took to protect sexually deviant behaviors and remove the “stigma” attached to those behaviors, was to attempt, *by fiat*, to create a new class of people, which he called “sexual minorities,” based on their “sexual orientation.” According to Hunt, this protected class would include homosexuals, lesbians, bisexuals, transgenders, and transsexuals—and “sex workers” (prostitutes) too. Hunt apparently does not realize that there are not just five, but at least 22 so-called “sexual orientations” (see *22 Possible So-Called “Sexual Orientations,”* Focus U.N. brief 2004-05). If his views became national or international law, then pedophiles and those who practice exhibitionism, voyeurism, bestiality, frotteurism, fetishism, and other sexual deviations could claim a “right” and class protection to do so. Laws against sexually deviant behaviors would be difficult to maintain or enforce.

(D)iscrimination and stigma continue to pose a serious threat to sexual and reproductive health for many groups, including ... **sexual minorities** ... sex workers (par. 33; see also par. 38 above).

Discrimination and Condemnation of Religious/Traditional Views

Before returning to the Hunt Report, let me share a few thoughts.

For what reason would anyone want to add “sexual orientation” (or “sexual rights” or “reproductive rights”) to non-discrimination laws and policies? Or, why create a new protected class of “sexual minorities”? It is because proponents and supporters of such measures want to fulfill their sexual desires without any societal or legal limitations, without anyone being able to tell them that what they are doing is wrong, without any fear of punishment, and without having to face the consequences of their own behavior. In addition, if they frame the issue as a “non-discrimination” issue—which they have successfully done in the United States, Europe, Canada and the United Nations—then the focus is not on their behavior but on “discrimination.”

Additionally, it is worth asking why homosexuals do not want the term “sexual orientation” defined. The answer, likely, is because they do not want specific behaviors mentioned or defined, which would put the focus unfavorably on their behavior (*e.g.*, anal sex, numerous partners) rather than on whether they are being “discriminated” against.

Ironically, *every law is discriminatory*. When legislators, parliamentarians and councils make laws, they choose to approve and encourage certain behaviors and to disapprove and punish other behaviors. A law against stealing encourages people not to steal by specifying punishments for stealing, thus discriminating against thieves. A law that states one man and one woman may marry and form a state-sanctioned marriage covenant encourages and protects the sanctity of the institution of marriage—as created in the beginning by God. That same law,

whether by edict or silence, discriminates against people of the same sex or children who want to get “married.”

By contrast, as already evident in Scandinavia, laws that sanction same-sex partnerships and “marriages” have had a devastating effect on true marriage, with the majority of children now born into out-of-wedlock homes. Also, in Sweden freedoms of speech and religion have been sacrificed under the auspices of protecting citizens against discrimination. The Swedish Constitution guarantees freedom of speech, but an exception for matters of “sexual orientation” was approved in January 2003. On January 17, 2004, Pastor Åke Green was indicted for violating the Swedish Penal Code (Chap. 16, Sec. 8) because, in his church, he read from the Bible and encouraged his congregation to consider what God said about homosexuality. (An oral hearing is scheduled for mid-June 2004 – case no. B 57-04, District Court of Kalmar.)

Another contrast, where the power of government is used to promote evil, is abortion. The first duty of civil government is to protect innocent human life, and the foremost human right is life, without which no other human right has any meaning. When a government makes laws sanctioning abortion, it protects those who murder unborn babies (yes, they are babies as we once were, not blobs of tissue), and opposes or punishes those who seek to protect unborn children. Consequently, such governments hinder or punish those who seek to do good, and protect those who do evil. This is reverse discrimination, an abuse of government power.

Ultimately, the reason Mr. Hunt and sexual-rights proponents want to make “sexual orientation” a human right and add this undefined term to non-discrimination laws is to use government power to silence all opposition to sexually deviant behaviors and remove all legal or social restraints. Thus, governments yielding to this agenda, instead of punishing sexually deviant behaviors, encourage such behaviors by protecting those who practice them.

Mr. Hunt’s report ties “discrimination” to “sexual orientation” or homosexual, lesbian, bisexual, transsexual and transgender behaviors (pars. 32, 38-39); to “sexual and reproductive health” or “services,” which may include abortion (pars. 23-24, 34-35, 39, 41, 53); to “sexual minorities” (par. 33, 39); and to “intolerance” (par. 56) (see several quotes above).

Mr. Hunt also asserts that governments violate “human rights” if they support and do not “dismantle” obstacles to the enjoyment of sexual and reproductive rights (par. 13); and then clarifies the obstacles to be dismantled: “traditional views about sexuality” (par. 14).

Some traditional views about sexuality are obstacles to the provision of sexual and reproductive health **services** ... and these views have an especially **damaging impact upon adolescents** (par. 14).

Crucially, human rights law places obligations on duty-bearers [governments] to do all they can to **dismantle the barriers to sexual and reproductive health** (par. 15).

Not only were the United States and other nations right to reject the report, Mr. Hunt’s views on a “right” to abortion, on “sexual rights,” on positing “sexual orientation” as a human right, on creating a “sexual minorities” class, and on discrimination must be rejected.