

CRR Oral Statement

Delivered to CEDAW Committee at the General Discussion on Access to Justice

February 18, 2013

The Center for Reproductive Rights has submitted a written statement on access to justice and would like to thank the Committee for the opportunity to also provide this oral statement.

Women and girls face unique barriers in accessing justice, in part stemming from discriminatory laws and policies that deny them the fulfillment of their human rights. Since the right to a remedy has been incorporated under Article 2(c) of CEDAW, which establishes the rights to equality and nondiscrimination in national tribunals and other public institutions and the effective protection of women against acts of discrimination, it is important that the General Recommendation on access to justice does not only address access to justice after human rights violations have occurred. The General Recommendation should also elaborate on States' obligations to prevent harm, including by reforming laws that perpetuate discrimination against women.

- Restrictive laws surrounding reproductive healthcare institutionalize discrimination against women and perpetuate gender stereotypes. In countries where access to abortion or contraception is highly restricted, for example, women needing these services may face severe stigma, deterring them from accessing these services and from challenging these discriminatory laws. These laws may also expose women who are members of marginalized groups to multiple forms of discrimination, based on, for example, their race, disability, sexual orientation or gender identity. The negative stereotypes based on the reproductive health needs of women belonging to these groups can also compound the discrimination they face in accessing justice.
- In many instances, these restrictive laws are part of the penal code, imposing severe sanctions, including imprisonment, on women and providers. States should reform restrictive laws on reproductive healthcare to ensure women access to such services and remove punitive provisions. Women's access to justice is also inhibited by States' failure to monitor reproductive health services. The access to justice framework should incorporate States' obligations to prevent harm, as post facto remedies cannot adequately remediate such violations.

- The case of *LC v. Peru*, decided by this Committee in 2011, demonstrates the importance of putting in place measures to prevent harm and to ensure access to health services. L.C. was refused urgently needed spinal surgery because doctors worried that it would jeopardize her pregnancy. When she sought permission from the hospital's medical board for an abortion, the board waited 42 days before denying her request. When she filed an appeal of the denial, the medical board waited 20 more days to respond, by which point she had already suffered a miscarriage.
- States should implement effective measures to ensure that women are not denied access to lawful reproductive health services. This should include the establishment of independent mechanisms through which women can assert their right to treatment, and a process through which women can appeal decisions denying them treatment.

We respectfully request that the Committee address these issues in its General Recommendation on access to justice and look forward to continuing to contribute to the General Recommendation's development.