



INTERNATIONAL WOMEN'S RIGHTS ACTION WATCH ASIA PACIFIC (IWRAW ASIA PACIFIC)

18 February 2013

Oral Statement on Women's Access to Justice

Madam Chair, IWRAW Asia Pacific's other written submissions address a wide range of issues. Here we will highlight the following **3 Key Aspects of Women's Access to Justice**:

- 1) **Laying the Foundation for Women's Access** by Incorporating CEDAW and Substantive Equality
- 2) **Opening the Doors of Justice to Women** by Eliminating All Barriers and Obstacles and Ensuring "Results"
- 3) **Building the Bridges for Further Access** by Facilitating Claims in International/Regional Tribunals

1) Laying the Foundation: Incorporating CEDAW and its Principle of Substantive Equality

The General Recommendation should address the need for prompt compliance with any national requirements for **domestication or incorporation of CEDAW**. It should clarify that **States' core obligation under Article 2 (a), to embody the principle of substantive equality in their constitutions or appropriate legislation with an overriding and enforceable status should override any contrary notions of equality in all justice systems, including the quasi-judicial and all informal justice systems.**

The GR should reiterate State duties in regard to prompt **removal of reservations**, however they are labeled, as well as other restrictive understandings and declarations. It should require **reporting on removal and incorporation** as well as **data on cases that have referred to CEDAW** provisions, either as direct sources of domestic law or as interpretive aids. It should include instructions that **justice system actors be included both in the preparation of state reports and as members of state delegations** attending constructive dialogues.

2) Opening the Doors: Eliminating All Barriers and Obstacles to All Women's Access to Justice and Ensuring "Results"

The GR should **adopt an integrated human rights approach**. In particular, it should **recognize the minimum core standards of economic and social rights** of the Covenant on Economic, Social and Cultural Rights **as justiciable rights**. This is particularly important in relation to sexual and reproductive rights, social security, employment and health care rights.

The GR should **clarify the legal bases and standards governing States' accountability for elimination of barriers to access to justice that are imposed by non-state actors**. Accountability for actors such as

international organizations, UN agencies, humanitarian and development aid organisations, international financial institutions and infrastructures, corporate structures and business actors should be addressed, whether they act within their state of origin or extraterritorially, in impacting the laws, procedures and creating barriers to women's access to justice, including in situations of conflict, transition and post conflict resolutions.

3) Building the Bridges: Facilitating Women's Access to International and Regional Human Rights Tribunals

The GR should underscore the urgency of **prompt ratification of Optional Protocol** by all State parties. It should further clarify the relationship between reservations to CEDAW and the Optional Protocol that has the potential to impact the arguments on merits and admissibility.

The GR should emphasize the critical need for **both domestic justice systems and international and regional tribunals** to apply **flexible, human-rights appropriate standards of exhaustion of remedies and other admissibility requirements**.

Finally, we call on the Committee to provide a **plan of action for the General Recommendation**, with a specific timeline for the drafting process and other initiatives, **including continued consultation with civil society**.

Thank you.

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