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July 4, 2016

Committee on the Elimination of Discrimination against Women (CEDAW)
Office of the High Commissioners for Human Rights
Geneva, Switzerland

RE: Supplementary information on Rwanda scheduled for review by the CEDAW Committee during its 66th Pre-Sessional Working Group Session in July, 2016.

Dear Committee Members:

This shadow letter is intended to complement the periodic report submitted by the State of Rwanda for your consideration during the 66th Pre-Sessional Working Group meeting of the CEDAW Committee. Ipas Africa Alliance is a nongovernmental organization (NGO) based in Kenya and working across the continent to increase women's ability to exercise their sexual and reproductive rights and to reduce deaths and injuries from unsafe abortion. Ipas believes that every woman has the right to the highest attainable standard of health, to safe reproductive choices, and to high-quality health care. This letter is intended to provide the Committee with information about Rwanda's violations of the Convention on the Elimination of All Forms of Discrimination Against Women (the Convention) that result from the State's restrictive abortion law.

The abortion law in Rwanda permits abortion in cases of rape, incest or forced marriage, and in cases of risk to the health of a woman or the fetus. Legal barriers and cultural and religious stigma, however, make it nearly impossible for women to get a safe, legal abortion in the country. The result is that women with unplanned or unwanted pregnancies in Rwanda resort to unsafe and illegal abortions. Women who violate Rwanda's abortion law are liable for up to three years in prison and Rwandan police unjustly harass, arrest, prosecute and imprison hundreds of women and girls on abortion or infanticide-related charges each year. The restrictive law in Rwanda violates **Article 2(f)** of the Convention, which requires State Parties to "take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women." CEDAW **General Recommendation 24** on Women and Health states, "When possible, legislation criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo abortion."

Due to the restrictive law, safe abortion is largely inaccessible in Rwanda, in violation of **Article 12** of the Convention (the rights of women to health and nondiscrimination) and **Article 16(e)** (the rights of women to decide freely and responsibly on the number and spacing of their children). This Committee has consistently criticized restrictive abortion laws, framing such laws

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as a violation of the rights to life and health and asking state parties to review legislation making abortion illegal.[1] This Committee has also examined the discriminatory effects of legislation making abortion illegal, noting that "[i]t is discriminatory for a State party to refuse to provide legally for the performance of certain reproductive health services for women."[2]

In its current report to this Committee the government reports on its progress in reducing the maternal mortality rate from 1,071 deaths per year in 2000 to 487 in 2010, as well as increasing the contraceptive use rate from 10 percent to 45 percent over the same time period. The government has also reported on the amending of article 165 of the Penal Code to provide exemption from criminal liability for abortion in particular instances.[3] We wish to acknowledge the positive steps taken by the government to address the problems related to unsafe abortion in Rwanda. However, while the criminal penalties for a woman who induces her own abortion or consents to an abortion was reduced from 2-5 years to 1-3 years, we are concerned this penalty remains too harsh and that aggressive enforcement of the law means that women are increasingly being imprisoned as a result of unsafe abortion.[4] This includes women who were eligible for legal abortions under the law. Research has shown that from July 2013 to April 2014, more than 300 women were imprisoned for illegal abortions.[5]

This Committee has previously acknowledged the high rate of unsafe abortions and the link to maternal mortality in its Concluding Observations to Rwanda in 2009. This Committee noted with concern that abortion is a punishable offence under Rwandan law and called on the State to take concrete measures to enhance women's access to health care, particularly in rural areas. CEDAW also recommended that Rwanda review its legislation on abortion and remove punitive provisions imposed on women who undergo abortion, in accordance with that Committee's General Recommendation 24 on women and health, and the Beijing Platform for Action.

In 2013, the Committee on Economic, Social and Cultural Rights (CESCR) noted with concern the high rate of maternal mortality in Rwanda, including among adolescents, due in part to the rate of unsafe abortion. CESCR also expressed concern at the general criminalization of, and the application of, severe punishment for recourse to abortions. CESCR recommended that the State take measures to reduce the maternal mortality rate, including by revising its abortion law, reducing the scope and severity of the punishment of abortion and making efforts to eliminate unsafe abortion. As the authority on defining and elaborating on the right to health, CESCR, in

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[1] *See, e.g.,* **Bolivia**, 31/05/95, U.N. Doc. A/50/38, par. 393; **Mauritius**, 31/05/95, U.N. Doc. A/50/38, par. 196; **Paraguay**, 09/05/96, U.N. Doc. A/51/38, par. 131.
[2] Committee on the Elimination of Discrimination against Women, *General Recommendation 24: Women and Health* (20th Sess., 1999), *in* Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies, at 244, par. 11, U.N. Doc. HRI/GEN/1/Rev.5 (2001).
[3] Rwanda, State Party Report, CEDAW/C/RWA/7-9, par. 33 (2015).
[4] The Penal Code (2012), GOVERNMENT GAZETTE [REPUBLIC OF RWANDA], arts. 165-166.
[5] IPAS, WHEN ABORTION IS A CRIME: RWANDA (2015) available at http://www.glihd.org/wpcontent/uploads/2015/10/STUDY-WHEN-ABORTION-IS-A-CRIME-RWANDA.pdf.

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its **General Comment 14 on the right to health**, specifies that states must implement measures to "(i)mprove child and maternal health, sexual and reproductive health care services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to information, as well as resources necessary to act on that information."[6] Furthermore, in its most recent **General Comment 22 on the right to sexual and reproductive health** under article 12 of the Covenant on Economic, Social and Cultural Rights, CESCR has stated that the "right to sexual and reproductive health is an integral part of the right to health enshrined in article 12" and full enjoyment of this right is often limited by a number of legal, procedural, practical, and social barriers.[7] Specific to abortion restrictions, the General Comment notes that denial of abortion services often contributes to increased maternal mortality and morbidity, constituting a violation of the right to life or security, and sometimes amounting to torture or cruel, inhuman or degrading treatment.[8] General Comment 22 also calls for the repeal or reform of discriminatory laws, policies and practices in the area of sexual and reproductive health, *including liberalization of restrictive abortion laws*, as well as the removal of all barriers that interfere with access by women to comprehensive sexual and reproductive health services, goods, education and information.[9]

Background and Legal Framework for Abortion

The prior Rwandan penal code of 1977 highly restricted abortion, permitting it only to preserve the physical or mental health of a woman. Generally, abortion was presumed to be illegal. In June 2012, Rwanda approved a new penal code. Article 162 of the revised penal code on abortion expanded the exceptions for permissible abortion to include rape, incest, forced marriage, and risk to the health of the woman or the fetus.

To obtain a legal abortion under one of the first three grounds, a woman seeking abortion needs certification from a "competent Court" that the pregnancy resulted from rape, incest or forced marriage. To obtain a legal abortion because of risk to health, a petitioner must get permission from two doctors, and one must make "a written report in three copies." To be legal, an abortion must then be performed by a doctor. It should be noted that there is only one doctor for every 17,000 people in the entire country.[10] Moreover, the majority of Rwandans live in rural areas

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[6] Committee on Economic, Social and Cultural Rights (CESCR), *General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12)* (22nd Sess., 2000), *in* Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies, at 90, par. 14, U.N. Doc. HRI/GEN/1/Rev.5 (2001).
[7] CESCR, *General Comment 22: The Right to Sexual and Reproductive Health (article 12 of the International Covenant on Economic, Social and Cultural Rights)* (May 2016), pars. 1-2.
[8] *Id.* at par. 12.
[9] *Id.* at par. 28.
[10] Ministry of Health, *Human Resources for Health Policy,* Kigali, Rwanda: Ministry of Health, 2012. See also: Basinga, P. et al., Unintended Pregnancy and Induced Abortion in Rwanda: Causes and Consequences (New York: Guttmacher Institute, 2012).

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with limited access to courts or hospitals.[11] Self-induced abortion is considered illegal. According to the law, a woman prosecuted for an illegal abortion can face a prison sentence of one to three years and a fine the equivalent of US $300 (63 percent of Rwandans earn under $1.25 a day).[12]

More than four years after Rwanda modified its abortion law and included burdensome barriers to access, little has changed on the ground; legal abortions remain inaccessible for most women and girls. Still, abortions continue to take place. As the Guttmacher Institute has noted, restrictive abortion laws do not stop women from ending unwanted pregnancies; they instead force women to seek them out through clandestine means.[13]

In 2009, there were approximately 60,000 induced abortions in Rwanda — an annual rate of 25 abortions per 1,000 women.[14] Most women are unable to fulfill the required steps for obtaining a legal abortion under the delineated exceptions. The reason is twofold: they are unaware of the law or, if they have knowledge of the requirements, they do not have the money or resources to find either a provider, lawyer or a judge. Often judges and health-care professionals are themselves unaware of the law.[15]

Nearly all abortions occur outside of the formal health system in high-risk settings by untrained individuals where safety cannot be assured. Complication rates are extremely high, especially among poor and young women: each year, 24,000 women and girls suffer complications requiring emergency medical treatment.[16] Rates are highest for self-induced abortions (67 percent) or those performed by traditional healers (61 percent) — the kinds of procedures that poor, rural women are more likely to have.[17]

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[11] National Institute of Statistics of Rwanda (NISR) [Rwanda], Ministry of Health (MOH) [Rwanda] and ICF International, *Rwanda Demographic and Health Survey 2010* (Calverton, Maryland, USA: NISR, MOH and ICF International, 2012).

[12] Organic Law instituting the penal code, N° 01/2012/OL of 02/05/2012, Official Gazette n° Special of 14 June 2012, Chapter III, Section 5, Articles 162–68 available at http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/crr_Rwanda_Abortion_Law.pdf. As of 2011. World Development Indicators data available via the World DataBank at http://databank.worldbank.org/data/views/reports/tableview.aspx.

[13] Susan Cohen, *Facts and Consequences: Legality, Incidence and Safety of Abortion Worldwide*, Guttmacher Policy Review Volume 12 Number 4 (2009). Available at https://www.guttmacher.org/pubs/gpr/12/4/gpr120402.html.

[14] Basinga P et al., *Unintended Pregnancy and Induced Abortion in Rwanda: Causes and Consequences.*

[15] Providers' negative attitudes can be a barrier to care and fulfilment of the 2012 penal code: "Doctors — being part of the Rwandan society— are still in the same confusion as the rest of Rwandan society due to culture for some and religion for others…[Some doctors] are not supportive [of] the new provisions and [some] don't have [the] skills to perform an abortion" from a presentation by Dr. John Muganda titled "Postabortion Care in Rwanda: Program Highlights and Issues Around Stigma" presented at PAC Consortium Meeting: Addressing Stigma and Quality of Care Issues in PAC Services, Washington, DC, 19 November 2014.

[16] Guttmacher Institute, "Factsheet: Abortion in Rwanda."

[17] *Id.*

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Legal barriers and cultural and religious stigma, make it nearly impossible for women to get a safe, legal abortion in the country. Without access to safe abortion, women in Rwanda risk their health and lives by resorting to unsafe abortion.

The government of Rwanda has shown significant political will towards addressing maternal mortality due to unsafe abortion by removing its reservation to the Maputo Protocol. However, the practical effects of this commitment have yet to be felt by the vast majority of women seeking abortion care in the country. **We urge this Committee to encourage the government to provide information on how it will disseminate information about the law to women and girls, health care providers, and legal sector stakeholders such as judges and law enforcement officials. We also urge this Committee ask what the government will do to ensure that current barriers in the abortion law are removed.**

In particular, the abortion law should not include provisions that limit the type of provider that can legally provide abortion. According to the World Health Organization (WHO), safe abortion can be provided by a range of trained health care professionals, including nurses and midwives.[18] Access to safe abortion services for rural women is particularly compromised by a restrictive law. There is approximately 1 doctor for every 17,000 people living in Rwanda.[19] Given this limited supply of doctors in the country, a provision limiting provider type would mean that vulnerable women—in particular young women, poor women and women living in rural areas—are more likely to obtain needed abortion through illegal and unsafe methods.

To make the abortion law meaningful, it must also take into account the current health care delivery system. Poor women and women living in rural areas may rely more heavily on care provided in local health clinics. The abortion law should not have overly burdensome facility requirements such that these clinics are unable to provide safe and legal abortion services.

We are also concerned that the abortion law requires women who wish to terminate a pregnancy in cases of rape, incest, or forced marriage must make a certification before a "competent Court" before they are able to access safe, legal abortion. This type of certification requirement is likely to interfere with a woman's decision-making process and be a barrier to health services. Reporting requirements are an unnecessary procedural hurdle that make abortion more difficult to access, and may deter women or adolescents from seeking the procedure through legal means, exposing them to the risks of unsafe abortion procedures. CEDAW has previously raised concerns about the lack of accessibility to safe abortion, particularly in cases of rape.[20] The

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[18] World Health Organization. 2012. *Safe Abortion: Technical and Policy Guidance for Health Systems*. Second Edition. Geneva: WHO.

[19] Ministry of Health, *Human Resources for Health Policy, Kigali, Rwanda: Ministry of Health*, 2012. See also: Basinga, P. et al., *Unintended Pregnancy and Induced Abortion in Rwanda: Causes and Consequences* (New York: Guttmacher Institute, 2012). Available at https://www.guttmacher.org/pubs/unintended-pregnancy-Rwanda.pdf.

[20] *See, e.g.*, **Dominican Republic**, U.N. Doc. A/59/38, par. 309 (SUPP) (2004); **Jordan**, U.N. Doc. CEDAW/C/JOR/CO/4, par. 9 (2007); **Jordan**, U.N. Doc. A/55/38, par. 180 (2000); **Myanmar**, U.N. Doc. A/55/38, par. 129–130 (2000); **Panama**, U.N. Doc. A/55/38/Rev.1, par. 201 (1998); **Venezuela**, U.N. Doc. A/52/38/Rev.1, par. 236 (1997).

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Committee has expressed concerns regarding punitive provisions and reporting requirements that prevent women from seeking medical treatment.[21] We urge this Committee to recommend that the government adopt a reformed abortion law that does not require women to report a case of rape, incest, or forced marriage to police before they may seek a legal abortion.

Finally, adolescent girls should be able to consent to confidential abortion care without requirements of parental authorization. Confidential abortion care must be explicit for all women, but particularly for adolescent girls, as they may be more likely to be deterred from seeking safe services if privacy is not guaranteed.

We request this Committee include the following questions in the List of Issues to the State of Rwanda during the 66th Pre-Sessional Working Group meeting of CEDAW:

1. What steps will the State take to release the women, girls and health-care professionals who are unjustly incarcerated as a result of punitive abortion laws?

2. How will the State ensure that women have access to safe and legal health care services rather than suffering unnecessary and preventable deaths and injuries due to unsafe abortion, in violation of their rights to health and non-discrimination?

3. What steps will the State take to ensure that post-abortion and safe abortion care are integrated into the public health care system at all levels, including for poor women, women living in rural areas and/or young women who may seek such services?

4. How will the State disseminate information about the 2012 law and its requirements to women, girls, health-care providers, police and judges?

Restrictions on access to abortion violate a woman's right to health under **Article 12** of the Convention. In Rwanda the restrictive law means that every year thousands of women who wish to terminate a pregnancy face a threat to their physical, mental, and social well-being. A woman who turns to an untrained provider or attempts to self-induce can experience devastating life-long effects on her physical health, including infertility, injury, or even death. Abortion restrictions discriminate against women by criminalizing a health care procedure that only women need, and the impact of these restrictions are primarily felt by women who must carry the burden of unwanted pregnancy or else risk her life and health by seeking an unsafe abortion.

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[21] *See, e.g.*, **Brazil**, U.N. Doc. CEDAW/C/BRA/6, par. 29-30 (2007); **Chile**, U.N. Doc. CEDAW/C/CHI/CO/4, par. 20 (2006); **Honduras**, U.N. Doc. CEDAW/C/HON/CO/6, par. 25 (2007); **Mauritius**, CEDAW/C/MAR/CO/5, par. 31 (2006); **Nicaragua**, U.N. Doc. CEDAW/C/NIC/CO/6, par. 18 (2007); **Pakistan**, U.N. Doc. CEDAW/C/PAK/CO/3, par. 41 (2007); **Peru**, U.N. Doc. A/57/38, par. 482 (2002); **Philippines**, U.N. Doc. CEDAW/C/PHI/CO/6, par. 28 (2006).

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These same women are also at the highest risk of harassment, arrest, prosecution and imprisonment for abortion.
The government of Rwanda should be strongly urged to remove legal restrictions on abortion and ensure that services are safe and accessible to all women who need them. The government should ensure that this occurs in a timely manner.

We hope that this information will be useful for your review of the State of Rwanda's compliance with the Convention.

Very Sincerely,

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