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February 16, 2016

Human Rights Committee (HRCttee)
Office of the High Commissioner for Human Rights
Geneva, Switzerland

RE: Supplementary information for Rwanda scheduled for review by the HRCttee during its 116th session in March, 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 116th session of the HRCttee. Ipas Africa Alliance is a nongovernmental organization (NGO) based in Kenya and works 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 the status of Rwanda's compliance with the CCPR, particularly as relates to the country's 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—and Rwandan police unjustly harass, arrest, prosecute and imprison hundreds of women and girls on abortion or infanticide-related charges each year.[1] The restrictive law violates **Article 2(1)** of the Covenant (right to freedom from discrimination), **Article 6** (protecting the right to life of every human being) and **Article 9** (the right to liberty and security of person for all people).

This Committee has explicitly described illegal and unsafe abortion as a violation of Article 6, noting the link between illegal and unsafe abortion and high rates of maternal mortality.[2] The HRCtte also stated in General Comment 28 that "State parties should give information on any measures taken by the State to help women prevent unwanted pregnancies, and to ensure that

[1] Kane, G. (2015). *When abortion is a crime: Rwanda.* Chapel Hill, NC: Ipas.
[2] *See e.g.,* **Bolivia**, 01/04/97, U.N. Doc. CCPR/C/79/Add.74, par. 22; **Chile**, 30/03/99, U.N. Doc. CCPR/C/79/Add.104, par. 15; **Mongolia**, 25/05/2000, U.N. Doc. CCPR/C/79/Add.120, par. 8(b); **Sudan**, 19/11/97, U.N. Doc. CCPR/C/79/Add.85, par. 10; **Zambia**, 03/04/96, U.N. Doc. CCPR/C/79/Add.62, par. 9.

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they do not have to undergo life-threatening clandestine abortions."[3] The HRCtte has criticized legislation that criminalizes or severely restricts access to abortion in several sets of concluding observations.[4] This Committee has specifically recommended to several State parties that they review or amend legislation criminalizing abortion, often referring to such legislation as violating the right to life.[5] The Committee has also acknowledged that restrictive abortion laws have a discriminatory and disproportionate impact on poor, rural women.[6]

This Committee has previously expressed concern about the general inferior status of women, including in the Civil and Family Codes. There is a limited record of concluding observations or recommendations by this Committee on the need to address barriers in the current abortion law in Rwanda to address maternal deaths and disability as a result of unsafe abortion, as well as the imprisonment of women who seek abortion services.[7]

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.[8] CESCR also expressed concern at the general criminalization of, and the application of, severe punishment for recourse to abortions.[9] 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 make efforts to eliminate unsafe abortion.[10] The Committee on the Elimination of Discrimination Against Women (CEDAW) acknowledged the high rate of unsafe abortions and the link to maternal mortality in its Concluding Observations to Rwanda in 2009.[11] CEDAW noted with concern that abortion is a punishable offence under Rwandan law.[12] CEDAW called on the State to take concrete

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[3] Human Rights Committee, *General Comment 28: Art. 3* (68th Sess., 2000), *in* Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies, at 228, U.N. Doc. HRI/GEN/1/Rev. 9 (2008).
[4] *See e.g.*, **Argentina**, 03/11/2000, U.N. Doc. CCPR/CO/70/ARG, par. 14; **Bolivia**, 01/04/97, U.N. Doc. CCPR/C/79/Add. 74, par. 22; **Chile**, 30/03/99, U.N. Doc. CCPR/C/79/Add. 104, par. 15; **Peru**, 15/11/2000, U.N. Doc. CCPR/CO/70/PER, par. 20; **Poland**, 29/07/99, U.N. Doc. CCPR/C/79/Add. 110, par. 11; **Senegal**, 19/11/97, U.N. Doc. CCPR/C/79/Add. 82, par. 12; **Venezuela**, 26/04/2001, U.N. Doc. CCPR/CO/71/VEN, par. 19.
[5] *See e.g.*, **Argentina**, 03/11/2000, U.N. Doc. CCPR/CO/70/ARG, par. 14; **Chile**, 30/03/99, U.N. Doc. CCPR/C/79/Add. 104, par. 15; **Peru**, 15/11/2000, U.N. Doc. CCPR/CO/70/PER, par. 20; **United Republic of Tanzania**, 18/08/98, U.N. Doc. CCPR/C/79/Add. 97, par. 15; **Venezuela**, 26/04/2001, U.N. Doc. CCPR/CO/71/VEN, par. 19.
[6] *See e.g.*, **Argentina**, 03/11/2000, U.N. Doc. CCPR/CO/70/ARG, par. 14.
[7] Human Rights Committee, *Concluding observations of the Human Rights Committee: Rwanda*, para. 9 (May, 2009).
[8] Committee on Economic, Social and Cultural Rights (CESCR), *Concluding observations on the second to fourth periodic report of Rwanda, adopted by the Committee at its fiftieth session*, para. 26 (June, 2013).
[9] *Id.*
[10] *Id.*
[11] Committee on the Elimination of Discrimination Against Women (CEDAW), *Draft concluding observations of the Committee on the Elimination of Discrimination Against Women: Rwanda*, para. 35 (2009).
[12] *Id.*

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measures to enhance women's access to health care, particularly in rural areas.[13] CEDAW 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.[14]

In its current report to this Committee, the government reports on its progress in addressing this issue, specifically that it has removed its reservation to the Maputo Protocol.[15] In addition, the government has reported on its progress in addressing maternal mortality caused by unsafe abortion, reporting that the maternal mortality rate in the country has reduced from 750 per 100,000 live births in 2005 to 476 per 100,000 in 2010, according to the 2005 Demographic and Health Survey (DHS). The government also reported on its progress in constructing additional health centers and hospitals to promote geographic accessibility of health care services for pregnant women, as well as the creation of community-based health insurance.[16]

We wish to acknowledge the positive steps taken by the government to address the problems related to unsafe abortion in Rwanda. **However, we urge this Committee to make the following recommendations to the government of Rwanda to bring the country in line with its obligations under CCPR:**

1. Release all women, girls and health-care professionals who are unjustly incarcerated as a result of punitive abortion laws;

2. Disseminate information about the 2012 law and its requirements to women, girls, health-care providers, police and judges;

3. Establish clear and streamlined procedures to facilitate obtaining judicial authorization for a legal abortion;

4. Invest in effective preventive measures, including comprehensive sexuality education, elimination of gender discrimination and sexual violence, and full access to all modern contraceptive methods; and

5. Broaden the law to permit nurses and midwives to perform abortion; doing so is an evidence-based approach to expanding safe access to care.

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[13] *Id.* at para. 36.
[14] *Id.*
[15] Human Rights Committee, *Fourth period reports of States parties due in 2013: Rwanda*, para. 122 (Oct. 2014).
[16] *Id.* at para. 124.

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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. 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).[17]

More than three 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.[18]

In 2009, there were approximately 60,000 induced abortions in Rwanda — an annual rate of 25 abortions per 1,000 women.[19] 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.[20]

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[17] 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.

[18] 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.

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

[20] 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

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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.[21] 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.[22]

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 recommend that the government 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 to recommend that current barriers in the abortion law be 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.[23] 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.[24] 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.

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.

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

[22] *Id.*

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

[24] 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.

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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.[25] That Committee has expressed concerns regarding punitive provisions and reporting requirements that prevent women from seeking medical treatment.[26] **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 pose the following questions to the State of Rwanda during the 116th Session of the HRCttee:

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 nondiscrimination?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 and women living in rural areas who may seek such services?

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[25] *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).

[26] *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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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 **Articles 2(1), 6, and 9** of the CCPR. In Rwanda the restrictive law means that every year thousands of women and girls 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.

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, and 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 CCPR.

Very Sincerely,

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