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AMNESTY INTERNATIONAL: ORAL INTERVENTION
54th session of the United Nations (UN) Committee on the Elimination of Discrimination against Women
18th February 2013

Madam Chairperson and Committee members.

Amnesty International welcomes this opportunity to contribute to the day of general discussion on access to justice.

The Committee's concept note touches upon many of the key issues on access to justice in the context of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) obligations. Amnesty International looks forward to seeing these concepts further developed.

In addition, the General Recommendation should provide guidance to states parties in two crucial areas that are not sufficiently explored in the concept note:

- 1) access to justice and obligations under Article 5 (discriminatory stereotyping); and
- 2) access to justice for women who are alleged perpetrators of criminal activity, or whose conduct has been criminalised as a direct result of discriminatory stereotyping.

These two issues overlap, as the laws that criminalize non-gender conforming behaviour in women and girls are a form of discriminatory stereotyping that impedes access to justice. At the same time, the issues pose separate and discreet challenges. Discriminatory stereotypes affect women and girl's access to justice regardless of their behaviour. Meanwhile, women and girls who have been charged with criminal activity face unique barriers to equal access to justice, also where the criminal activity itself is unrelated to gender norms.

We urge the Committee to explore the lack of access to justice arising from laws and policies that are themselves not compliant with CEDAW obligations, including the additional barriers to fair trial for women who are stigmatized by the perceived lack of conformity with prevalent gender norms.

Gender stereotypical attitudes and practices fuel the stigmatization of women and girls for a range of transgressive conduct, including “abnormal” sexuality—such as being lesbian or transgender—or “immoral” activities—such as engaging in commercial sex work or otherwise having sex outside marriage.

The denial of women and girls’ equal access to justice is prominent where women and girls’ sexual autonomy is involved. Laws and policies that punish sex work, same-sex sexual conduct, abortion, pregnancy and pregnant women, HIV exposure and transmission, consensual adult sexual conduct outside of marriage, adolescent sexuality, and provision of sexual and reproductive health services and information, are examples of state regulation that specifically targets and disproportionately affects women, girls and gender non-conforming individuals, denying them equal access to justice.

Discriminatory stereotyping affects not only alleged perpetrators of criminal activity, but also victims of violence. Our experience is that women and girls who suffer intersectional discrimination have particular difficulties in accessing justice.

The General Recommendation provides a unique opportunity to explore the convergence of key CEDAW concepts. We urge the Committee to highlight the negative effect of criminal laws in the area of sexual and reproductive conduct on women’s ability to exercise their human rights to equality under the law and access to justice. We also urge the Committee to ensure that the universality and interdependence of human rights is preserved through this General Recommendation: all women and girls are equally deserving of the right to non-discrimination.

Thank you, Madam Chairperson.