



## **Global Action to Prevent War and Armed Conflict**

### **Written Statement on Proposed Recommendation on Access to Justice**

#### **54<sup>th</sup> CEDAW Session**

**Submission Deadline: 1 February 2013**

**General Discussion: 18 February 2013**

Access to justice remains a delicate concern among communities worldwide, especially in post-conflict societies where equal access to justice for all members of the population is imperative in ensuring for a long-lasting and effective reconstruction and reintegration process. Access to justice remains a particular challenge for women, especially indigenous or disadvantaged women, whose rights are often undermined by political regimes or patriarchal norms.

In an effort to identify a small part of these key challenges, Global Action to Prevent War and Armed Conflict (GAPW) put together and hosted a two-day seminar in Guatemala City on November 2012 on *Security and Justice for Women in Guatemala*. The purpose of the event was to reflect on how the international community can guide national efforts to ensure that the rights of indigenous women are respected, and also to help promote a culture of participation and accountability which is the essence of the Women Peace and Security agenda established by the UN Security Council. Participation and accountability are also necessary elements for legitimate and long-term sustainable development.

This workshop came as a ‘follow-up’ to the 2012 review of Guatemala by the Human Rights Committee at the UN Headquarters in New York, where the Committee posed challenging questions about the government’s commitments under the International Covenant of Civil and Political Rights (ICCPR). Similar concerns have also been raised in recent years by the CEDAW Committee, specifically recommending that more attention be given in amending current constitutional provisions that discriminate against women as well as to create civil, criminal and labor obligations in compliance with the Convention.<sup>1</sup>

Reflecting on some of the challenges women face, particularly access to justice, stigmas regarding participation in political and other aspects of public life, and the availability of legal services, our workshop brought together women’s civil society organizations specializing in justice and security, state officials, and representatives from UN entities. The objective of the organizers was to assess the structural and political challenges associated with the judicial and security sectors, placing emphasis on violence against women and access to justice and underscoring the strong links between violence against women and the illicit trade in small arms and light weapons.

---

<sup>1</sup> CEDAW Committee, Concluding comments of the Committee on the Elimination of Discrimination against Women: Guatemala at ¶ 13, U.N. Doc. CEDAW/C/GUA/CO/6 (2 June 2006).

The workshop was particularly significant for the recommendations extracted addressing access to justice, mainly the ability to pursue criminal prosecutions of acts of violence; establishing adequate measures within a patriarchal culture that promote women's right to justice; calling for more transparency in the judicial and security systems; and addressing how international instruments can be essential in the advancement of women's rights at the local level.

In regards to criminal prosecutions, voices of women from rural and urban areas echoed the call in calling for adequate training to be made available to help relevant security and judicial personnel support and respond to the needs of women as victims of violence; to increase awareness around the different types of violence against women; and to collect and record statistics and reports of violence. As it is generally known, such documentation can be necessary and effective evidence for prosecuting crimes in national courts. Going along those lines, it is imperative also to establish measures that promote and allow for the testimony of women survivors to weigh in as legal evidence, especially for crimes of the past, for which evidence collection can be particularly challenging.

The role of patriarchy in contemporary Guatemala society was a concern addressed by many participants, especially the challenge in addressing violence against women and in recognizing women's right to access judicial institutions and processes. The group of participants also noted the need to remove the stigma that is often associated with women actively pursuing the protections and rights granted to them by relevant international, national and local laws, as well as removing the hesitation that officers of the courts can have with respect to prosecuting cases of violence against women. Finally, a call was made all throughout about ensuring that women have access to judicial processes in their own native languages, or through the use of translators or interpreters.

Calling for more attention around the work of the CEDAW Committee, especially in making the public aware about the obligations of governments to their responsibilities under the Convention and the Commission's recommendations, the participants noted that a system should be in place for the systematic evaluation of judges, prosecutors and other relevant officers to ensure more transparency in the system and more effective coordination with complementary institutions.

Overall, the participants called for amending local legislation to include crimes against women, including but not limited to sexual violence and sexual abuse, as well as the appropriate dissemination of such laws to increase awareness. Additionally, educational systems must be amended to reflect women's needs for increased access to justice, increase awareness, and provide for necessary training to judges but also to inform and train women on how international instruments, including CEDAW, can be used to promote women's access to justice as well as participation in social and political life.

### **Recommendations to the Committee:**

As laid out in Article 2 of the Convention on the Elimination of Discrimination against Women, state parties must pursue mechanisms that eliminate discrimination against women, including establishing principles of equality in national constitutions; adopting legislation that prevents and

prohibits discrimination against women; establishing national tribunals that protect women; ensure that public authorities do not engage in any act of discrimination against women; and ensure that national laws, customs or regulations that constitute discrimination against women are either modified or repealed.<sup>2</sup> Additionally, Article 15 makes special note of the equal capacity between women and men in the practice of law, mainly calling for “equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.”<sup>3</sup> Furthermore, as it is stated in the concept note, it is the objective of this Committee with this General Recommendation to establish the “concrete framework within which states must exercise the obligation under the Convention to respect, protect, promote and fulfill access to justice for women as a human right.”<sup>4</sup>

With this in mind, we ask the Committee to take special note of the outcomes of our recent workshop in Guatemala reflecting concerns from local communities regarding access to justice, especially among the Guatemalan indigenous community who compose the majority of the Guatemalan population, yet “have been historically underprivileged and marginalized.”<sup>5</sup> Indigenous women are discriminated against because they are women and because they are indigenous.<sup>6</sup> While within the context of a country-specific situation, the abovementioned concerns nevertheless remain critical as this Committee establishes the appropriate framework for women’s access to justice. States must directly address principles laid out in Article 2 of the Convention, including avoiding discrimination and establishing national jurisprudence, both substantive and procedural, that protect women’s rights; lay out measures to ensure that police and judicial authorities do not discriminate against women; and ensure that national laws and regulations that are discriminatory are not only repealed, but amended to reflect advantages in women’s access to justice.

Finally, taking into account the outcomes of our recent workshop and the relevancy of those outcomes to the Committee’s work, as well as GAPW’s mandate focusing on creating secure and stable security sectors, placing full emphases on promoting women’s participation, we make the following **recommendations as addendums to the General Recommendation:**

1. The Committee should make a special note within the General Recommendation of the need to provide the space within appropriate national and international legislation to promote a stable security sector to enhance women’s access to justice. Particular attention is needed to ensure that relevant stakeholders provide for a secure and sustainable security sector while women are exercising their right to justice, including prevention of and protection against instances of violence and intimidation against women and their families.

---

<sup>2</sup> Article 2, Convention on the Elimination of all Forms of Discrimination against Women, available at <http://www2.ohchr.org/english/law/cedaw.htm> (Last visited 24 January 2013).

<sup>3</sup> Article 15, Convention on the Elimination of all Forms of Discrimination against Women, available at <http://www2.ohchr.org/english/law/cedaw.htm> (Last visited 24 January 2013).

<sup>4</sup> See, Access to Justice- Concept Note for Half Day General Discussion, at 2 (2013) available at <http://www2.ohchr.org/english/bodies/cedaw/docs/Discussion2013/ConceptNoteAccessToJustice.pdf>(Last visited 24 January 2013).

<sup>5</sup> Madre et al., *Report on Violations of Women’s Human Rights in Guatemala* at 23, available at [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/RVWHR\\_Guatemala\\_HRC104\\_en.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/RVWHR_Guatemala_HRC104_en.pdf) (Last visited 24 January 2013).

<sup>6</sup> Report on Women’s Human Rights at 22.

2. We ask the Committee to place great emphasis, in its General Recommendation, on women's participation in judicial processes, both in regards to exercising the rights mandated to them by relevant laws and regulations that protect women, but also in a legislative and policy-making capacity where women's voices can contribute fully to the design and implementation of appropriate national rules and procedures.

3. Furthermore, we recommend that any discussion on institutional reform and building institutional capacity to address and implement women's access to justice also incorporate strategies for violence prevention. Measures ensuring that appropriate legislation is in place promoting women's access to a variety of jurisprudence and that judicial authorities are appropriately trained to address cases of violence against women are not only effective in creating a framework of women's access to justice, but also in ensuring that future instances of violence against women are reported, detected and addressed at the earliest possible stage.

4. Additionally, we urge the Committee to reflect in its General Recommendation on the need to increase awareness among women in local, traditional and religious communities about the rights guaranteed to them by national and international institutions. The Committee should take special note on the role of digital media and technology as a tool for increasing awareness by and among such women.

5. Finally, we request the Committee to address the issue of national reparations as a form of gender-justice. Reparations available to survivors of violence stemming from access to justice and court adjudications of criminal proceedings are imperative to ensuring healing and the reintegration of survivors, especially in post-conflict settings, but also in helping overcome barriers to women's full access to justice.

**Contact Information:**

Melina Lito

Program Director, Women Peace and Security

Global Action to Prevent War and Armed Conflict

866 United Nations Plaza, Suite 4050

New York, NY 10017

Email: [melina@globalactionpw.org](mailto:melina@globalactionpw.org)