

Using CEDAW to Advocate for Reproductive Rights

There is great potential in the use of CEDAW and the Optional Protocol to challenge the criminalization of abortion. Every year thousands of women die from illegal abortions. In fact, in countries where abortion is illegal in all circumstances, it is often one of the leading causes of death for women.

UNSAFE ABORTION: REGIONAL ESTIMATES, PER YEAR			
	Unsafe abortions	Deaths due to unsafe abortions	% of Maternal Deaths [^] due to Unsafe Abortion
Africa	5,000,000	34,000	13%
Asia*	9,900,000	38,500	12%
Latin America	4,000,000	5,000	21%
Eastern Europe	800,000	500	24%
Northern Europe	<30,000	<20	2%
North America	negligible	negligible	negligible
Burma	---	8000+	59%

*Excludes Japan, Australia and New Zealand

[^]Maternal death is defined by the World Health Organization as the death of a woman while pregnant

As the second most widely ratified international convention, CEDAW (and where available the Optional Protocol) provides a legal basis to challenge restrictive abortion laws. Cases challenging abortion laws have been brought based on CEDAW in both Colombia and more recently in Ireland.

Successful Challenge of Colombian Abortion Laws Women's Link Worldwide (www.womenslinkworldwide.org)

Through the *Gender Justice LAICIA* initiative, Women's Link Worldwide successfully challenged Colombia's penal code provisions that criminalized abortion without exception, legalizing abortion in cases of risk to the mother's health or life, rape and fetal abnormalities. Liberalization of the law has furthered women's reproductive rights in the country and set an important precedent in the region. The LAICIA initiative demonstrated the use of high impact litigation as a means of strategically advancing human rights issues and will be used by Women's Link to educate NGOs around the world in engaging the courts. International law, and particularly CEDAW, was a fundamental aspect of the complaint to the Colombian Constitutional Court. The attorney and lead plaintiff in the case, Monica Rúa, argued that under international law Colombia is required to decriminalize abortion in certain circumstances. She cited the comments of the CEDAW Committee condemning the criminalization of abortion in Colombia.

*"The Committee notes with great concern that abortion, which is the second cause of maternal deaths in Colombia, is punishable as an illegal act. No exceptions are made to that prohibition, including where the mother's life is in danger or to safeguard her physical or mental health or in cases where the mother has been raped. The Committee is also concerned that women who seek treatment for induced abortions, who seek an illegal abortion and the doctors who perform them are subject to prosecution. **The Committee believes that legal provisions on abortion constitute a violation of the rights of women to health and life and of article 12 of the Convention.** The Committee calls upon the Government to consider taking immediate action to provide for derogations from this legislation. Furthermore, it asks the Government to provide regular statistics on maternal mortality by region."* February 3, 1999 (emphasis added)

The success of this challenge may open the door to the use of CEDAW as well as the Optional Protocol to challenge other oppressive abortion laws around the globe.