CENTER FOR REPRODUCTIVE RIGHTS

ŠEIMOS PLANAVIMO IR SEKSUALINĖS SVEIKATOS ASOCIACIJA

10 March 2004

The Human Rights Committee

Re: Supplementary information on Lithuania
Scheduled for review by the U.N. Human Rights Committee during its eightieth session

Dear Committee Members:

This letter is intended to supplement the periodic report submitted by Lithuania, which is scheduled to be reviewed by the Human Rights Committee (the Committee) during its 80th session. The Center for Reproductive Rights and the Lithuanian Family Planning and Sexual Health Association are independent non-governmental organizations, hoping to further the work of the Committee by providing independent information concerning the rights protected in the International Covenant on Civil and Political Rights (ICCPR). This letter highlights several areas of concern related to the status of women's and adolescents' reproductive and sexual health rights in Lithuania.

Because reproductive rights are fundamental to women's health and equality, States Parties' commitment to ensuring them should receive serious attention. Further, women's reproductive health and rights receive broad protection under the ICCPR. In its elaboration of equality of rights between men and women in General Comment 28, the Committee directs States Parties to report on laws as well as government or private action that interferes with women's equal enjoyment of the right to privacy.[1] Women's lack of access to health services, particularly reproductive health services, has been identified by the Committee as a violation of Article 3, which guarantees the right of equality of men and women.[2]

We wish to bring to the Committee's attention the following issues of concern, which directly affect the reproductive health and lives of women and adolescents in Lithuania:

Right to Reproductive Health Care and Family Planning (Articles 3, 6, 23 and 26 of the ICCPR)

The ICCPR's guarantee of the right to life in Article 5 requires governments to take "positive measures" aimed at preserving life.[3] Such measures should respond to the needs of both women

and men, in keeping with Articles 3 and 26, which guarantee the right to equal enjoyment of the rights in the Covenant and equality before the law.[4] Because reproductive health care is an essential condition for women's survival, these provisions collectively give rise to a governmental duty to ensure the full range of reproductive health services, including the means of preventing unwanted pregnancy, as well as safe abortion.

In its General Comment 28, the Committee asks States Parties to report on laws and public or private actions that interfere with the equal enjoyment by women of the rights under Article 17, and on the measures taken to eliminate such interference and to afford women protection from any such interference.[5] It has also recommended the implementation of legal and policy measures to ensure access to full range of reproductive health care services and information, including safe contraceptives, family planning counseling, sex education and safe abortion services.[6] In its Concluding Observations to Lithuania, the Committee has recommended the State party to ensure that Covenant rights are not restricted by legislation inconsistent with it and to take all necessary steps to allow individuals to challenge the application of laws which affect their rights and freedoms under the Covenant in the courts. The Committee has also expressed that Lithuania should take concrete measures to eliminate all discrimination against women and to enhance and reinforce the women's position in society by providing legal remedies for discrimination in all areas. Mechanism should be instituted to monitor non-discrimination laws, to receive and investigate complaints from victims, and to award compensation where appropriate.[7]

The Committee has recognized that lack of availability of family planning services and information, including abortion, compromises women's ability to participate equally in all aspects of social, economic and public life; and increases unwanted pregnancies, unsafe abortions and maternal mortality.[8] The Committee has found possible violations of the ICCPR where women have difficulty accessing contraceptive methods to prevent unwanted pregnancies.[9] It has recognized that women's lack of access to contraceptives, including their high cost, is discriminatory.[10] It has also noted that young, poor, rural and minority women often face additional obstacles to reproductive health care, and the Committee has recommended that States Parties take additional measures to ensure their access to health.[11]

The Committee has also expressed concern over the elimination of sexual education from the school curriculum and asked at least one State Party to "introduce policies and programmes promoting full and non-discriminatory access to all methods of family planning and to reintroduce sexual education at public schools."[12] The Children's Rights Committee, in its most recent concluding observation to Lithuania, has expressed concern over failure to promote education on reproductive health,[13] and has recommended the State party "to continue to increase its efforts to promote adolescent health, including mental health and reproductive health, and to develop a programme for the systematic sexual education of adolescents at school."[14]

Lithuania has fallen short of its duties to ensure women's rights to reproductive health care. Currently, there is no reproductive rights legislation, either within the Law on Health or any other law. Hence, women have no redress under domestic law when their sexual or reproductive rights are violated. The following facts indicate this and other further specific violations of women's and adolescents' right to comprehensive reproductive health care services.

1. Reproductive Health Law and Policy

Lithuanian legislation does not specifically regulate family planning services, although family planning consultations are listed as a component of public health promotion in the Law in the Health System.[15] The health goals of the Government are outlined in the Lithuanian Health Program, but this program and its reform efforts respond to two main problems characterizing Lithuanian health care: the lack of resources and the orientation toward hospital care. There are no specific sections that comprehensively address reproductive health, although it does include sections on maternal health and sexually transmissible infections.[16]

In July 2003, the Government failed to approve the Draft Reproductive Health Law, which was presented by the Parliament to the Government. The Government stated that reproductive rights are not absolutely established in international agreements and suggested to Lithuanian Parliament to set up a new working group for redrafting the law.[17]

The Draft Reproductive Health Law was established with initiative of the Lithuanian Family Planning and Sexual Health Association. The Draft Law would have ensured, for example, free or subsidized contraception for low-income persons. Contraceptive availability remains limited due to the government's failure to ensure affordable contraceptives of reliable quality, particularly for low-income women. The contraceptive prevalence rate for modern methods in Lithuania is 31%, and for all methods is 47%.[18] Also, this draft law was to legalize voluntary sterilization as a family planning method, which is currently illegal in Lithuania. According to the draft law, all methods of abortion would have become legal as well, including medical abortion. In Lithuania, abortion is currently regulated only by a decree of the Minister of Health.[19]

2. Access to Safe, Comprehensive Abortion Services

The organization, financing, and structure of the Lithuanian health care system has undergone considerable change since 1990. Nonetheless, the system needs further reform to meet the health needs of the population. The lack of specific reproductive health services raises serious concerns about health care available to women of childbearing age and adolescents.[20]

One of the significant problems concerning safe abortion is the lack of the possibility for women to choose freely between abortion procedures. In Lithuania, there is no possibility to choose medical abortion as a safe and effective method of terminating early pregnancy. In 2002, the Lithuanian National Committee on Biomedical Ethics rejected both the application for clinical trials for medical abortion and approval of the drugs.[21]

Medical abortion, however, is a proven early, safe and effective non-invasive alternative to surgical abortion that involves the use of two medicines to end a pregnancy. The most common regimen calls for an oral dose of mifepristone, an antiprogestin that acts to weaken the attachment of the fertilized egg to the uterus, followed 36 to 48 hours later by an oral or intravaginal dose of a prostaglandin analog—either misoprostol or gemeprost—that causes contractions of the uterus, helping to expel the fertilized egg.[22] This regimen, which can be initiated as soon as pregnancy is confirmed,[23] is approximately 95% effective for abortion up to

49 days' gestation,[24] but has been approved for up to 63 days' gestation in some countries.[25] Many abortion providers will not perform some types of surgical abortion until at least the sixth week of gestation.

Medical abortion is the result of decades of medical research conducted to develop and perfect a safe and perhaps more acceptable alternative to surgical abortion, with the larger goal of benefiting women's health and access to health care services. As a safe method of pregnancy termination with the potential to reduce maternal health risks for thousands of women, medical abortion is an important component of reproductive health care to which all women should be entitled. Because medical abortions can be initiated as soon as pregnancy is confirmed up to the first few weeks of gestation, the availability of medical abortion may allow women to obtain earlier, and thus safer, abortions.[26] The availability of medical abortion can improve women's access to safe abortion services and thus help reduce abortion-related mortality and morbidity. It has the potential to reduce the number of abortion complications, such as uterine perforation and cervical lacerations, as well as those associated with anesthesia and infection.[27] Some studies suggest that the availability of medical abortion can lead to an increase in the number of health care providers who offer abortion services, thereby improving women's overall access to safe abortion.[28]

Since the introduction of medical abortion, research on patients' evaluations of medical abortions found that the majority of women—often more than 90%—were satisfied with the procedure and would opt for the same method if a future termination were necessary.[29] Studies also show that 57–70% of women prefer medical abortion when presented with a choice between medical and surgical abortion,[30] and the safety and efficacy of this method has been consistently demonstrated in nearly every region of the world.[31] For women who wish to avoid a surgical procedure for reasons of health, culture, privacy or convenience, medical abortion provides a more acceptable option of pregnancy termination.

For over a decade, women in almost all member states of the European Union seeking an abortion have had the option of either a surgical or medical procedure.[32] While these countries' positions on the legality of abortion differ, their legalization of medical abortion reflects a common effort to expand women's options with regard to pregnancy termination and reasoned consideration of the proven safety and efficacy of the regimen involved.[33] The decision of the Lithuanian Committee on Biomedical Ethics to reject medical abortion as an option for women in Lithuania has denied women access to a proven safe modern health care option, thus compromising their right to life, health, reproductive autonomy and right to benefit from scientific progress.

3. Access to Sexual Education

Sexuality education is not provided at school on systematic basis. Sex education is integrated into different disciplines in school curricula. However, curricula on sex education do not give adequate attention to topics of contraception, protection from STIs, as well as the promotion of safe sex practices and equitable gender relations. Teachers frequently do not have adequate training in this field. Manuals present stereotypical attitudes to human sexuality and gender roles. Lithuanian universities have not trained teachers to teach sex education, although in 1998,

the Lithuanian Pedagogical University created an elective program for health teachers that will qualify them to teach sex health classes. The Catholic Church and certain influential educators oppose the teaching of sex education in schools.[34]

Lack of access to sexuality education is is troublesome especially considering the increasing rates of HIV infections amongst youth, especially among young women. 26.5% of all infected women are between the ages of 15–18.[35] In Lithuania, the 72 new HIV cases detected in 2001 increased more than five-fold in 2002.[36] In addition, the rates of adolescent unwanted pregnancies and abortions remain high. In 2003, the average number of births per 1,000 women aged 15–19 was 26.[37] Of all abortions in 1998, 7.2% were performed for women under the age of 19.[38]

The Family Planning and Sexual Health Association, founded in 1995, is the only NGO working in the field of sexual-reproductive rights and health of the public, especially adolescents. The Association initiated a program to found youth centers in six towns, where specially trained young people inform their peers about sexual and reproductive health issues. Through peer education methods, these centers provide information about reproductive health, family planning, relationships and disease prevention. The Association also provides adolescents with information about family planning service providers. In addition, it works on the development of legislation, reproductive health programs and policy, training and sexual/reproductive rights. Adolescent Health Promotion Centers (founded by the Association) also offer lectures, lead discussions, and inform their peers about sexual and reproductive health, safe sex, and reproductive rights.[39] However, the government currently provides no funding support for these projects.

We hope that the Committee will address the following questions to the government of Lithuania:

1. What legislation and policies have been adopted to address the barriers that women face in accessing comprehensive reproductive health and family planning services including medical abortion, as well as information about these services? Is the government planning to adopt a comprehensive Reproductive Health Law?

2. What governmental efforts are being made to increase public awareness and availability about all available modern contraceptives methods?

3. What steps has the government taken to allow women access to all available safe abortion methods, including medical abortion?

4. Sex education is still not systematically offered in the schools. Given this reality, what specific measures have been taken to institute government-sponsored programs such as public awareness campaigns and sexual education in schools, and to distribute contraception to adolescents?

Finally, we will be submitting the following supporting documentation for the Committee's reference:

Chapter on Lithuania in *Women of the World: Laws and Policies Affecting Their Reproductive Lives, East Central Europe* (Center for Reproductive Rights ed. 2000).

There remains a significant gap between the provisions of the International Covenant on Civil and Political Rights and the reality of women's reproductive health and lives. We appreciate the active interest that the Committee has taken in the reproductive health and rights of women in the past, stressing the need for governments to take steps to ensure the realization of these rights.

We hope that this information is useful during the Committee's review of the Lithuanian government's compliance with the ICCPR. If you have any questions, or would like further information, please do not hesitate to contact us.

Very truly yours,

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[1] Human Rights Committee, General Comments Adopted by the Human Rights Committee Under Article 40, Paragraph 4, of the International Covenant on Civil and Political Rights, Equality of Rights Between Men and Women (Article 3), General Comment 28, 68th Sess., 1834th mtg., ¶ 20, U.N. Doc. CCPR/C/21/Rev/1/Add/10 (2000) [hereinafter HRC, General Comment 28].
[2] *See, e.g., Concluding Observations of the Human Rights Committee: Ecuador*, 63rd Sess., 1692nd mtg., ¶ 11, U.N. Doc. CCPR/C/79/Add.92 (1998) [hereinafter *HRC Concluding Observations: Ecuador*]; *see, e.g., Concluding Observations of the Human Rights Committee: Poland*, 66th Sess., ¶ 11, U.N. Doc. CCPR/C/79Add.110 (1999) [hereinafter *HRC Concluding Observations: Poland*].
[3] Human Rights Committee, General Comment 6, Right to Life (Article 6), 16th Sess., ¶ 5 (1982).
[4] International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc A/6316 (1966), arts. 3, 36, 999 U.N.T.S. 171 *(entered into force* Mar. 23, 1976) [hereinafter Civil and Political Rights Covenant].
[5] HRC, General Comment 28, *supra* note 1, ¶ 20.
[6] *See, e.g., HRC Concluding Observations: Poland*, *supra* note 2, ¶ 11; *see, e.g., Concluding Observations of the Human Rights Committee: Argentina,* 70th Sess., 1893rd mtg., ¶ 14, U.N. Doc. CCPR/CO/70/ARG (2000).
[7] *Concluding Observations of the Human Rights Committee: Lithuania*, 66th Sess., 1643rd mtg., ¶¶ 9–10, U.N. Doc. CCPR/C/79/Add.87 (1997).
[8] *See* CENTER FOR REPRODUCTIVE RIGHTS & UNIVERSITY OF TORONTO INTERNATIONAL PROGRAMME ON REPRODUCTIVE AND SEXUAL HEALTH LAW, BRINGING RIGHTS TO BEAR: AN ANALYSIS OF THE WORK OF UN TREATY MONITORING BODIES ON REPRODUCTIVE AND SEXUAL RIGHTS n.604–606 (2002) [hereinafter BRINGING RIGHTS TO BEAR].
[9] *Id.* n.710–711.
[10] *See, e.g., HRC Concluding Observations: Poland, supra* note 2*,* ¶ 11(b).
[11] BRINGING RIGHTS TO BEAR, *supra* note 8, at 115.
[12] *See HRC Concluding Observations: Poland*, *supra* note 2, ¶ 11.
[13] *See Concluding Observations of the Committee on the Rights of the Child: Lithuania*, 26th Sess., ¶ 39, U.N. Doc. CRC/C/15/Add.146 (2001).
[14] *Id.* at 40.

[15] *See* CENTER FOR REPRODUCTIVE RIGHTS, WOMEN'S REPRODUCTIVE RIGHTS IN LITHUANIA: A SHADOW REPORT TO THE CEDAW COMMITTEE n.40 (2000), [hereinafter WOMEN'S REPRODUCTIVE RIGHTS IN LITHUANIA: A SHADOW REPORT].
[16] *See* CENTER FOR REPRODUCTIVE RIGHTS, WOMEN OF THE WORLD: EAST CENTRAL EUROPE 82 (2000) [hereinafter WOW EAST CENTRAL EUROPE].
[17] Decision of Government of 18 July 2003, Nr.IXP-1775.
[18] United Nations Population Fund (UNFPA), THE STATE OF WORLD POPULATION 2003, at 72, 82 (2003).
[19] WOW EAST CENTRAL EUROPE, *supra* note *16,* n.208.
[20] *See id.* at 86.
[21] Information on file with the Family Planning and Sexual Health Association of Lithuania.
[22] Mitchell D. Creinin, *Medical Abortion Regimens: Historical Context and Overview*, 183 AM. J. OBSTETRICS AND GYNECOLOGY S3, S5 (2000) [hereinafter Creinin, *Medical Abortion Regimens*].
[23] Rachel K. Jones & Stanley K. Henshaw, *Mifepristone for Early Medical Abortion: Experiences in France, Great Britain and Sweden*, 34 PERSP. ON SEXUAL AND REPROD. HEALTH 154 (2002) [hereinafter Jones & Henshaw, *Mifepristone for Early Medical Abortion*].
[24] Creinin, *Medical Abortion Regimens, supra* note 22, n.44–45.
[25] Mifepristone has been approved for early abortion up to 63 days in Great Britain and Sweden. Jones & Henshaw, *Mifepristone for Early Medical Abortion, supra* note 23, at 154.
[26] *See id.* at 156.
[27] *See* ROYAL COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS (RCOG), THE CARE OF WOMEN REQUESTING INDUCED ABORTION (2000), http://www.rcog.org.uk/guidelines.asp?PageID=108&GuidelineID=31 (last visited Mar. 5, 2004) [hereinafter RCOG, THE CARE OF WOMEN REQUESTING INDUCED ABORTION]; *see* Elizabeth Pirruccello Newhall & Beverly Winikoff, *Abortion with mifepristone and misoprostol: Regimens, efficacy, acceptability and future directions*, 183 AM. J. OBSTETRICS AND GYNECOLOGY S44 (2000) [hereinafter Newhall & Winikoff, *Abortion with mifepristone and misoprostol*].
[28] In the United States, studies conducted after FDA approval of mifepristone but before the drug was released on the market indicated that the availability of mifepristone as an abortifacient would increase women's access to abortion services in the U.S., primarily by increasing the number of health care providers who offer abortion services. Bonnie Scott Jones & Simon Heller, *Providing Medical Abortion: Legal Issues of Relevance to Providers*, 55 AM. MED. WOMEN'S ASS'N, INC. n.2 (2000).
[29] Jones & Henshaw, *Mifepristone for Early Medical Abortion, supra* note 23, n.57.
[30] *Id.* n.58.
[31] Newhall & Winikoff, *Abortion with mifepristone and misoprostol, supra* note 27, S50–S51.
[32] *See* Jones & Henshaw, *Mifepristone for Early Medical Abortion, supra* note 23, at S50–S51.
[33] *See* RCOG, THE CARE OF WOMEN REQUESTING INDUCED ABORTION, *supra* note 27; *see* Newhall & Winikoff, *Abortion with mifepristone and misoprostol, supra* note 27.
[34] *See* WOW EAST CENTRAL EUROPE, *supra* note 16, § IV(E), at 94.
[35] *See* Lithuanian AIDS Centre, Preliminari Situacija Apie Situacija Lietuvoje (on file with the Center for Reproductive Rights).
[36] JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS (UNAIDS) & WORLD HEALTH ORGANIZATION, AIDS EPIDEMIC UPDATE, DECEMBER 2003, at 16 (2003).
[37] UNFPA, STATE OF WORLD POPULATION 2003, at 72, 81 (2003).
[38] *See* WOMEN'S REPRODUCTIVE RIGHTS IN LITHUANIA: A SHADOW REPORT, *supra* note 15, n.140.
[39] *See id.* at 29–30.