



September 10, 2013

Hon. Navanethem Pillay
United Nations High Commissioner for Human Rights
Palais des Nations
1211 Geneva 10, Switzerland

Re: Response to Call for Submissions for OHCHR Study on Access to Justice for Children

The Center for Reproductive Rights (CRR) appreciates the opportunity to provide this submission to the Office of High Commissioner for Human Rights to inform the upcoming report and day of discussion on access to justice for children. CRR, an independent nongovernmental organization based in New York, with regional offices in Africa, Asia, and Latin America, uses the law to advance reproductive freedom as a fundamental human right. Over the past twenty years, CRR has advocated on behalf of adolescents' rights to access appropriate reproductive healthcare and sexuality education and to exercise their human rights free from violence and discrimination.

In guaranteeing children's fundamental human rights, including their right to access to justice, states must take into account a number of distinct considerations. Children face unique barriers in exercising their rights due to their lack of legal autonomy, states' failure to enshrine their rights into laws and policies, and the lack of accessible remedies when their rights are violated. Girls are uniquely vulnerable to human rights violations as, in addition to the aforementioned barriers, they must also contend with discriminatory beliefs, gender-based stereotypes and cultural and/or social practices which result in girls having poorer nutrition, receiving less health care, and having lower levels of educational attainment and greater levels of illiteracy.¹ Girls are also particularly vulnerable to a number of specific human rights abuses, such as sexual and gender-based violence and harmful traditional practices, including child marriage and female genital mutilation. Furthermore, adolescent girls' developing reproductive capacities and their resulting reproductive health needs, coupled with the stigma surrounding adolescent sexuality, exacerbate the discrimination they face and may prevent adolescent girls from accessing essential sexual and reproductive health services, with serious consequences for both their health and futures.

States have an affirmative duty to eradicate discrimination against girls and to take measures to ensure their equal enjoyment of rights. As such, states must take affirmative measures to ensure girls the same rights as boys in law and in practice.² To overcome the results of systemic discrimination against girls, in addition to eradicating formal discrimination in laws and policies, states must also eradicate substantive discrimination, including by adopting measures to address the conditions and attitudes that perpetuate discrimination.³ States must also actively identify

both individual and groups of children requiring special measures for the effectuation and exercise of their rights,⁴ such as indigenous groups,⁵ minorities,⁶ and children of migrants.⁷

In effectuating adolescent girls' rights, including their right to access to justice, it is critical that their evolving capacities are recognized, their right to be heard is implemented, and their best interests are a primary consideration in all decisions affecting their wellbeing. Where states fail to infuse laws and policies affecting adolescents with these fundamental principles, they are subordinated as wards of their parents or guardians, in spite of international human rights norms recognizing them as rights-bearers who are fully entitled to assert and exercise their human rights. In such instances, their lack of legal autonomy, paired with lack of information and material resources, prevents children and adolescents from taking steps to access their human rights, challenge states' failures to enshrine their rights into laws and policies, and seek remedies where their rights are violated. For example, certain children – particularly young children – may not have the developmental capacity to recognize certain actions as types of harm or to realize that they should alert someone of the particular harm. In this regard, children may not realize that their rights are being violated. Where children do recognize a rights violation – or, more generally, where they recognize that something does not seem “right” or that they have an unfulfilled need – they may feel both voiceless and helpless, as they might not have any knowledge about where to report the violation or who they can ask for support or assistance. Further, children may not report violations of their rights out of fear of retribution, fear of being blamed, or due to misplaced feelings of guilt or fault. Recognizing these barriers in realizing children's rights, this submission will explore adolescents' right to access to justice in the context of the right to health, particularly reproductive health, advocating for a broad interpretation of the meaning of access to justice based on the unique difficulties adolescents face in utilizing traditional judicial mechanisms. This submission also elaborates upon states' affirmative obligations to enshrine international human rights norms into laws and policies in order to guarantee children's equal enjoyment of their rights and prevent human rights violations.

I. Children's right to access to justice

In exploring access to justice for children, it is critical to recognize that, for a variety of reasons, children are less likely to utilize traditional judicial mechanisms. Their lack of legal autonomy – that is, the fact that in many states, children are not legally entitled to make decisions about their rights or interests – means that they may be not be authorized to act on their own behalf in judicial arenas in order to assert their rights due to lack of standing or other procedural barriers. Where they are permitted to assert their rights before the judiciary, they nonetheless may not know that such mechanisms are available. Even when children are aware of their right to utilize formal judicial mechanisms, these mechanisms may remain inaccessible as children often lack an independent source of income, preventing them from paying required judicial administrative fees or hiring legal representation. Additionally, children are less likely to have access to reliable transportation, meaning that they may be prevented from utilizing the judiciary to assert their rights where it is not easily accessible geographically – such as in rural or indigenous communities. All of these obstacles are exacerbated for girls, whose ability to assert their rights is marred by systematic discrimination and the resulting inequities. Girls must contend with having limited mobility due greater levels of responsibility within the home and less leisure time,⁸ limiting the time available to them that they can spend reporting or otherwise seeking justice for human rights violations perpetrated against them. In addition, their vulnerability to

gender-based violence makes traveling alone a great risk for many young girls, limiting the accessibility of the judiciary or other resources designed to protect children's rights.

As children are less likely to utilize traditional, formal judicial mechanisms, access to justice must be interpreted broadly to include the non-judicial mechanisms and modes of protection that create an enabling environment wherein children are able to assert and exercise their human rights. To this end, States have an affirmative duty to enact special measures of protection for children in order to guarantee their full and effective exercise of their rights in line with their evolving capacities,⁹ including their right to access to justice. These duties extend beyond the scope of remediating human rights violations and include the duty to *prevent* such violations.¹⁰ To create an enabling environment wherein children are able to exercise their rights, States must enshrine international human rights protections into domestic laws and policies. This is critical in regards to children, as their unique vulnerabilities make them unable or unlikely to challenge instances where their rights are not protected by law. There are four principles of children's rights which must be recognized and incorporated into all laws and policies designed to effectuate such rights and are particularly critical for ensuring children's access to justice: recognition of children's evolving capacities, guaranteeing children's right to be heard, ensuring children's best interests are a primary consideration in decisions affecting them, and guaranteeing children's rights to equality and nondiscrimination.¹¹ These interconnected and mutually reinforcing principles of children's rights create the basis of an enabling environment wherein children are able to effectively assert and exercise their rights and thereby are able to access justice.

1. Evolving capacities

Recognition of children's evolving capacities must form the foundation of all laws and policies concerning children's rights. The term "evolving capacities" refers to the process of maturation and learning through which children progressively acquire knowledge, understanding, and competencies, including about their rights and how they can be realized.¹² As children grow older, they become increasingly able to understand and express their interests and desires and make autonomous decisions.¹³ As such, parents, guardians, and other individuals who oversee and provide guidance to children must continually adjust their supportive role to be in line with these evolving capacities.¹⁴

2. The right to be heard

International human rights norms recognize that, in accordance with children's age and maturity, their views must be given due weight in all matters affecting them.¹⁵ This specifically includes children's right to be heard in any judicial and administrative proceedings affecting them.¹⁶ In such instances, children's views may be expressed directly, through a representative, or through an appropriate body.¹⁷ Children must be afforded the right to express their views freely, without undue influence or pressure,¹⁸ and in an enabling environment where "the child feels respected and secure."¹⁹ The right to be heard is both a right in itself and should be taken into account in interpreting and implementing all other rights.²⁰ In according "due weight" to the child's views, age alone cannot be the sole factor determining the significance of a child's views; the child's maturity – defined as the "capacity of a child to express her or his views on issues in a reasonable and independent manner"²¹ – must also be taken into consideration.²² The Committee on the Rights of the Child (CRC) has indicated that states have a "clear legal obligation," without

any discretionary leeway,²³ to take appropriate measures to fully implement all children's right to be heard.²⁴ Recognizing that gender stereotypes and patriarchal values undermine the exercise of girls' right to be heard, states are urged to pay special attention to this right for girls.²⁵

3. The best interests of the child

International human rights norms recognize that the child's best interests must be a primary consideration in all actions concerning children.²⁶ Evaluation of a child's best interests requires a case-by-case analysis of a range of factors in light of the specific circumstances of the individual child or group of children; this may include assessment of factors such as age, sex, and level of maturity, amongst others, as well as the social and cultural context.²⁷ This assessment must recognize that the child's capacities will continue to evolve, and therefore consider the child's wellbeing in both the short and long term.²⁸ States must "ensure that all judicial and administrative decisions as well as policies and legislation concerning children *demonstrate* that the child's best interests have been a primary consideration," including "by describing how the best interests have been examined and assessed, and what weight has been ascribed to them in the decision."²⁹ States' duties to ensure the best interests of the child go beyond measures taken by state actors and extend into actions taken in the private sector, including the provision of services.³⁰ In determining a child's best interests, decision-makers cannot utilize cultural identities or values as a means to justify depriving children of their rights.³¹

4. Rights to equality and non-discrimination

The rights to equality and non-discrimination are at the core of almost every international human rights treaty and are guaranteed protections in the exercise of all other rights. The right to non-discrimination requires states to eradicate discriminatory policies and practices and take affirmative measures to ensure everyone is afforded the same rights in law and in practice;³² this may require legislative and administrative changes.³³ In addition to eradicating formal discrimination in laws and policies, states must also eradicate substantive discrimination, including by adopting measures to address the conditions and attitudes that perpetuate discrimination.³⁴ States must also actively identify both individual and groups of children requiring special measures for the realization of their rights.³⁵ States should remove all impediments that women and girls face in accessing justice³⁶ and ensure access to justice for girls who are victimized by discriminatory practices.³⁷ States should "put in place comprehensive measures to prevent and address violence against women and girls, recognizing that such violence is a form of discrimination against women and constitutes a violation of their human rights."³⁸ States should ensure that "women and girls who are victims of violence have access to immediate means of redress and protection."³⁹

The aforementioned principles are all interconnected and reinforce one another; as such, they must be implemented comprehensively. For example, determining a child's best interests requires respect for the child's right to be heard, as the child's view is a critical element of such a determination.⁴⁰ Furthermore, recognition of a child's evolving capacities must be incorporated into an assessment of the child's views and determination of the child's best interests. The rights to nondiscrimination and equality must inform all of these processes in order to ensure that any measures adopted adequately take into account both individual and groups of children's unique vulnerabilities, allowing the remedy to be crafted in a way which genuinely responds to the law, policy, or practice which gave rise to the violation.

II. Access to justice in healthcare settings

As previously noted, due to their unique vulnerabilities and the difficulties children face accessing traditional judicial mechanisms, guaranteeing children access to justice requires states to take measures to prevent human rights violations. In this regard, it is critical that states enshrine children's rights, particularly the aforementioned principles, into the laws and policies effecting children, especially those targeting children, such as education, access to health services, and protective services. In this regard, these principles should be enshrined into the laws and policies surrounding children's right to health, in order to prevent human rights violations against children and enable them to assert their rights in both formal and informal settings.

Treaty monitoring bodies have made clear that adolescents' right to health includes the right to sexual and reproductive health,⁴¹ including the right to control and make responsible choices about their bodies and sexual and reproductive health.⁴² States must guarantee adolescents confidential, universal access to sexual and reproductive health services that enable them to make free and responsible decisions in accordance with their evolving capacities.⁴³ The Committee on the Rights of the Child (CRC) has made clear that sexually active adolescents should have easy and readily available access to short- and long-term contraceptive methods, including emergency contraception.⁴⁴ The CRC further recommends "States ensure [adolescents] access to safe abortion and post-abortion care services, irrespective of whether abortion itself is legal."⁴⁵

Adolescents may be denied their right to access sexual and reproductive health services based on either the social belief that adolescents or unmarried persons should not be sexually active or as a result of the prejudicial stereotype that adolescents lack the requisite maturity, capacity, or responsibility to consent to and engage in sexual activity. Despite this, international human rights law recognizes that adolescents have evolving capacities and increasing abilities to make decisions surrounding their sexual and reproductive health. When states fail to enshrine adolescents' rights to sexual and reproductive health into laws and policies or when they enact restrictive laws abridging adolescents' right to access sexual and reproductive health services, they are in violation of international human rights norms. Furthermore, this perpetuates the belief that adolescents should either not be sexually active or, if they are sexually active, that they are doing something socially/culturally unacceptable, resulting in stigma surrounding adolescent sexuality. This is particularly harmful to adolescent girls, as they face heightened levels of stigma surrounding their sexuality in part due to the stereotype of females as caretakers whose primary role is parenting. Such restrictions discriminate against girls as they have greater sexual and reproductive health needs as compared to boys based on their reproductive capacities. Perpetuating stigma surrounding adolescents' sexual and reproductive health inhibits adolescents' access to justice by deterring them from asserting their rights where they are not enshrined in law and from reporting violations perpetrated against them in the context of sexual and reproductive health.

A. Parental consent requirements violate children's right to health and access to justice

A number of states across the globe impose rigid age requirements on children and adolescents' access to sexual and reproductive health information and services without parental authorization.

Commonly, such laws require adolescents under the age of majority – usually 18 – to obtain the consent of a parent to access particular sexual and reproductive health services, such as contraception or abortion.⁴⁶ Adolescents may not want to include their parents in decisions surrounding their sexual and reproductive health for a number of reasons. Stigma surrounding adolescent sexuality may make adolescents fearful of a negative parental response, particularly for adolescent girls, who generally face greater stigma and discrimination surrounding their sexuality.⁴⁷ In some instances, such a revelation about their sexual activity could result in violence at the hands of their parents or other family members.⁴⁸ Furthermore, where adolescents decide to disclose their reproductive health needs to their parents, they may simply refuse to provide consent, thereby depriving the adolescent of their right to sexual and reproductive health information and services.

The World Health Organization (WHO) has affirmed that arbitrary age cut offs should not be used to determine whether adolescents can access health services, noting that parental authorization requirements may deter adolescents from seeking sexual and reproductive health services, with attending negative impacts on their health.⁴⁹ For example, depriving adolescents from accessing contraception can increase the risk of unintended pregnancy.⁵⁰ Particularly with regards to emergency contraception, the time-sensitive nature of its use as a post-coital means to prevent pregnancy can make parental authorization requirements insurmountable obstacles.⁵¹ Where adolescents facing an unwanted pregnancy cannot confidentially access abortion services, they may seek out unsafe, clandestine abortion services which can threaten their lives and health.⁵²

International human rights norms have made clear that states must ensure all children access to confidential medical counseling and advice without parental consent and free from limitations based on age.⁵³ While parents and other legal guardians are afforded particular rights and responsibilities in relation to children, the primary aim is to enable children to exercise their rights.⁵⁴ The European Court of Human Rights has made clear that “legal guardianship cannot be considered to automatically confer on the parents of a minor the right to take decisions concerning the minor’s reproductive choices, because proper regard must be had to the minor’s personal autonomy in this sphere.”⁵⁵ As such, parents should not be legally authorized to deprive their children of critical sexual and reproductive health information and services by invoking their own rights in relation to the child.

When parental consent requirements cause adolescents to be unable to access necessary sexual and reproductive health services, they are generally left without recourse. While some states may permit adolescents to petition a judge for authorization, the barriers children face in accessing a formal judicial system – as elaborated in the subsequent section – demonstrate that such an option is not in line with adolescents’ lived realities. As such, adolescents in such situations are generally unable to voice their wishes to an independent arbiter with the authority to determine whether the adolescent has the capacity to consent. Adolescents’ lack of access to such a mechanism for enforcing their internationally-recognized rights to sexual and reproductive health services constitutes a violation of their right to access to justice.⁵⁶

While it is permissible for states to introduce fixed ages at which children can consent to medical treatment,⁵⁷ where such ages are not in place or when children are below these ages, it is critical

that states put in place mechanisms to enable children to demonstrate to their health care provider whether they have the capacity to consent to such treatment.⁵⁸ It is critical that this take place at the healthcare provider level due to the serious barriers that adolescents face in accessing formal adjudicatory mechanisms. The failure to implement accessible mechanisms for adolescents to receive sexual and reproductive health services disproportionately jeopardizes girls' ability to exercise their right to health, thereby infringing on their right to access to justice when they are denied services and their rights to equality and nondiscrimination.

As such, it is critical that states either repeal laws designating arbitrary ages at which adolescents can access health services without parental consent or put in place accessible, age-appropriate mechanisms to effectively enable adolescents below the designated age of consent to access health information and services in accordance with their evolving capacities. Without such mechanisms, blanket determinations about children's interests and capacities based solely on their age completely negate the human rights framework surrounding children's rights and thereby authorize human rights violations against them, leaving them without recourse in violation of their right to access to justice. As will be elaborated further in this submission, it is also essential that states put in place measures to enable children to appeal instances where healthcare providers deny them access to sexual and reproductive health services.

B. Judicial authorization requirements violate children's right to health and access to justice

In addition to parental authorization requirements, a number of states impose other third-party authorizations for reproductive health services, particularly for abortion services. Such laws frequently appear in countries with restrictive abortion laws that only permit abortion under certain circumstances, such as when the pregnancy poses a risk to the woman's life or health or in instances of rape or incest.⁵⁹ Where abortion is specifically permitted in instances of rape, some countries require women and girls seeking abortion services on this basis to overcome procedural barriers, such as obtaining a certificate from the prosecutor or authorization from a judge in order to access abortion services. For example, in Poland a woman seeking abortion services in instances of rape must receive a certificate of authorization from a public prosecutor.⁶⁰ In Cameroon, the woman must receive a "certificate by the prosecution of a good case."⁶¹ In Bolivia, the law requires that a penal action be initiated for abortion in instances of rape;⁶² in practice, this is interpreted to require judicial authorization.⁶³ Alternatively, in a process referred to as "judicial bypass," these laws appear as an alternative to parental authorization requirements, thereby allowing a minor to seek permission for abortion services from a judge in lieu of informing her parent or guardian.⁶⁴ These laws are particularly harmful in countries where emergency contraception is inaccessible, highly restricted, or banned, as women who have had unprotected sex – either due to a failed contraceptive method, sexual violence, or the inability to negotiate contraceptive use – have no means of preventing pregnancy.

As noted previously, due to adolescents' unique vulnerabilities, accessing and utilizing formal judicial processes can be an insurmountable hurdle, which in these cases can result in denials of adolescents' right to access critical reproductive health services. Adolescents may lack knowledge about how to file a request for permission to terminate the pregnancy or, due to geographical constraints, they may be unable to physically access the judiciary. Furthermore, the stigma surrounding sexual and reproductive health services, which is particularly strong in regards to adolescents' access to these services, may deter them from seeking authorization from

the judiciary or prosecutor. Where pregnancy results from rape, gender stereotypes surrounding sexual violence, particularly where female victims of sexual violence are blamed for instigating such attacks or are pressured into marrying the perpetrator, may also deter or prevent adolescents from seeking such authorizations. Additionally, judicial authorizations for abortion services in instances of rape may include evidentiary requirements to demonstrate that the sexual violence occurred; adolescents are at a particular disadvantage from receiving authorization in these instances, as they would be required to overcome the unique barriers that they face in both collecting such evidence from the appropriate prosecutorial bodies and presenting it to the judiciary. Finally, studies on judicial bypass and judicial authorization proceedings demonstrate that the judiciary itself is frequently responsible for miscarriages of justice in such proceedings due to lack of knowledge or misinterpretations of the law and invocation of conscientious objection, leading to refusals to authorize abortion and delays for adolescents seeking abortion services.⁶⁵

Judicial authorizations for health services are generally only required for abortion services – a service which only women and girls need – making these requirements inherently discriminatory against girls and inhibiting their ability to access their right to health. Where pregnancy results from rape, such requirements also compel victims of sexual violence to relive their trauma in order to access critical health services. In this regard, the CRC has made clear that where harmful events are concerned, such as criminal activity, children should not be interviewed about these events more often than necessary.⁶⁶ The CRC has noted that in hearing children’s views on their rights and interests, it is critical that they are in an environment where they feel secure and respected.⁶⁷ Compelling young women to relive instances of sexual violence before strangers in a court room – potentially without any support or representation – in order to exercise their right to access critical reproductive health services compounds the harm experienced by victims of sexual violence and clearly violates the standards set forth under international human rights treaties. As such, to be in compliance with international human rights norms, states should repeal laws requiring judicial authorization for adolescents to access abortion in order to enable adolescents to exercise their right to health free from discrimination. Where states do not repeal such laws, they should, at a minimum, implement youth-friendly mechanisms to better enable adolescents to seek authorization for abortion services and guarantee adolescents a representative to advocate on their behalf and guide them through the judicial proceedings. In this regard, judicial authorization for abortion in instances of sexual violence should never be required due to its potential to exacerbate the trauma experienced by survivors of sexual violence.

C. States have an affirmative duty to put in place mechanisms to ensure that children and adolescents are not unlawfully denied access to reproductive health services

Even where laws do not actively restrict children’s access to sexual and reproductive health services, providers’ own discriminatory beliefs about whether children should be able to access such services or providers’ lack of knowledge that the law permits children access to such services may result in denials of treatment. States have an affirmative obligation to protect children’s rights by ensuring that non-States actors adhere to a due diligence standard and respect children’s rights,⁶⁸ including ensuring that health services providers “do not deny children any services to which they are entitled by law.”⁶⁹ In this regard, where states fail to take measures to ensure that health service providers do not deny adolescents access to reproductive health services, they are failing to take measures to prevent human rights violations against adolescents

and thereby endangering their rights to health and access to justice.⁷⁰ When a state delegates the administration of health services to third parties, such as local or regional actors or non-state actors, the state cannot delegate its duties to comply with its human rights obligations.⁷¹ In regard to sexual and reproductive health services, such denials are particularly detrimental due to the time constraints on when such services must be accessed.

The case of *P. & S. v. Poland*,⁷² decided by the European Court of Human Rights in 2012, demonstrates that states must take preventative measures to ensure that healthcare professionals do not unlawfully prevent adolescents from accessing reproductive health services. P., a 14-year-old who became pregnant as a result of rape, determined that she wanted to terminate the pregnancy – which she was legally entitled to do under Polish law.⁷³ Although P. was eventually able to access a lawful abortion, the Court found that the process for receiving this authorization was “marred by procrastination and confusion,” and that “[n]o set procedure was available to [P. and S.] under which they could have their views heard and properly taken into consideration with a modicum of procedural fairness.”⁷⁴ In addressing the human rights violations suffered, the European Court of Human Rights reiterated a prior ruling finding that the compensatory and retroactive nature of post facto civil remedies does not fulfill States’ affirmative duty to prevent harm.⁷⁵ In this regard, the Court noted that “such retrospective measures alone were not sufficient to provide appropriate protection of the personal rights of a pregnant woman in the context of a controversy concerning the determination of access to lawful abortion,” emphasizing the woman’s vulnerability in such circumstances.⁷⁶

As *P. & S. v. Poland* demonstrates, states’ obligations to guarantee the rights of pregnant women, including pregnant adolescents, requires states to take affirmative measures and put in place mechanisms to guarantee women and adolescents access to legal reproductive health services in order to prevent violations of their rights. This obligation is further required to effectuate the rights to equality and non-discrimination, as unregulated denials of access to sexual and reproductive health services have a disproportionate effect on girls based on their greater reproductive health needs than boys, and particularly effect marginalized groups of girls due to the additional barriers they face exercising their rights.⁷⁷

Denials of access to reproductive health services further violate adolescents’ access to justice by denying them the right to be heard in all matters affecting them. The right to be heard explicitly includes “any judicial or administrative proceedings affecting the child,”⁷⁸ which must be broadly understood⁷⁹ and includes proceedings surrounding the child’s healthcare.⁸⁰ In this sense “administrative proceedings affecting the child” can be understood to include measures children must take to access health services, including requesting such services from the provider.⁸¹

As such, states must ensure that decisions surrounding adolescents’ access to healthcare fulfill the requirements set forth by international human rights norms, in order to prevent violations of adolescents’ rights and protect adolescents’ right to access to justice. States are required to develop transparent and objective processes for decisions made by administrative authorities in areas directly affecting children;⁸² this should include the context of health services providers’ decisions when they deny children treatment. The CRC has made clear that “any decision concerning the child or children must be motivated, justified and explained”⁸³ and “if the decision differs from the views of the child, the reason for that should be clearly stated.”⁸⁴

Children should also have information about the weight accorded to their views in such instances.⁸⁵ As such, in order to comply with adolescents' rights surrounding access to justice and the right to be heard, when reproductive health service providers deny adolescents access to sexual and reproductive health services, they should be required to provide a written, clearly reasoned explanation of the denial taking into account the evolving capacities of the child, the right to be heard, the child's best interests, and the rights to nondiscrimination and equality.

In instances where adolescents are denied sexual and reproductive health services, they must have access to an effective, immediately accessible, unbiased, child-friendly mechanism to appeal the denial.⁸⁶ The appeal process should take place in a venue that is easily accessible, both physically and financially, to adolescents and that is available during convenient times based on adolescents' schedules. States should take targeted measures to ensure that adolescents know about such mechanisms, including by conducting awareness raising both in schools and through other adolescent-friendly media, to reach adolescents who are not enrolled in school. States should ensure that adolescents are provided with a representative to advocate on behalf of the adolescents' rights and wants; as the CRC has made clear, "it is of utmost importance that the child's views are transmitted correctly to the decision maker by the representative."⁸⁷ In accordance with international human rights standards, the mechanism must be compelled to take up the case in a timely fashion and issue a rapid decision, due to the time-sensitive nature of reproductive healthcare.⁸⁸ Human rights standards also dictate that the mechanism must protect women and girls' physical and mental health,⁸⁹ take into account their opinions,⁹⁰ and provide a well-founded, written decision.⁹¹ The mechanism must guarantee meaningful participation and should consist of independent decision-makers who do not face the threat of backlash or criminal charges for authorizing reproductive healthcare services.

As the aforementioned demonstrates, it is critical that states enshrine children's rights into laws and policies in order to effectuate children's fundamental human rights and guarantee their right to access to justice. When children's rights are not incorporated into laws and policies, children frequently lack the requisite resources to assert their rights and are unable to obtain remedies for human rights violations they experience. CRR urges the Office of the High Commissioner on Human Rights to consider including the following recommendations in the report on children's access to justice:

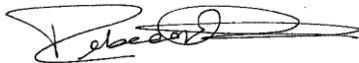
1. Enshrine children's and adolescents' international human rights, including the right to sexual and reproductive health services, into domestic laws and policies to enable them to assert and exercise their human rights and seek remedies when their rights are violated.
2. Remove parental consent requirements surrounding access to sexual and reproductive health services and put in place child-friendly mechanisms to provide adolescents with an avenue to assert their rights to such services in instances where such access is denied.
3. Where fixed ages are in place for adolescents to consent to sexual and reproductive health services, implement effective mechanisms to enable adolescents below the cut-off age who demonstrate that they have adequate capacity to make decisions about their sexual and reproductive health to their health services provider or another independent arbiter to access such services.
4. Urge states to comply with the rights to equality, nondiscrimination, and autonomy by repealing laws requiring judicial authorization for abortion under any circumstances, in

recognition of the social, financial, geographical and legal barriers that adolescents face accessing formal judicial mechanisms, particularly for adolescent girls seeking emergency contraception or abortion services following sexual violence.

5. Enact and implement laws requiring health services providers to issue written, clearly reasoned explanations when they deny adolescents access to sexual and reproductive health services in line with girls' rights to equality, to be heard, and to access justice.
6. Establish accessible, unbiased, timely, youth-friendly mechanisms for adolescents to appeal denials of their access to sexual and reproductive health services in order to guarantee their rights to health and access to justice.

The Center for Reproductive Rights hopes that the information provided within this submission assists the Office of the High Commissioner for Human Rights in its report on children's access to justice. Should the Office of the High Commission for Human Rights have any questions or require any further information on any issue raised therein, please contact Rebecca Brown, Director of Global Advocacy at the Center for Reproductive Rights, at rbrown@reprorights.org or at +1-917-637-3606.

Sincerely,



Rebecca Brown
Director of Global Advocacy
Global Legal Program
Center for Reproductive Rights

¹ See WORLD BANK, *GIRLS' EDUCATION IN THE 21ST CENTURY: GENDER EQUALITY, EMPOWERMENT, AND ECONOMIC GROWTH 3-4* (2008), available at http://siteresources.worldbank.org/EDUCATION/Resources/278200-1099079877269/547664-1099080014368/DID_Girls_edu.pdf (finding that girls make up the majority of children who are not attending school); WORLD YOUTH REPORT, *THE SITUATION OF GIRLS AND YOUNG WOMEN 251 & 254* (2003), available at <http://www.un.org/esa/socdev/unyin/documents/ch09.pdf>; UNICEF, *TRACKING PROGRESS ON CHILD AND MATERNAL NUTRITION: A SURVIVAL AND DEVELOPMENT PRIORITY 6* (2009), available at http://www.childinfo.org/files/Tracking_Progress_on_Child_and_Maternal_Nutrition_EN.pdf.

² See generally Committee on Economic, Social and Cultural Rights (ESCR Committee), *General Comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)*, U.N. Doc. E/C.12/GC/20 (2009) [hereinafter ESCR Committee, Gen. Comment No. 20]

³ *Id.* para. 8(b).

⁴ Committee on the Rights of the Child, *General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child* (34th Sess., 2003), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 12, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter Committee on the Rights of the Child, *Gen. Comment No. 5*].

⁵ Committee on the Rights of the Child, *Concluding Observations: Columbia*, para. 33, U.N. Doc. CRC/C/15/Add.137 (2000).

⁶ ESCR Committee, *Concluding Observations: Ukraine*, para. 54, U.N. Doc. E/C.12/UKR/CO/5 (2008); Committee on the Rights of the Child, *Concluding Observations: Denmark*, para. 49(b), U.N. Doc. CRC/DNK/CO/3 (2005); *Columbia*, para 95(c), U.N. Doc. CRC/C/COL/CO3 (2006).

⁷ Committee on the Eradication of Racial Discrimination (CERD Committee), *Concluding Observations: Austria*, para. 17, U.N. Doc. CERD/C/AUT/CO/18-20 (2012).

⁸ WORLD YOUTH REPORT, RETHINKING LEISURE TIME 216 (2003), available at <http://www.un.org/esa/socdev/unyin/documents/ch08.pdf>.

⁹ Committee on the Rights of the Child, *General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child*, (33rd Sess., 2003), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 1, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter Committee on the Rights of the Child, *Gen. Comment No. 4*]; see also GERISON LANSDOWN, *SAVE THE CHILDREN AND UNICEF, THE EVOLVING CAPACITIES OF THE CHILD* (2005), available at http://www.unicef.org/india/Evolving_capacities_of_the_child.pdf.

¹⁰ See, e.g., Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, *adopted* Dec. 16, 2005, para. 3(a), G.A. Res. 60/147, U.N. Doc. A/RES/60/147 (2005) (affirming states' duty to "[t]ake appropriate legislative and administrative and other appropriate measures to prevent violations."); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* Dec. 10, 1984, Art. 2(1), G.A. Res. 39/46, U.N. GAOR, 39th Sess., Supp. No. 51, U.N. Doc. A/39/51 (1984), 1465 U.N.T.S. 85 (*entered into force* June 26, 1987); Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, art. 11(2), G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46, U.N.T.S. 13 (*entered into force* Sept. 3, 1981) [hereinafter CEDAW].

¹¹ See Convention on the Rights of the Child, *adopted* Nov. 20, 1989, paras. 2, 3, 4, 14(2) and 12(2), G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/44/49 (1989) (*entered into force* Sept. 2, 1990) [hereinafter CRC]; See also Committee on the Rights of the Child, *Gen. Comment No. 5*, *supra* note 4; Committee on the Rights of the Child, *General Comment No. 7, Implementing child rights in early childhood*, (40st Sess., 2005), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter Committee on the Rights of the Child, *Gen. Comment No. 7*]; Committee on the Rights of the Child, *General Comment No. 12: The right of the child to be heard*, (51st Sess., 2009), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. CRC/C/GC/12 (2009) [hereinafter Committee on the Rights of the Child, *Gen. Comment No. 12*]; Committee on the Rights of the Child, *General Comment No. 14: The right of the child to have his or her best interests taken as a primary consideration*, (62nd Sess., 2013), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. CRC/C/GC/14 (2013) [hereinafter Committee on the Rights of the Child, *Gen. Comment No. 14*].

¹² Committee on the Rights of the Child, *Gen. Comment No. 7*, *supra* note 11, para. 17.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See CRC, *supra* note 11, Art. 12 (“States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law”); see also Committee on the Elimination of Discrimination Against Women (CEDAW Committee), *Conclusions Observations: Greece*, para. 6(m), U.N. Doc. CAT/C/CR/33/2 (2004) (“All decisions affecting children should, to the extent possible, be taken with due consideration for their views and concerns, with a view to finding an optimal, workable solution”); Special Rapporteur on the sale of children, child prostitution and child pornography, *Rep. of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat M’jid Maalla – Addendum – Mission to Latvia*, para. 84(c), U.N. Doc. A/HRC/12/23/Add.1 (Jul 13, 2009) (“The participation of children should be strengthened on all issues concerning them, and their views should be given due weight”).

¹⁶ CRC, *supra* note 11, Art. 12(2).

¹⁷ *Id.*

¹⁸ Committee on the Rights of the Child, *Gen. Comment No. 12*, *supra* note 11, para. 22.

¹⁹ *Id.* paras. 23 & 42.

²⁰ *Id.* paras. 2 & 17.

²¹ *Id.* para. 30.

²² *Id.*

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- ²³ *Id.* para. 19.
- ²⁴ *Id.* paras. 15 & 19.
- ²⁵ *Id.* para. 77.
- ²⁶ See CRC, *supra* note 11, Art. 3(1); CEDAW, *supra* note 10, paras. 5(b) & 16(1)(d); Declaration on the Rights of the Child, *adopted* Nov. 20, 1989, para. 2 (1959).
- ²⁷ See Committee on the Rights of the Child, *Gen. Comment No. 14*, *supra* note 11, paras. 32 & 48.
- ²⁸ See *id.*, para. 84.
- ²⁹ *Id.* para. 14(b).
- ³⁰ *Id.* para. 14(c).
- ³¹ *Id.* para. 57.
- ³² See generally ESCR Committee, *General Comment No. 20*, *supra* note 2.
- ³³ Committee on the Rights of the Child, *Gen. Comment No. 5*, *supra* note 4, para 12.
- ³⁴ ESCR Committee, *General Comment No. 20*, *supra* note 2, para. 8(b).
- ³⁵ Committee on the Rights of the Child, *Gen. Comment No. 5*, *supra* note 4, para 12.
- ³⁶ CEDAW Committee, *Concluding Observations: Tanzania*, para. 24, U.N. Doc. CEDAW/C/TZA/CO/6 (2008); *Bangladesh*, para. 20(b), U.N. Doc. CEDAW/C/BD/CO/7 (2011).
- ³⁷ Committee on the Rights of the Child, *Concluding Observations: Philippines*, para. 30(b), U.N. Doc. CRC/C/PHL/CO/3-4 (2009).
- ³⁸ CEDAW Committee, *Concluding Observations: Guyana*, para. 23(a), U.N. Doc. CEDAW/C/GUY/CO/7 (2009).
- ³⁹ CEDAW Committee, *Concluding Observations: Madagascar*, para. 19, U.N. Doc. CEDAW/C/MDG/CO/5 (2008).
- ⁴⁰ Committee on the Rights of the Child, *Gen. Comment No. 14*, *supra* note 11, paras. 44 & 53.
- ⁴¹ Committee on the Rights of the Child, *Gen. Comment No. 4*, *supra* note 9, paras. 28, 31, & 39(c); CEDAW Committee, *General Recommendation No. 24: Article 12 of the Convention (women and health)*, (20th Sess., 1999), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, paras. 1, 8 & 18, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).
- ⁴² Committee on the Rights of the Child, *General Comment No. 15: The right of the child to the enjoyment of the highest attainable standard of health*, (62nd Sess., 2013), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 24, U.N. Doc. CRC/C/GC/15 (2013) [hereinafter Committee on the Rights of the Child, *Gen. Comment No. 15*].
- ⁴³ See *id.* paras. 31, 69 & 70; Committee on the Rights of the Child, *Gen. Comment No. 4*, *supra* note 9.
- ⁴⁴ *Id.* para. 70.
- ⁴⁵ *Id.*
- ⁴⁶ See, e.g., The Medical Termination of Pregnancy Act 1971 (Act No. 34 of 1971), Art. 3(4) (India); The Family Planning, Human Embryo Protection and Conditions of Permissibility of Abortion Act of Jan. 7, 1993, as amended as of Dec. 23, Art. 4a(4) (Pol.); See also *State Policies in Brief, An Overview of Minors' Consent Law*, GUTTMACHER INSTITUTE, Sept. 1, 2013, available at http://www.guttmacher.org/statecenter/spibs/spib_OMCL.pdf (last visited Sept. 10, 2013).
- ⁴⁷ See Melanie Zuch, Amanda J Mason-Jones, Catherine Mathews, & Lesley Henley, *Changes to the law on consent in South Africa: implications for school-based adolescent sexual and reproductive health research*, BMC INTERNATIONAL HEALTH & HUMAN RIGHTS (April 10, 2012), available at <http://www.jstor.org/discover/10.2307/25593915?uid=3739832&uid=2129&uid=2&uid=70&uid=4&uid=3739256&sid=21102632486033> (noting that “discussions surrounding sexuality are often shrouded in stigma and parent-child communication with regards to sex and sexuality is often limited. An adolescent therefore may not feel comfortable confronting a parent or guardian about participation in a sexual and reproductive health research study or may face disapproval if he or she chooses to do so”); see also Derek A. Kreager and Jeremy Staff, *The Sexual Double Standard and Adolescent Peer Acceptance*, SOCIAL PSYCHOLOGY QUARTERLY 143 (2009), available at <http://spq.sagepub.com/content/72/2/143.abstract> (exploring the “sexual double standard” wherein boys are praised while girls are stigmatized for engaging in sexual activity).
- ⁴⁸ See *Parental Notification and Consent Laws for Teen Abortions: Overview and 2006 Ballot Measures*, MEDSCAPE (Feb. 12, 2007), available at <http://www.medscape.com/viewarticle/549316> (noting that a significant portion of minors not revealing their abortion to a parent had experienced or feared violence or feared being forced to leave home).
- ⁴⁹ WORLD HEALTH ORGANIZATION (WHO), *SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS* 68 (2nd ed. 2012), available at

http://www.who.int/reproductivehealth/publications/unsafe_abortion/9789241548434/en/index.html [hereinafter WHO, SAFE ABORTION (2012)].

⁵⁰ Rebecca Wind, *New Studies Signal Dangers of Limiting Teen Access to Birth Control Information and Services*, GUTTMACHER INSTITUTE, Jan. 18, 2013, available at <http://www.guttmacher.org/media/nr/2005/01/18/> (last visited Sept. 10, 2013).

⁵¹ Emergency contraceptive pills are a form of post-coital pregnancy prevention that can be utilized within 120 hours (5 days) of intercourse, though its effectiveness declines the further after intercourse it is taken.

⁵² WHO, SAFE ABORTION (2012), *supra* note 49, at 68.

⁵³ Committee on the Rights of the Child, *Gen. Comment No. 12*, *supra* note 11, para. 101.

⁵⁴ *Id.* para. 91.

⁵⁵ P. and S. v. Poland, No. 57375/08 Eur. Ct. H.R. (2008), para. 109.

⁵⁶ See L.C. v. Peru, CEDAW Committee, Commc'n No. 22/2009, paras. 8.4, 8.16 & 8.17, U.N. Doc. CEDAW/C/50/D/22/2009 (2011) (finding that the minor petitioner's lack of access to a legal procedure that could provide her with a "preventive, independent and enforceable decision" surrounding whether she could legally terminate a pregnancy denied her the right to an effective legal remedy and ruling that states "must establish an appropriate legal framework that allows women to exercise their right to [legal abortion] under conditions that guarantee the necessary legal security... include[ing] a mechanism for rapid decision-making, with a view to limiting to the extent possible risks to the health of the pregnant mother, that her opinion be taken into account, that the decision be well-founded and that there is a right to appeal."); Committee on the Rights of the Child, *Gen. Comment No. 12*, *supra* note 11, para. 102 (strongly urging states to "ensure that, where a younger child can demonstrate capacity to express an informed view on her or his [medical] treatment, this view is given due weight"); P. and S. v. Poland, No. 57375/08 Eur. Ct. H.R. (2008), para. 109-111 (finding that the state's retroactive civil law mechanisms allowing an adolescent to gain compensation for denial of abortion services did not amount to an effective remedy, as the state must put in place timely mechanisms to enable pregnant women or adolescents to access their right to a legal abortion).

⁵⁷ Committee on the Rights of the Child, *Gen. Comment No. 12*, *supra* note 11, para. 102.

⁵⁸ See *id.* ("the Committee strongly recommends that States parties ensure that, where a younger child can demonstrate capacity to express an informed view on her or his treatment, this view is given due weight.").

⁵⁹ For more information, see *The World's Abortion Laws 2011*, CENTER FOR REPRODUCTIVE RIGHTS (2011), <http://worldabortionlaws.com/index.html>.

⁶⁰ The Family Planning, Human Embryo Protection and Conditions of Permissibility of Abortion Act of Jan. 7, 1993, as amended as of Dec. 23, Art. 149a§3(4) (Pol.).

⁶¹ Penal Code, Chapter V, Art. 339(2) (1969) (Cameroon).

⁶² Penal Code, Title VIII, Chapter II, Art. 266 (1972) (Bol.) ("When the abortion has been the consequence of the crime of rape, abduction not followed by marriage, statutory rape, or incest, no penalty shall be imposed, as long as penal action has been initiated." [Cuando el aborto hubiere sido consecuencia de un delito de violación, rapto no seguido de matrimonio, estupro o incesto, no se aplicará sanción alguna, siempre que la acción penal hubiere sido iniciada.]).

⁶³ See Ipas submission, CEDAW general discussion on access to justice (Jan. 15, 2013), available at <http://www.ohchr.org/Documents/HRBodies/CEDAW/AccessstoJustice/Ipas.pdf>.

⁶⁴ See *State Policies in Brief, Parental Involvement in Minors' Abortions*, GUTTMACHER INSTITUTE, Sept. 1, 2013, available at http://www.guttmacher.org/statecenter/spibs/spib_PIMA.pdf (last visited Sept. 10, 2013).

⁶⁵ See Shyamali Choudhury & Barbara Baumgartner, *Barriers to Access: Evaluating the Accessibility of Judicial Bypasses to Minors in Missouri*, (Feb. 2009) available at http://works.bepress.com/cgi/viewcontent.cgi?article=1000&context=shyamali_choudhury; Paul Danielson, *Judicial Recusal and a Minor's Right to an Abortion*, NORTHWESTERN JOURNAL OF LAW & SOCIAL POLICY 125 (2007), available at <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1016&context=njls>.

⁶⁶ Committee on the Rights of the Child, *Gen. Comment No. 12*, *supra* note 11, para. 24.

⁶⁷ *Id.* paras. 22-23.

⁶⁸ See Committee on the Rights of the Child, *Gen. Comment No. 15*, *supra* note 42, para. 76.

⁶⁹ *Id.* para. 27.

⁷⁰ See ESCR Committee, *General Comment No. 14: The right to the highest attainable standard of health (Art. 12)*, (22nd Sess., 2000), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, paras. 35, 42, 51 & 55, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008); Alyne da Silva Pimentel Teixeira v Brazil, CEDAW Committee, Commc'n No. 17/2008, para. 7.5, U.N. Doc. CEDAW/C/49/D/17/2008

(2011); ESCR Committee, *General Comment No. 19: The right to social security (Art. 9)*, (39th Sess., 2007), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 73, U.N. Doc. E/C.12/GC/19 (2008).

⁷¹ *See id.*

⁷² P. and S. v. Poland, No. 57375/08 Eur. Ct. H.R. (2008).

⁷³ Under Polish law abortion is legal where the pregnancy poses a risk to the woman's life or health, in cases of rape or incest and where there is a fetal impairment. Note that Polish law also requires parental consent for abortion, but this was not at issue here as P. and her mother were in agreement about terminating the pregnancy.

⁷⁴ P. and S. v. Poland, No. 57375/08 Eur. Ct. H.R. (2008), para. 108 (In this case, healthcare professionals put forth a coordinated effort to prevent her from accessing abortion services, forcing her to visit three different hospitals where she was deliberately provided with distorted information about her rights; leaking confidential medical information to the press and clergy, causing her to be harassed by doctors, church representatives, and others about her decision to terminate the pregnancy; and resulting in the initial denial of abortion services by doctors invoking conscientious objection.).

⁷⁵ P. and S. v. Poland, No. 57375/08 Eur. Ct. H.R. (2008), para. 110 (*citing* Tysi c v. Poland, No. 5410/03 Eur. Ct. H.R., paras. 127-128 (2007)).

⁷⁶ P. and S. v. Poland, No. 57375/08 Eur. Ct. H.R. (2008), para. 110.

⁷⁷ *See* CRC, *supra* note 11, Arts. 2 & 24; International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, Arts. 2, 3, & 12, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, U.N. Doc. A/6316 (1966) (*entered into force* Jan. 3, 1976); ESCR Committee, *General Comment No. 9: The domestic application of the Covenant*, (19th Sess., 1998), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 2, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008); Committee on the Rights of the Child, *Gen. Comment No. 5, supra* note 4, para 4; *see also* Committee on the Rights of the Child, *Gen. Comment No. 15, supra* note 42, para. 8.

⁷⁸ CRC, Art. 12(2).

⁷⁹ Committee on the Rights of the Child, *Gen. Comment No. 12, supra* note 11, para 26.

⁸⁰ *Id.* para 32.

⁸¹ The CRC provides examples of a broad range of activities that qualify as administrative proceedings, including driver's license applications and requests for privileges in juvenile detention facilities. The nature of these examples demonstrates that there does not necessarily need to be a judicial issue for a request for services to have the nature of an administrative proceeding. A request for health services to which a child is legally permitted to obtain seems to fall clearly within the realm of an administrative proceeding.

⁸² Committee on the Rights of the Child, *Gen. Comment No. 14, supra* note 11, para. 87.

⁸³ *Id.* 97.

⁸⁴ *Id.*

⁸⁵ *Id.* 48.

⁸⁶ *See* Committee on the Rights of the Child, *Gen. Comment No. 14, supra* note 11, para. 98; Committee on the Rights of the Child, *Gen. Comment No. 12, supra* note 11, paras. 46 & 48; P. and S. v. Poland, No. 57375/08 Eur. Ct. H.R. (2008), para. 110.

⁸⁷ Committee on the Rights of the Child, *Gen. Comment No. 12, supra* note 11, para. 36.

⁸⁸ L.C. v. Peru, CEDAW Committee, Commc'n No. 22/2009, para. 8.17, U.N. Doc. CEDAW/C/50/D/22/2009 (2011) ("It is essential for this legal framework to include a mechanism for rapid decision-making, with a view to limiting to the extent possible risks to the health of the pregnant mother, that her opinion be taken into account, that the decision be well-founded and that there is a right to appeal.").

⁸⁹ L.C. v. Peru, CEDAW Committee, Commc'n No. 22/2009, para. 9, U.N. Doc. CEDAW/C/50/D/22/2009 (2011).

⁹⁰ *Id.* para. 9.

⁹¹ *Id.* para. 8.17, ("In such circumstances such as those in issue in the instant case such a procedure should guarantee a pregnant woman at least a possibility to be heard in person and to have her views considered. The competent body should also issue written grounds for its decision.").