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## CEDAW Committee Accepts "Hard Case" Pushed by Abortion Advocates

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(NEW YORK – C-FAM) The Center for Reproductive Rights (CRR) is representing a Peruvian teenager who sought an abortion after a rape and suicide attempt in a proceeding before the United Nations compliance committee tasked with overseeing the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CRR is charging that Peru violated its obligations under the treaty because the teen was unable to obtain an abortion at a public hospital.

After the girl attempted suicide by jumping off a building, CRR alleges she was denied an abortion CRR says was medically necessary to facilitate successful spinal surgery on the now-paraplegic teen. The complaint asks the Peruvian government to acknowledge a violation of rights under CEDAW, provide her with reparations and rehabilitation, and institute measures to ensure that women can access "therapeutic" abortion.

A medical expert consulted by the Friday Fax, Dr. Edmundo Calva, however, questions CRR's assertion that a different course of treatment would have mitigated the spinal injuries, as spinal nerves lack the ability to regenerate once damaged.

Abortion is generally criminalized in Peru, whose constitution grants rights to "the conceived," and is not prosecuted solely in cases where it is the "only way" to save a mother's life or to avoid "serious and permanent damage" to her health.

Despite CRR's assertion of a treaty violation, neither CEDAW nor any other global treaty mentions abortion. Critics point out that when such treaties were negotiated, signed and ratified, many countries had laws outlawing abortion or – as in the case of Peru – constitutional provisions protecting unborn life, and there is no indication that those who negotiated, signed or ratified such treaties intended to undo their domestic legislation or rewrite their constitutions.

This is not the first time that CRR, a public interest law firm based in New York, has sought to use the treaty monitoring system to advance a perception that liberalization of abortion laws is required by international treaties such as CEDAW. In 2002, CRR brought a similar complaint to the Human Rights Committee – the committee charged with overseeing compliance with the International Covenant on Civil and Political Rights (ICCPR) – where a mother with an anencephalic baby was denied her request for an abortion. Although Peruvian law protects the disabled and criminalizes eugenic abortion, the committee nevertheless ruled in the petitioner's favor, holding that the government had breached the ICCPR by denying access to abortion services that the committee deemed legal under Peruvian law.

The current case was brought pursuant to the "Optional Protocol" to CEDAW, which allows individuals to begin quasi-judicial cases against states parties that have ratified not only the treaty, but also its ancillary protocol.

Opinions given by compliance committees under optional protocols – called "Views" – are non-binding. Abortion advocates like CRR nevertheless trumpet such declarations in an attempt to argue that new soft-law norms are emerging that should bind countries and guide determinations of rights under binding, hard-law treaties.

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