

# Preventing Maternal Mortality in Nigeria: A Human Rights Imperative\*

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Maternal mortality is one of the greatest global threat to life expectancy of women and girls and the enjoyment of their right to life. It is estimated that 250 women and girls die every day as a result of complications during pregnancy and child birth. Out of this sordid global statistics, Nigeria shares a disproportionate burden of 40,000 maternal deaths per year. Despite advances made towards health care delivery, becoming pregnant is a very high risk experience for an average woman and girl in Nigeria due to the absence of human rights based approach to existing policies and interventions. This paper postulated that whereas access to appropriate and quality health care services are critical factors in reducing maternal mortality, the paradigm shift is the realization that health policies and interventions alone are not sufficient to combat the burden of maternal mortality in Nigeria. Rather, concerted efforts must be made to systematically guarantee to every women and girl the inalienable enjoyment of the full range of human rights, including right to health and life guaranteed in the Nigerian Constitution and other human rights treaties subscribed to by Nigeria.

*Keywords:* human rights, child birth, maternal mortality, health systems, Nigeria

## Introduction

Globally, over a quarter of a million pregnant women and girls die every day and another 10 to 15 million suffer life-changing disabilities daily as a result of complications during pregnancy and child birth (Office of the High Commissioner for Human Rights, 2013). In simple terms, one women die due to child birth every minute and for every maternal death, an estimated 20 women suffer pregnancy-related injuries and disabilities, including in many cases, long-term disabilities, such as organ prolapse, infertility, obstetric fistula, or incontinence (Bankole et al., 2009).

As one of the key factors lowering life expectancy of women and girls and negatively impacting the

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enjoyment of their right to life, maternal mortality is the death of pregnant women from any cause, excluding accidental or incidental causes within 42 days of delivery or termination of pregnancy (Bankole et al., 2009). Nigeria shares one of the highest maternal mortality burden in the world, after India (Bankole et al., 2009). With 1,100 maternal deaths for every 100,00 live birth, Nigeria records one death in every 13 births or one death every 13 minutes which is approximated to 109 deaths per day or 40,000 death annually during pregnancy, childbirth, or postpartum period (Africa Population and Health Research Center, 2017). Approximately, 50% of these deaths occur within 24 hours of childbirth, 25% during pregnancy, 20% within seven days of delivery, and 5% between two to six weeks after childbirth (Africa Population and Health Research Center, 2017). These deplorable national statistics of maternal mortality contrasts between urban and rural settings and acutely more worrying in some states of the federation. When disaggregated within the 36 states in Nigeria, maternal mortality data are dramatically high among rural dwellers and disadvantaged populations thereby underscoring the effect and dangers of the disparities and inequalities in access to quality maternal health care services across the country (World Health Organization, 2001).

The women and girls represented in the sordid maternal statistics in Nigeria are human beings, entitled to all human rights, particularly, the inalienable right to life which is very much applicable during pregnancy, childbirth, and postpartum care. The triggers of high maternal mortality in Nigeria could either be direct or indirect medical problems, socio-economic, or health conditions. In terms of the direct risk factors, hemorrhage, sepsis, unsafe abortion, eclampsia, and obstructed labour, including severe bleeding, infections, unsafe abortion, hypertensive disorders, and obstructed labour (World Health Organization, 2001), are among the most fatal medical causes of maternal death and preventable by cost effective obstetric services (Maine, Akalin, Ward, & Kamara, 1997).

Despite these cogent medical factors, there are numerous non-medical factors predisposing Nigerian women to high maternal mortality. Of the non-medical and underlying, the fundamental lack of women's full enjoyment of their human rights is the key enabling factor in maternal mortality exacerbated by inherent socio-legal circumstances, such as literacy, lack of empowerment opportunities, and teenage pregnancies. Others inter-related structural and attitudinal challenges accentuating maternal mortality in Nigeria include incapacity and inability to seek appropriate health care due to cost or lack of knowledge, information, or poor education.

In some instances, it may be the case that the health facilities are out rightly nonexistent, or may be too far with no means of transportation for the women and girls. It could also be the case that even where the health facility is available and accessible, it may be outside the remit of the woman and girl to make decisions to avail such facilities without the consent of the husband or a third party. In best case scenarios where these negating variables are constant, it may unfortunately be the case that the woman is poor and unable to afford the fees charged by the health facility to undergo a safe birthing process. Whereas women all over the world may develop pregnancy related complications, the likelihood of treatment and survival is low in Nigeria compared to most countries (Maine et al., 1997).

There are lots of advances in medical and health sciences globally and nationally, including the adoption of several policies and plans sufficient mitigate maternal mortality in Nigeria. As a member state of the United Nations, Nigeria subscribed to the Program of Action agreed at the International Conference on Population and

Development<sup>†</sup>; the Beijing Declaration and Platform for Action<sup>‡</sup>; and the ECOSOC Ministerial Review on Global Health<sup>§</sup>. Nigeria has also pledged regional commitments and efforts, such as the Maputo Plan of Action<sup>\*\*</sup>; the campaign on Accelerated Reduction of Maternal Mortality in Africa<sup>††</sup>; and the Africa Union Summit Declaration 2010 for Actions on maternal, Newborn and Child Health<sup>‡‡</sup>. Others are the 1978 International Safe Motherhood Initiative to reduce maternal mortality by 50% by the year 2000, National Reproductive Health Policy 2001, the National Reproductive Health Strategic Framework 2002, the National Guidelines for Women's Health 2002, the Health Sector Reform Policy 2003, the National Strategic Plan for Reproductive Health Commodity Security 2003, etc.

These national, regional, and global health schemes notwithstanding, becoming pregnant can be one of the most dangerous experiences for an average woman and girl in Nigeria because of the inherent absence of a human rights based approach to health care in general and maternal health in particular. Conceding that appropriate medical interventions and access to quality health care services are critical factors in reducing maternal mortality, the paradigm shift is the realization that medical intervention alone is not sufficient to combat maternal mortality in Nigeria. Concerted efforts must be systematically made to address the underlying socio-economic causes of these deaths and guarantee to every women and girl the inalienable enjoyment of the full range of human rights guaranteed in the Nigerian Constitution and other human rights treaties subscribed to by Nigeria.

### **Adopting a Human Rights Based Approach to Maternal Mortality in Nigeria**

There is no gainsaying the fact that understanding and responding to the epidemiological dimensions of maternal health is a useful approach to responding to maternal mortality in Nigeria. It is equally true that medical interventions, including the provision of routine and emergency obstetric care can be strengthened by non-medical interventions. This is because maternal mortality in Nigeria is not only a public health imperative, but a human rights necessity for eliminating preventable deaths in the birthing process. As a member of the comity of nations, and as a signatory to most of the core international and regional human rights instruments, Nigeria has made legal and political commitments to protect the human rights of all persons in general and women's human rights in particular. Obligations accruing from these regional and international human rights frameworks impose a duty on the Government of Nigeria to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

In the face of high incidence of preventable maternal mortality and the persistent failure of successive governments in Nigeria to frontally address the scourge, maternal mortality is a gross human rights violation

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<sup>†</sup> The United Nations coordinated an International Conference on Population and Development (ICPD) in Cairo, Egypt, on 5-13 September 1994. Its resulting Programme of Action is the steering document for the United Nations Population Fund (UNFPA).

<sup>‡</sup> Beijing Declaration and Platform for Action. The Beijing Declaration and Platform for Action, adopted at the UN's Fourth World Conference on Women (Beijing, China, 1995).

<sup>§</sup> The 2009 Annual Ministerial Review (AMR) held during the high-level segment of the annual session of the Economic and Social Council (6-9 July 2009) at the Palais des Nations in Geneva, Switzerland, focused on "Implementing the internationally agreed goals and commitments in regard to global public health".

<sup>\*\*</sup> The revised Maputo Plan of Action 2016-2030 provides a framework to achieve universal access to comprehensive sexual and reproductive health rights (SRHR) and services in African in the post-2015 period. It was developed by the African Union Commission and follows on from the Maputo Plan of Action 2007-2015.

<sup>††</sup> Launched by member States of the African Union in 2014 to accelerate actions across Africa to reduce maternal, newborn, and child mortality.

<sup>‡‡</sup> African Union Summit on Maternal, Infant and Child Health and Development 19-27 July 2010 where member states discussed the major challenges to their continent focusing on maternal, newborn and child health and the achievement of MDGs 4 (child survival) and 5 (maternal health).

orchestrated by the failure on the part of the Government of Nigeria to take positive action to facilitate the enjoyment of basic human rights of women. Preventable maternal mortality is a failure of the obligation of the Government of Nigeria to respect, protect, and fulfil human rights of women and girls. The obligation to respect requires all tiers of government to refrain from interfering with or curtailing the enjoyment of human rights of women and girls. Akin to this, the obligation to protect requires the protection of women and girls in the birthing process against human rights abuses before, during and after the birthing process. On the other hand, the obligation to fulfil means that all tiers of government in Nigeria must take positive actions to facilitate the enjoyment of basic human rights of women and girls in the birthing process.

With the dismal negation of the obligations to respect, protect, and fulfil human rights of women and girls undergoing the birthing process, maternal mortality is ostensibly one of the greatest social injustices by all tiers of government in Nigeria. When a women or girl die in pregnancy or childbirth in cities and remote villages because the concerned State or Local Government has failed to use its available resources to take necessary measures to address preventable causes of maternal deaths, the Federal Government of Nigeria as the principal duty bearer of human rights is consequentially in breach of the Bill of Rights in Chapter IV of the 1999 Constitution, including the obligation to provide the highest attainable standard of health to its citizens accruing from regional and international treaties and conventions. Likewise, the Fundamental Objectives and Directive Principles of State Policy in Chapter II of the 1999 Constitution of the Federal Republic of Nigeria, although not binding, presupposes a social order in Nigeria founded on the ideals of freedom, equality and justice. In furtherance of the social order, every citizen, including women and children is equal before the law and the dignity and sanctity of every human person must be maintained and enhanced.

The integration of human rights based approach as a mechanism to surmount maternal mortality is gaining traction amongst diverse range of stakeholders and very relevant in Nigeria. According to the Human Rights Council Resolution,<sup>§§</sup> the incorporation of human rights based approach to the reduction of maternal mortality can contribute positively to the common goal of reducing unacceptable high rate of preventable maternal mortality. The resolution which represents the first international intergovernmental recognition that maternal mortality is a human rights issue; it encourages all tiers of government in Nigeria as joint duty bearers to meet their obligations to respect, protect, and fulfil human rights of women and girls.

There is no gainsaying the fact that maternal mortality in Nigeria is not mere misfortunes or unavoidable natural hazards of pregnancy (Cook, Dickens, Wilson, & Scarrow, 2001). They are preventable deaths (WHO, 1986) that could be averted if women had access to essential right-based maternity and basic health care services (The State of the World's Children, 2009). In his forward to the Global Strategy for Women's and Children's Health, the former United Nations Secretary General Mr. Ban Ki-moon stated that deaths of millions of women and children from preventable causes are not mere statistics, but rather people with names and faces whose sufferings are not acceptable in the 21st century (United Nations, 2010).

The human rights based approach to maternal mortality is aimed at ensuring safe motherhood and sustaining health outcomes by diminishing unjust power relations that result in preventable maternal deaths through availability, accessibility, acceptability, and good quality of health care services. It furthers the right to life by applying human rights as an integral framework for designing, implementing, monitoring, and evaluating maternal health policies and plans. Motherhood is unsafe and results to high maternal mortality in Nigeria

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<sup>§§</sup> Resolution Adopted by the Human Rights Council (2016) A/HRC/RES/33/18.

because the birthing processes are operated devoid of a human rights based approach.

Human rights based approach to maternal health, on the one hand, empowers women and girls as right holders to claim their rights and assert freedoms prescribed under international human rights law (Yamin & Cantor, 2014; Yamin, 2010, 2013). It transforms them from passive targets of maternal health plans and policies to active claimants of maternal health rights (United Nations Office of the High Commissioner for Human Rights et al., 2016). The first report of the High Commissioner of Human Rights to the Human Rights Council in 2010 on maternal mortality (UN Human Rights Council, 2010) outlines the conceptual framework for understanding the human rights dimensions of maternal mortality and human rights based approach in maternal mortality. It obligates all tiers of government in Nigeria to ensure that health planning and delivery are shaped by the human rights principles of participation, equality, nondiscrimination, and accountability.

In his second report (United Nations, 2011), the High Commissioner identified common features of good practices in human rights based approach to maternal mortality, including enhancing the status of women, strengthening health systems, addressing unsafe abortions, and improving monitoring and evaluation. Equally, the technical guidance on the application of a human rights based approach to the implementation of policies and programs for the reduction of preventable maternal mortality reinforces these features (United Nations, 2012). In the same light, the 2016 Resolution A/HRC/RES/33/18 of the Human Rights Council urges states including Nigeria to renew its political commitment to remove all barriers and eliminate preventable maternal mortality.<sup>\*\*\*</sup> According to the Resolution, preventing maternal mortality should be one of the human rights priorities of member states of the United Nations and that the rights of women and girls are equal to that of men and boys and in the context of health, such gender equality requires the provision of differential services, treatment, and medicines in accordance with the specific needs throughout the birthing process.

From a human rights perspective, it is no longer fashionable to accept maternal mortality as inevitable risks, but rather a result of man-made actions or inactions for which somebody, as agent of the government is accountable and for which the government bears the highest responsibility (Office of the High Commissioner for Human Rights, 2013). The right to health demands accountability of various stakeholders, including health-care providers, local health authorities, national governments, international organizations, and civil society. Most importantly, accountability for maternal mortality must ensure effective remedies and redress for the loss of life, including courts, tribunals, health ombudsmen, impact assessments, and policy review processes can all help enhance access to health care.<sup>†††</sup> Ensuring that health service providers are accountable for their actions and inactions can help reduce maternal mortality by ensuring that all stakeholders deliver on their commitments and obligations at different points in the birthing process and where they default, there are mechanisms in place to lodge complaints for appropriate remedies and redress (United Nations Office of the High Commissioner for Human Rights et al., 2016). The prevailing absence of accountability for maternal mortality in Nigeria has exacerbated the situation to a level of impunity because no one is held answerable for maternal deaths.

As one of the five pillars of the Global Consensus for Maternal, Newborn, and Child Health, accountability takes many forms, including litigation and administrative action that identifies institutional, systemic, or facility loopholes or implicates and holds to account the responsible actor, especially government official or health professionals. Accountability for maternal mortality is not just a legal disputation or “naming and shaming”. It is

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<sup>\*\*\*</sup> Resolution Adopted by the Human Rights Council (2016) A/HRC/RES/33/18.

<sup>†††</sup> 2006 Report to the General Assembly, UN Doc. A/61/338 at para. 28(d).

also a process, on the one hand, to determine the mitigating factors for high maternal mortality so that it can be replicated and, on the other hand, to identify the enablers of maternal mortality so that it can be discontinued.<sup>†††</sup> It is in light of this that the Special Rapporteur on the right to health has defined accountability in relation to health as “ensuring that health systems are improving and the right to the highest attainable standard of health is being progressively realized, for all”, including women and girls.<sup>§§§</sup>

Consequently, regular monitoring of the implementation of the maternal health plans at all levels and the interpretation of disaggregated data and indicators are critical components of accountability. This is because without monitoring systemic failures, maternal mortality cannot be confronted. If health services for women is viewed as health rights for women, it imposes an enforceable or at the minimum a progressively enforceable obligation on the government of Nigeria to effectively and prudently manage scarce resources so as to strengthen the health system, deliver integrated quality services, address critical shortages of health manpower, and extend the coverage of adequate health services to underserved communities. It will also propel all tiers of government to ensure that women and girls have access to family planning services and information, effective antenatal, newborn and postnatal care, emergency obstetrics and newborn care, skilled care during childbirth at appropriate facilities, and safe abortion services under the exception provided by the law.

From a human rights perspective, all tiers of government in Nigeria are under obligation to remove barriers and promote women’s right to decide the number, timing, and spacing of their children and ensure their access to a full range of contraceptives goods, services, and information. Right to information is critical to reproductive rights and wellbeing of women and children. To make informed choices about their reproductive lives, women should be able to receive and impart information on family planning methods and services and consequently exercise their preferences. The right to information implies also that the government is not only expected to refrain from obstruction of these rights but has an obligation to provide information that is necessary for the protection and promotion of reproductive health and choices.

Within the context of accountability, maternal mortality can be reduced in Nigeria if the justice system in Nigeria plays its role in entrenching safe motherhood through the enforcement of rights related to health in general and maternal health in particular. In the determination of whether litigants have justiciable rights, what obligations flow from these rights, and who is responsible for actualizing the rights, the justice system should also ensure that maternal death are investigated and prosecuted. Since the realization of rights has direct bearing on maternal mortality, the justice system in Nigeria can also promote effective implementation of maternal rights through addressing gaps in the legal framework, repudiating discriminatory policy or legal barriers to maternal health and ultimately ensuring accountability for the violations of these rights (United Nations Office of the High Commissioner for Human Rights et al., 2016).

If combating maternal mortality is approached from the perspective of human rights, it will be an enforceable obligation on the part of the government to foster appropriate political will and address the current shortage of high quality human resources for maternal health, strengthen programs and policies that improve access to sexual and reproductive health services, and address the infrastructural deficiencies that characterize maternal health system in Nigeria. It will also bestow an obligation on the government to ensure adequate supply of skilled attendants and deliver high quality maternal and child health services (Africa Population and Health

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<sup>†††</sup> Report of the Special Rapporteur on the right to health (A/HRC/4/28), para. 46.

<sup>§§§</sup> Report of the Special Rapporteur on the right to health (A/63/263), para. 12.

Research Center, 2017).

According to the Human Rights Council, obligation of the Government of Nigeria regarding accountability in the context of the maternal mortality is to prevent, impartially investigate or promptly redress harm caused by acts of private persons or governmental entities.<sup>\*\*\*\*</sup> Equally, the CESCR Committee recommended that the Government of Nigeria must establish mechanisms and institutions that can effectively address both the individual and the structural causes of maternal mortality.<sup>††††</sup> As an accountability measure designed to reduce maternal mortality, it is necessary to introduce a comprehensive, system of maternal death audits that transcends medical statistics and extend to flagging underlying and contributory factors of maternal death.<sup>††††</sup> Human rights places an obligation on the Government of Nigeria to provide transparent health systems that promotes equitable access to health care services and information, supports women and girls to make informed demand for health care services, enables them to take advantage of existing mortality reduction schemes, and facilitates them to demand for accountability where there is a violation of their maternal health rights.<sup>§§§§</sup>

Akin to accountability for maternal mortality is the right of women and girls to participate individually and collectively in the planning and implementation of their health care.<sup>\*\*\*\*\*</sup> Generally speaking, citizen's participation in policy development and implementation increases ownership and ensures that interventions are responsive to their needs. In the context of maternal health, participation entails granting women access to relevant information and facilitating them to make informed decisions in relation to their pregnancy and childbirth. According to the CESCR Committee, although the government of Nigeria may have some discretion in choosing appropriate health system plan and policies, all such health strategies and plans of action need to be devised and reviewed on the basis of a participatory and transparent process.<sup>†††††</sup> The adoption of the Sustainable Development Goals (SDGs) which is an indivisible human rights agenda presents an unprecedented opportunity to achieve participatory conditions in which right to maternal health can be realized, thus leaving no woman and girl behind in Nigeria (World Health Organization, 2017).

### **The Nexus of Right to Health and Right to Life**

Right to health is a necessary precursor to their right to life and activates a range of inter-related human rights issues (Office of the High Commissioner for Human Rights, 2000). As a crosscutting right, the right to health, which includes maternal health extends to both the freedom to control one's health and body, as well as the right to enjoy a variety of health goods and services necessary for the realization of the highest attainable standard of health.<sup>†††††</sup> While Art. 25(1) of the Universal Declaration of Human Rights (UDHR) provides that everyone has the right to a standard of living adequate for his or her health, sub-article 2 provides that motherhood and childhood are entitled to special care and assistance.

Drawing on the impetus of the UDHR, the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides the nexus between right to health and right to life. While providing for the right of every one

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<sup>\*\*\*\*</sup> Human Rights Committee, General Comment No. 31, para. 8.

<sup>††††</sup> CESCR, General Comment No. 20, para. 40.

<sup>†††††</sup> Report of the Special Rapporteur on the right to health (A/HRC/7/11/Add.4), para. 16.

<sup>§§§§</sup> Hunt and Bueno de Mesquita, *Reducing Maternal Mortality*, p. 7.

<sup>\*\*\*\*\*</sup> Declaration of the International Conference on Primary Health Care in Almaty (1978).

<sup>†††††</sup> CESCR, General Comment No. 14, para 42(f).

<sup>†††††</sup> CESCR, General Comment No. 14, para. 8 and 12, see also the Programme of Action of the International Conference on Population and Development (ICPD), (A/CON.17/13), para. 7.3.

to the enjoyment of the highest attainable standard of physical and mental health in Art. 12, it also provides that special protection should be accorded to mothers during a reasonable period before and after childbirth in Art. 10(2).

Additionally, the right to health is recognized in Art. 5(e)(iv) of the International Convention on the Elimination of All Forms of Racial Discrimination; Art. 11(1)(f) and 12 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Art. 24 of the Convention on the Rights of the Child (CRC) which urges States Parties to take appropriate prenatal and postnatal care for mothers. Like the ICESCR, the CEDAW provides that States Parties shall ensure that women have appropriate services in connection with pregnancy, confinement, and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.<sup>§§§§§</sup> At the regional level, Article 16 of the African Charter on Human and Peoples Rights (ACHPR) provides for right to enjoy the best attainable state of physical and mental health in line with the 1946 WHO's Constitution which stipulates that the enjoyment of the highest attainable standard of health is one of the fundamental human rights of every human being (UN General Assembly, 1947).

Various human rights bodies have also pronounced themselves on these obligations and postulated that any breach on the part of the government constitutes a violation of right to life.<sup>\*\*\*\*\*</sup> Also, the general comments, recommendations, and concluding observations of several treaty bodies (Center for Reproductive Rights, 2008)<sup>†††††</sup> have recognized that maternal mortality is necessarily related to right to health and implicates a wide range of indivisible, interdependent, and interrelated human rights.<sup>†††††</sup> In its General Recommendation Number 24 on Women and Health, the CEDAW Committee provides that the obligation to fulfil rights places a responsibility on States Parties to take appropriate budgetary, economic, and other measures to the maximum extent of their available resources to ensure that women realize their right to health care. According to General Comment No. 14, right to health is an inclusive right that presupposes the qualitative availability, accessibility, and acceptability of the underlying determinants of health, such as hospitals, clinics, drugs, and trained health personnel. In the same fashion, the special rapporteur on the right to the enjoyment of the highest attainable standard of health has postulated that women are entitled to maternal health-care services, goods, and facilities that are available in adequate numbers, accessible physically and economically, without discrimination and of good quality (Hunt & Mesquita, 2017).

In the case of Nigeria, every person subject to the Constitution of Nigeria has a right to life, which shall not be deprived except in circumstances provided under Section 33 of the 1999 Constitution. Similarly, the

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<sup>§§§§§</sup> CESCR, general comment No. 14, para. 14; CEDAW, general recommendation No. 24, para. 27; Maputo Protocol (Art. 14, para. 2). See also for example: CEDAW concluding observations: Cape Verde (CEDAW/C/CPV/CO/6), para. 30; Indonesia (CEDAW/C/IDN/CO/5), para. 37; Togo (CEDAW/C/TOG/CO/5), para. 29; CESCR concluding observations: Kenya (E/C.12/KEN/CO/1), para. 33; Nepal (E/C.12/NPL/CO/2), para. 46; CRC concluding observations: Cambodia (CRC/C/15/Add.128), para. 52; Kazakhstan (CRC/C/KAZ/CO/3), para. 52 (b); Maldives (CRC/C/15/Add.91), para. 19.

<sup>\*\*\*\*\*</sup> African Commission on Human and Peoples' Rights Resolution on Maternal Mortality in Africa; Human Rights Committee, General Comment No. 28, para. 10. See also for example: Human Rights Committee Concluding Observations: Hungary (CCPR/CO/74/HUN), para. 11; Mali (CCPR/CO/77/MLI), para. 14; Zambia, (CCPR/C/ZMB/CO/3), para. 18; CEDAW Concluding Observations: Madagascar (A/49/38), para. 244.

<sup>†††††</sup> See for example: concluding observations of the Committee on the Elimination of Discrimination against Women: Algeria (A/60/38), para. 131; Concluding Observations of the Committee on the Elimination of Racial Discrimination (CERD): Benin (E/C.12/BEN/CO/2), para. 25. For a comprehensive review of concluding observations and general comments and recommendations of treaty bodies on maternal mortality, see Center for Reproductive Rights (2008).

<sup>†††††</sup> They include International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); and the Convention on the Elimination of All Forms of Discrimination Against Women; African Charter on Human and Peoples Rights



constitution recognizes adequate medical and health facilities for all persons under the Directive Principle of State Policy in Chapter II and not as a justiciable human rights under Chapter IV on Fundamental Rights. Despite the fact that right to health is not an enforceable human rights in Nigeria, the Government of Nigeria, due to applicable regional and international treaties on right to highest attainable standard of health has an obligation to ensure that health care services are available in sufficient quantity and that health services of acceptable quality and standard in line with medical ethics and cultural appropriateness are economically and physically accessible to every women within its jurisdiction without discrimination (Office of the High Commissioner for Human Rights, 2000). This is more so because good health is indispensable for the exercise and enjoyment of human rights and the fact that the propensity for women and girls to enjoy their right to life by surviving pregnancy and childbirth is contingent upon the enjoyment of their right to health through access to quality maternal health care services. Unlike the Constitution of Nigeria, express constitutional wordings which guarantee the protection of motherhood are found in Art. 27(1) of the 1992 Constitution of Ghana, Art. 10 of the 1980 Constitution of the Arab Republic of Egypt, and Art. 6 of the 1988 Constitution of Brazil.

### **Maternal Mortality: Discrimination Against Women**

The scale of maternal mortality in Nigeria is arguably born out of inequality and discrimination suffered by women and girls and perpetuated by formal laws, policies, and harmful practices. While it is not disputable that resources are scarce in Nigeria as in most countries, the culpable insensitivity to the scope, scale, and proportion of maternal deaths by successive governments and tiers of government in Nigeria, including the citizenry, is tantamount to a discrimination against women and girls. Whereas it is trite that the generality of Nigerians are affected in a significant way by the weak health care system in the country, it is also self-evident that the impact of the weak health care system in Nigeria is heavier on women and girls owing to the fact that human reproduction takes place in their bodies and there is no single cause of death among men and boys in the same age category comparable to the scale of maternal deaths for women and girls.

As a signatory to the CEDAW, all tiers of government in Nigeria have immediate obligation to address maternal mortality and ensure equality and affirmative action in access to health care. Denying attention or paying lip service to health services that only women and girls need is a form of discrimination based on sex. Articles 2.2 and 3 of the ICESCR proscribes any discrimination in access to the underlying determinants of health on the grounds of sex amongst others. While the ICESCR provides for the progressive realization of rights contained therein and acknowledges constraints due to the limits of available resources, the covenant obligation is of an immediate nature, non-retrogressive, and non-discriminatory. As such, all tiers of government in Nigeria have immediate obligation to address maternal mortality and ensure equality in access to health care bearing in mind that denying services that only women and girls need is a form of discrimination.<sup>§§§§§§</sup>

To eliminate sex based discrimination evident in the insensitivity towards maternal mortality, concerted efforts should be directed at reducing women's health risks, particularly by lowering rates of maternal mortality through the removal of all barriers interfering with access to women and girl's health services and information. Protecting and promoting women's rights to equality, empowering them to make informed choices, and reducing social and economic inequalities are all key to safe motherhood in Nigeria. An affirmative action based approach to maternal mortality can facilitate the identification of high risk women and girls and promote comprehensive

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<sup>§§§§§§</sup> Committee on Elimination of Discrimination against Women (CEDAW) General Recommendation No. 24: Women and Health (Art. 12, 1999), para. 11.

and sustainable solutions.

Discrimination against women and other gender based inequalities, including poverty are common factors that contribute to poor reproductive health and high maternal mortality in Nigeria, particularly for poor, uneducated, and powerless women in the society. Due to historical power imbalance, women and girls are particularly marginalized, at risk and experience multiple and cross-cutting forms of discrimination in Nigeria. A non-discrimination centric approach to maternal mortality will ensure that the farthest women and girls are not left behind but reached first through the collation and interpretation of disaggregated data that accounts for all marginalized groups, especially those who are invisible in official statistics used by government to measure progress.

Also, a comprehensive and gender centric understanding of maternal health is imperative to decode the underlying social consequences and how they impact positively or negatively on maternal mortality. The gain of gender analysis of maternal mortality will facilitate the identification, analysis and purposeful action on the inequalities that arise from belonging to one sex or the other, or the unequal power relations between the sexes (Doyal, 1998). The CEDAW Committee in its General Recommendation 24 on Women and Health <sup>\*\*\*\*\*</sup> highlights inequality between men and women as the overarching and transcending risk factor to maternal mortality.

Both the executive and legislative arm of government at all tiers have an important role to play in curbing the discriminatory laws, practices, and institutional arrangements that compound vulnerability of women and girls and fan the embers of maternal mortality. In articulating maternal health interventions as a human rights issue in accordance with commitments under international and regional human rights norms, related laws and national health policies in Nigeria must be based on sex disaggregated data that pinpoints the underlying causes of maternal health and responses to address them.

Similarly, maternal health budgeting and financing should not be left at the mercy of competing national health priorities alone, rather, all tiers of government in Nigeria should fulfil the minimum content of the right maternal health and allocate maximum available resources to the progressive realization of maternal health rights. <sup>††††††††</sup> In the same light, the implementation of maternal health policies and plans must be assessed and monitored based on reliable health information and surveillance systems that calibrate the availability, accessibility, acceptability, and quality of maternal health care services for all women and children without discrimination.

To mitigate the discriminatory practices that accentuate maternal mortality in Nigeria, women and girls should be empowered to make informed decisions to protect their health through access to information and education. A Nigerian woman's access to information and the realization of her right to education is an integral component and directly linked to her ability to make informed maternal health choices. The prevailing high rates of illiteracy in Nigeria correlate strongly to high rates of maternal mortality and adversely impact other indices of maternal health. All tiers of government in Nigeria should provide access to the information, education, and means necessary for women to decide freely and responsibly on their health care needs. According to the recommendations of the CRC Committee, all tiers of government in Nigeria should provide women and girls with access to relevant information (UN Committee on the Rights of the Child [CRC], 2003).

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<sup>\*\*\*\*\*</sup> CEDAW, General Recommendation 24, UN GAOR, 1999, UN Doc. A/54/38/Rev.1, pp. 3-7.

<sup>††††††††</sup> Summary reflection guide on a human rights-based approach to health: Application to sexual and reproductive health, maternal health and under 5 child health, OHCHR et al., [http://hrbaportal.org/wp-content/files/RGuide\\_NHRInsts.pdf](http://hrbaportal.org/wp-content/files/RGuide_NHRInsts.pdf).

## Conclusion

To address maternal mortality from a human rights perspective, it is pertinent to introduce a paradigm shift towards rebranding what was hitherto called health services for women and girls into a cluster of enforceable women and girl's health rights. As a matter of substantive equality and affirmative action towards ensuring that women and girls enjoy their human rights and are empowered to make free and informed choices, the government of Nigeria, in line with the Global Consensus for Maternal, Newborn and Child Health must put in place measure to instigate appropriate political leadership that will invest more in maternal health care, dismantle all barriers to accessing quality health interventions in a continuum of care, and ensure adequate skilled and motivated health workforce with necessary infrastructure.

The federal, state, and local governments should as a means of responding to maternal mortality through a human rights based approach, accord renewed emphasis to maternal mortality initiatives in their development frameworks. True progress in reducing maternal mortality would require the implementation of SDGs in its entirety in Nigeria, as such all tiers of government in Nigeria must intensify efforts to improve women's and girl's rights that will transcend beyond Goal 3 relating to health to achieving Goal 4 (girl education) and Goal 10 (inequality).<sup>#####</sup> Governments at all levels in Nigeria should also develop and prudently implement policies and strategies that ensure that women and girls are treated with respect and in dignity when they receive health care. It should introduce or amend legislations in line with international human rights standards and encourage diverse stakeholders in public-private partnership in maternal health care services. It should also strengthen the health systems, including recruiting, retaining, and continually retraining appropriate workforce with special focus on maternal health care.

Since safe motherhood is an inherent component of right to life, human rights should be the concern of everyone, particularly those working in specific occupational subsets and with much involvement and bear more responsibility in the birthing process. Members of such occupational group and holders of relevant powers, both individually and through institutions where they work should be privy to human rights education. Consequently, human rights education and training for doctors, nurses, midwives, and other allied medical practitioners on the rights most relevant to health in general and safe motherhood in particular would equip them to monitor and advocate for government to respect, protect, and promote human rights relevant to safe motherhood. Human rights education could be introduced in nursing and medical or associated school curriculum and collaborations with law schools enhanced to facilitate professional education and training for medical practitioners.

As the closest form of government to the people, local governments in Nigeria should lead in educating the populace by drawing attention to women and girl health, engage and mobilize communities for better maternal health care delivery. Based on their vintage and better resources positions, the federal and state governments should fund health care schools to provide the highest quality education for practitioners that is grounded in evidence based health care research (United Nations, 2010).

The Government of Nigeria should strengthen and establish necessary legal framework on maternal health and provide recourse for remedies for violations of these obligations. It should also allocate sufficient financial and human resources for designing and implementing legislative and policy measures and other initiatives to

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<sup>#####</sup> Annual Report of the United Nations High Commissioner for Human Rights on follow-up on the application of the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal mortality and morbidity (2016) A/HRC/33/24.

ensure the realization of maternal health. It should also develop national, state, and local government financing strategies compatible with the principles of equality, inclusiveness, non-discrimination, and participation with clear timelines that contribute directly to the realization of rights. It should also develop national framework that punish gender based violence, child marriage, and effectively address barriers to access to sexual and reproductive health rights.

On their part, the National Human Rights Commission (NHRC) and CSO's should undertake periodic human rights based assessment of the determinants of maternal health, with particular attention to gender inequality, discrimination, marginalization, and unequal access to resources and develop right based strategies to address these determinants. They should implement legal policy and other measures to monitor and address social, gender, and cultural norms, remove structural and other legal barriers that undermine the human rights of women, continually track maternal health progress, and hold governments accountable. All actors should promote accountability mechanisms for violation of maternal health rights and take further steps to ensure that laws, policies, and practices respect women's equal rights to decide autonomously in matters regarding their own health.

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