CHAPTER II:
Safe Pregnancy and Childbirth

Any pregnant woman could potentially experience complications during pregnancy, during delivery, or after giving birth. Access to quality health care has made the risk of maternal mortality negligible in high-income countries; in lower-income countries, however, that risk is still elevated because complications related to pregnancy and childbirth often prove to be fatal. Too often maternal death and injury are accepted as a natural and expected part of pregnancy and womanhood, rather than as a preventable loss of life and the tragic result of policy decisions that neglect and devalue women.[1]

Governments have been slow to recognize pregnancy-related death and injury as a pressing human rights concern. However, they are increasingly using the law to lay the groundwork for an environment that is conducive to healthy pregnancy and safe childbirth. This chapter addresses the duty of governments to ensure women's safety throughout pregnancy and delivery. The chapter identifies the two principal components of this duty as obligations to: 1) guarantee women's right to reproductive health care, and 2) guarantee the quality of maternal and reproductive care.

In addition to the above, governments are bound to address cultural practices that heighten women's risk of pregnancy-related death or disability. Several governments have taken action against these harmful and discriminatory practices. For examples of these actions, see Chapter X: Adolescents' Reproductive Rights and Chapter V: Harmful Practices—the Case of Female Genital Mutilation.

Further, governments must reform laws that interfere with women's reproductive decision-making and thereby contribute to the incidence of maternal mortality. An estimated one-fifth of all maternal deaths are associated with unintended pregnancies.[2] For examples of laws that protect the right to reproductive decision-making, see Chapter III: Contraception and Chapter IV: Abortion.

Lifetime risk of maternal death in 2000, by global region, according to estimates developed by WHO, UNFPA, and UNICEF[3]

Africa:	1 in 20 women
Latin America and the Caribbean:	1 in 60 women
Oceania:	1 in 83 women
Asia:	1 in 94 women
Developed regions:*	1 in 2,800 women

*The developed regions include the countries of Europe as well as Canada and the United States. Japan, Australia, and New Zealand are also considered to be part of the developed regions, and are excluded from their respective geographic regional totals.

HUMAN RIGHTS FRAMEWORK

Women's right to safe pregnancy and childbirth is supported by several internationally recognized human rights. The **right to life** requires governments to foster the conditions necessary for life and survival. The vast majority of maternal deaths are preventable.[4] International guarantees of the right to life mean that governments must work proactively to safeguard their citizens from preventable losses of life, including preventable maternal death.

For international legal foundations of the rights marked in bold, see Appendix B

The **right to health** guarantees all persons the highest attainable standard of health. It requires governments to ensure access to health care, as well as to maintain conditions necessary for good health. In the context of pregnancy and childbirth, the right to health entitles women to the full range of reproductive health services during pregnancy, childbirth, and the postpartum period. The **right to enjoy the benefits of scientific progress** guarantees all women high-quality care that reflects current medical knowledge and practice.

The **right to freedom from discrimination** requires governments to provide access to health-care services without discrimination on grounds such as sex, marital status, age, or socioeconomic background. Policies that require a woman to obtain the permission of her spouse before undergoing a medical procedure, laws that criminalize medical procedures that only women need, and requirements of parental authorization that disproportionately impact girls are all examples of discrimination against women.

The **right to reproductive self-determination** is tied to recognition of the concept of physical integrity, which is expressed in international treaties as the rights to liberty and security of the person. Autonomy in reproductive decision-making is also firmly grounded in the right to privacy, which allows individuals and couples to make fundamental decisions about their intimate lives without government interference. In addition, the global community has repeatedly acknowledged the right to decide freely and responsibly the number and spacing of one's children. In the context of maternal health, family planning permits women to space births in order to reduce risks associated with multiple, closely spaced pregnancies.

These legal guarantees compel governments to:

- **Guarantee women's right to reproductive health care in the law.** Legislation needs to be enacted that provides for adequate funding for the full range of reproductive health services. Low-income women should be protected from economic barriers to access to care. Laws should also ensure that all women have access to reproductive health information.

- **Guarantee high-quality maternal and reproductive care.** Clear regulations need to be devised for all health care personnel, and mechanisms developed for ensuring compliance with those regulations.

Global Commitments to Reducing Maternal Mortality

In 2000, when the international community adopted the Millennium Development Goals as a framework for measuring development progress, it made the reduction of maternal mortality a key priority. Millennium Development Goal 5 calls for the reduction of maternal mortality by three-quarters by 2015.[5] This emphasis on maternal survival echoed earlier statements adopted in Cairo and Beijing. For example, the International Conference on Population and Development Programme of Action adopted in 1994, which was reaffirmed at the Beijing Conference one year later, states the following:

All countries, with the support of all sections of the international community, must expand the provision of maternal health services in the context of primary health care... The underlying causes of maternal morbidity and mortality should be identified, and attention should be given to the development of strategies to overcome them….[6]

In a recent address to the UN General Assembly, the UN Special Rapporteur on the right to health said, "It is time to recognize that avoidable maternal mortality is a human rights problem on a massive scale."[7] The rapporteur advocates a policy strategy for addressing maternal mortality that is grounded in the right to health, expressing the view that such an approach is likely to be "equitable, inclusive, non-discriminatory, participatory and evidence-based."[8]

1. ACCESS TO HEALTH SERVICES NECESSARY FOR SAFE PREGNANCY AND CHILDBIRTH

The right to health encompasses the right to health-care services, including the full range of reproductive health services. While governments often cite a lack of financial resources as an obstacle to ensuring access to reproductive health care, some low-income countries have made steps to prioritize access as a policy concern.

Broad legal and policy guarantees of reproductive health care—such as those adopted in **Mali**, described below—can be indications of a government's political commitment to improve the safety of pregnancy and childbirth. Where legislation calls for funding reproductive health care, as happened in **Bolivia** through the creation of a national insurance program for pregnant women, access to care during pregnancy and childbirth can be vastly improved. In **Bangladesh**, a policy aimed at reducing maternal mortality requires that services be expanded to reach all women.

A. Mali Targets Maternal Mortality

Mali has an extremely elevated maternal mortality ratio, estimated at 1,200 maternal deaths per 100,000 live births.[9] The factors contributing to maternal mortality in Mali are many. They include a dearth of medical facilities and supplies, a shortage of health-care personnel, and inadequate health-care regulation and oversight. Maternal mortality is also tied to women's lack of power to make decisions regarding reproduction, which is due both to their low social and economic status and to their lack of access to basic reproductive health information.[10]

On June 24, 2002, Mali enacted Law No. 02–044 on Reproductive Health, which became effective on December 24, 2002.[11]

Objective of the law
Citing the needs of "vulnerable groups" such as women, children, and young adults, the law states that the aim of reproductive health care is to reduce maternal and child mortality and morbidity and promote the well-being of all individuals.[12]

Rights affirmed
The law provides that every individual or couple has the right to reproductive health services that are of the best possible quality. In particular, it ensures the rights of women to health care during pregnancy and childbirth.[13] Couples and individuals have the right to freely decide the number of children they will have and the spacing between each child; the law also requires that couples have access to the information necessary for that purpose.[14]

Reproductive health care
The law lists the components of reproductive health care, which include:

- services and activities related to family planning;
- information and counseling on sexuality and responsible parenthood;
- care for safe pregnancy and childbirth;
- services to promote infant survival;
- prevention and treatment of infertility and impotence;
- measures to prevent abortion and the provision of postabortion care;
- prevention and treatment of reproductive tract infections;
- treatment of genital disorders;
- treatment of complications of female genital mutilation;
- reproductive health care for older adults and young people; and
- treatment and prevention of sexually transmissible infections, including HIV/AIDS.[15]

Provisions on abortion and contraception
The law affirms the legality of manufacturing, importing, selling, and publicizing approved contraceptive methods, while setting penalties for the sale and promotion of unapproved methods.[16] Also, if pregnancy could put the life of a married woman at risk, she is entitled to access to a permanent method of contraception by giving written consent to the procedure.[17] The law further declares that abortion is legal when a pregnant woman's life is in danger and in cases of rape and incest.[18] Provoking a woman to have an abortion, other than under circumstances where abortion is legal, is prohibited.[19]

B. Bolivia Adopts Universal Mother-Child Insurance

Bolivia's maternal mortality ratio of 420 maternal deaths per 100,000 live births is one of the highest in Latin America.[20] The Andean nation is often cited, however, as a model for its efforts to improve maternal health.[21] Since 1996, Bolivia has had a Maternal and Child National Insurance program, which requires every public health institution to provide free services for pregnant women and children under the age of five.[22] In 2002, Bolivia expanded this program through the enactment of new legislation.

On November 22, 2002, Bolivia adopted the Law on Universal Maternal and Child Insurance.[23] The law codifies a system of universal, comprehensive, and free insurance that entitles citizens to health care provided through the National Health System and the Short-Term Social Security System.

Coverage
Women are covered from the beginning of their pregnancy through the six-month period following childbirth. Children are covered from birth until the age of five.[24]

Delivery of care
Care is delivered by a network of health providers within primary, secondary, and tertiary health-care establishments throughout the country.[25]

Regulation and oversight
The Ministry of Health and Social Services regulates, coordinates, and controls the networks to ensure that services are provided.[26] A local health director is appointed in each municipality to oversee the implementation of the insurance scheme.[27]

Funding
The national treasury finances the total human resources costs needed to implement the law.[28] Financing for supplies, essential medicines, and non-personnel services come from the Popular Participation Fund, a fund that was created as part of the overall decentralization effort by the Bolivian government to shift responsibilities from the national government to local municipalities.[29] Where necessary, additional funds will come from the National Solidarity Fund.[30]

C. Bangladesh Continues Measures to Improve Maternal Health Care

Bangladesh has been cited as one of the countries with the largest number of maternal deaths worldwide.[31] In numerous policy documents, Bangladesh has announced its goal of reducing maternal mortality. In support of this goal, the government formulated a Maternal Health Strategy in 2002. The strategy emphasizes several elements of maternal health care, including prenatal care, the use of skilled birth attendants, and emergency obstetric care.[32]

The strategy focuses on the following elements:

- providing prenatal care to all women;
- phasing in an expansion of emergency obstetric care throughout the country;
- improving the accessibility of maternal health services;
- raising awareness of maternal health care through information campaigns targeted to family members and communities;
- conducting verbal autopsies and death reviews in large hospitals to improve the accountability of health-care providers; and
- intensifying behavior change communication activities.[33]

Specific targets
Target goals for 2006 were to increase the percentage of pregnant women who make three prenatal care visits to 60%, and to raise the percentage of deliveries assisted by skilled attendants to 35%.[34]

2. ENSURING QUALITY OF CARE

According to the Economic, Social and Cultural Rights Committee, "health facilities, goods and services must … be scientifically and medically appropriate and of good quality."[35] Governments have a duty to regulate the delivery of health-care services in order to ensure their quality, as **Argentina** has sought to do in the area of reproductive health. A challenge for governments is to ensure that such regulations are uniformly applied, with ample mechanisms for the supervision of facilities and providers.

A. Argentina Issues Regulations for Maternal Health Services

In Argentina, data from the Ministry of Health indicate that the maternal mortality ratio was 43 maternal deaths per 100,000 live births in 2001, the most recent year for which data are available.[36] In 2003, the government took steps to improve the quality of maternal health care. The government developed regulations in consultation with academics, medical associations, and international organizations such as the World Health Organization (WHO) and the United Nations Children's Fund.[37]

In May 2003, the Ministry of Health issued Resolution No. 348/2003, which approved regulations for the provision of maternity services under the National Program to Guarantee the Quality of Medical Care.[38]

Recognition of women's rights
The resolution emphasizes the important role that institutions play in providing necessary care to mothers and children. The regulations are in line with WHO's principles of perinatal care, which stress that appropriate care takes into account women's choices and respects their privacy, dignity, and confidentiality.[39]

Guidelines for service delivery
The regulations establish guidelines to improve the organization and delivery of maternity services; these services encompass maternal care during pregnancy, childbirth, and the puerperium, as well as newborn care. The resolution includes provisions detailing the type of care, services, and equipment that should be made available.[40]

Key components of maternal health care
The resolution considers the following to be essential elements of care:

- regular gynecologic examinations;
- early pregnancy detection;
- identification of potential prenatal problems related to the mother's health and nutrition status; and
- routine risk assessments for pregnancy and childbirth.[41]

CONCLUSION

Legal recognition of a woman's right to safe pregnancy and childbirth is a crucial first step in improving the health of women of childbearing age worldwide. This recognition must be accompanied by concrete measures to ensure access to services and the quality of care. In addition, governments must take action to stop discriminatory and harmful practices that endanger women's health and lives during pregnancy and childbirth. Finally, governments must eliminate laws that limit access to family planning and safe abortion. Such measures endanger women by preventing them from spacing births and, in many cases, forcing them to resort to unsafe abortions.

Endnotes

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