CENTER FOR REPRODUCTIVE RIGHTS

HUMAN RIGHTS and ICPD+25

Photo: A midwife providing a woman with family planning counseling at a health center. August 18, 2014 in Pikine, Senegal. (Photo by Jonathan Torgovnik/Reportage by Getty Images).

This year marks the 25th anniversary of the International Conference on Population and Development (ICPD) in Cairo, where 179 governments adopted a landmark Programme of Action to empower all people to take decisions regarding their sexual and reproductive health to improve their lives, realize human rights and build stronger communities.

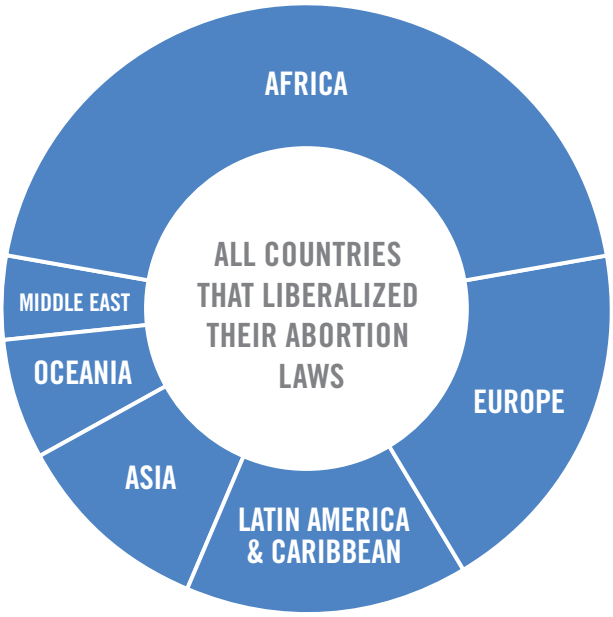
Without fully respecting, protecting, and fulfilling sexual and reproductive rights, the ambitious targets of the ICPD Programme of Action cannot be realized.

In the 25 years since the ICPD, substantial progress has been made in defining sexual and reproductive health and rights (SRHR) in international human rights law. This fact sheet highlights recent progress from the United Nations treaty bodies, which define international human rights standards, and illustrates the inextricable linkages between the realization of sexual and reproductive rights and the goals defined in the ICPD Programme of Action.

Universal Health Coverage

Universal Health Coverage (UHC) aims to ensure all people have access to quality and affordable health care. Treaty bodies have articulated that States' core obligations for the right to health includes the realization of sexual and reproductive rights.[1] Thus, for UHC policies to be rights-compliant, they must:

- Repeal laws, policies and practices that criminalize or obstruct access to sexual and reproductive health services, including abortion;
- Adopt and implement a national strategy and action plan with sufficient funds to implement SRHR and monitor results;
- Ensure sexual and reproductive health information and services are available, accessible, acceptable, and of good quality;
- Prohibit and enforce the elimination of harmful practices and gender-based violence;
- Prevent unsafe abortion and ensure post abortion care;
- Provide non-discriminatory, unbiased information and education on SRHR, including for adolescents and marginalized groups;
- Ensure that reproductive health services, including abortion and contraception, are affordable for all and covered by public health insurance when available;
- Ensure provision of the World Heath Organization's list of essential medicines, including emergency contraception;
- States should expressly enshrine the right to health, including sexual and reproductive health, in in law and create accountability mechanisms that enable individuals to assert this right.[2]



There has been **significant geographic diversity in abortion law reform.**

Nearly half of the countries that liberalized their abortion laws are in **Africa.**

Human rights bodies have repeatedly condemned laws that prohibit health services that only women need. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) Committee has stated that "it is discriminatory for a State party to refuse to provide legally for the performance of certain reproductive health services for women."[3] Furthermore, the Economic, Social and Cultural Rights Committee has made clear that equality in the context of the right to health "requires at a minimum the removal of legal and other obstacles that prevent men and women from accessing and benefitting from healthcare on a basis of equality."[4]

Maternal Health Care

Since the ICPD, States have continued to take important steps to improve maternal health outcomes. Although there has been a steady decline in maternal mortality since 1990, around 300,000 women still die from maternal mortality every year.[5] The 2030 Agenda target of reducing global maternal deaths to 70 per 100,000 live births is unlikely to be met without a significant increase in efforts to fulfill the rights of women and girls around the world.

DISPARITIES IN MATERNAL MORTALITY RATIOS BETWEEN COUNTRIES

239 100,000 LIVE BIRTHS IN DEVELOPING COUNTRIES

VS.

12 100,000 LIVE BIRTHS IN DEVELOPED COUNTRIES

Source: Trends in maternal mortality: 1990 to 2015: estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division. https://apps.who.int/iris/bitstream/handle/10665/194254/9789241565141_eng.pdf;jsessionid=BFAFEC6F8653A4F8A07863845CDFD7B3?sequence=1

In *Alyne v. Brazil*, a case brought by the Center to the CEDAW Committee in 2008,[6] Alyne, a 28-year-old Afro-Brazilian woman, died of complications resulting from pregnancy after a private and then a public health center denied her quality maternal health care. The CEDAW Committee affirmed that States have an immediate and enforceable obligation to address and reduce maternal mortality, and that quality maternal health care must be provided to all women, free from discrimination—regardless of race, income, or geographic location.

The recognition of States' human rights obligations in the *Alyne* case have been advanced by courts at the national level, such as in the case of *Josephine Majani* v. *Attorney General of Kenya*. Kenya has articulated a policy of universal maternal health care, but in reality, this is not available for many women, particularly poor women who rely on overstretched government facilities.[7] Josephine was kicked and harassed after she fainted while giving birth on the floor due no available hospital beds or nurses to attend to her. The Court found that the government must ensure: dignified treatment of patients, and the availability of equipment, services, and treatment.[8]

Treaty bodies have found that the disrespect and abuse women face in maternal health facilities can amount to cruel, inhuman and degrading treatment, including when women are detained and abused post-delivery for the inability to pay their maternal health care bills and when incarcerated women are shackled to beds during labor and delivery.[9]

The right to survive pregnancy and childbirth requires States to ensure:

- Quality maternal health services that ensure women and girls do not die from preventable cause;
- Universally available and accessible services that are free from discrimination;
- Maternal health services are provided free from violence and abuse;[10]
- Access to justice and meaningful accountability for women and girls who have experienced violations.[11]

Gender-based Violence and Harmful Practices

The prohibition of gender-based violence is considered a customary principle of international law.[12] Treaty bodies describe SRHR violations as a form of gender-based violence, and note that when such acts are gender specific or perpetrated against a person on the basis of sex and cause severe physical or mental pain and suffering, it may amount to torture or cruel, inhuman or degrading treatment.[13] The CEDAW Committee has considered that in some instances denial or delay of safe abortion or post-abortion care is a form of gender-based violence and that this impedes the realization of gender equality.[14]

The treaty bodies have developed detailed guidance on how States should effectively address and eliminate gender-based violence and harmful practices. They state that: [15]

- Guarantee physical and mental health care for survivors of sexual and gender based violence in all situations, including access to post-exposure prevention, emergency contraception, and safe abortion services;
- Adopt legislation prohibiting all forms of gender-based violence against women and girls, including harmful practices, and repeal legislation that condones or perpetuates impunity for these acts;
- Legislation should provide detailed guidance on prevention, protection, support and follow-up services for survivors, and adequately address the root causes of gender-based violence;
- Ensure equal access to justice, including by addressing legal and practical barriers to initiating legal proceedings, and ensure that the perpetrators and those who aid or condone such practices are held accountable;
- Victims of violations must have equal access to legal remedies and reparations; and
- Any efforts undertaken to tackle harmful practices and to challenge and change underlying social norms should be holistic, community based, and founded on a rights-based approach that includes the active participation of all relevant stakeholders.

Adolescents

For adolescents, restrictive legal and policy frameworks, parental and third-party authorization requirements, prohibitive costs and distances, stigma surrounding sexual and reproductive health services and the lack of privacy and confidentiality, are critical barriers that undermine their ability to access services, and negatively affects their health outcomes and ability to have agency over important life decisions.

Human rights bodies have emphasized that adolescents must be able to access SRHR services in line with their evolving capacities, and that States should consider establishing a legal presumption of capacity to access SRHR services and information, including abortion.[16]

Human rights bodies have recognized that:

- Adolescents must have access to sexual and reproductive health care services, including abortion, and the ability to make decisions related to their sexuality and reproduction;[17]
- States must eliminate barriers to SRHR commodities, information and counselling, including requirements for third-party/parental consent or authorization;[18]
- States must facilitate an environment that allows adolescents to make decisions free from coercion, discrimination, and violence;[19]
- States should take measures to empower adolescents to make healthy decisions about their sexuality and reproduction, such as through the provision of comprehensive and non-discriminatory sexuality education, addressing the stigma surrounding sexuality, challenging gender stereotypes, and establishing programs for girls and sensitization for men and boys.[20]

Humanitarian Settings

The protection and realization of sexual and reproductive rights during times of crisis becomes even more acute given that rates of sexual and gender-based violence against women and girls increase exponentially during conflict.[21] Despite a more recent emphasis on mainstreaming reproductive health intiatives in humanitarian response, significant gaps remain in meeting the reproductive health needs of crisis-affected communities. Humanitarian responders are working to provide SRHR services in conflict settings, including the Minimum Initial Service Package[22], but the needs of women and girls continue to outweigh financial support, implementation is not systematic and is of variable quality, and there is limited availability of comprehensive abortion care.[23]

IN COUNTRIES DESIGNATED AS FRAGILE STATES, THE ESTIMATED LIFETIME RISK OF MATERNAL MORTALITY IS

Human rights law and international humanitarian law are complementary and mutually reinforcing, and human rights obligations continue to apply in situations of conflict.[24] Whereas humanitarian law does not address women's reproductive health in depth, human rights law has developed detailed and extensive guidance for States which reinforce and complement state's humanitarian legal obligations. States must therefore respect, protect, and fulfill SRHR during conflict and humanitarian emergencies, including ensuring access to services for women and girls who are survivors of gender-based violence.[25]

Principles of equality and equity, participation, transparency, and accountability are foundational to international human rights law and are necessary to guide and inform all aspects of humanitarian service provision to ensure that it reflects and meets the needs of the individuals and communities most directly affected.

A human rights-based approach to SRHR in humanitarian settings requires:[26]

- Integrating affected individuals in the design, implementation, and decision-making process of programs and policies intended for their benefit;
- Ensuring available, accessible, adequate, and quality services without discrimination; including for adolescents, sex workers, LGBTQ populations, and people with disabilities;
- Ensuring those who seek services are able to make informed and autonomous decisions, without spousal, parental, or third party consent;
- Establishing systems for maintaining privacy and confidentiality; and
- Access to justice and effective remedies when individual rights are violated.

CALL TO ACTION

- ✓ **Prioritize comprehensive SRHR services in all UHC policies; ensuring compliance with commitments laid out in the ICPD and the Sustainable Development Goals, and obligations under human rights treaties;**
- ✓ **Ensure that maternal health services are available, accessible, acceptable, and of good quality, and are free from violence, discrimination, and abuse;**
- ✓ **Eliminate gender-based violence and harmful practices by addressing root causes, such as gender inequality, and ensuring psycho-social support and access to justice and effective remedies for survivors;**
- ✓ **Ensure that adolescents have access to comprehensive SRHR services and are empowered to make decisions related to their sexuality and reproduction;**
- ✓ **Invest in the realization of SRHR services during humanitarian emergencies, and ensure access to rights-based services and information; and**
- ✓ **Decriminalize abortion in all circumstances, and provide safe, legal, and effective access to comprehensive abortion care.**

The Center for Reproductive Rights is an international NGO that uses the power of law to advance reproductive rights as fundamental human rights around the world. Our headquarters is in New York, and we have offices in Washington, D.C., Bogota, Geneva, Kathmandu, and Nairobi. For nearly 30 years, our game-changing litigation and advocacy work—combined with our unparalleled expertise in the use of the law—has transformed how reproductive rights are understood by courts, governments, and human rights bodies on issues including access to life-saving obstetrics care, contraception, safe abortion and assisted reproduction, as well as the prevention of forced sterilization and child marriage.

Endnotes

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