

WOMEN'S RIGHT TO HEALTH – AN INALIENABLE RIGHT

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Introduction

Permit me to start by congratulating the Africa Regional Vice-President and her Team for the reality of this congress. I know the challenge was huge but as is usual, she proves herself again and again by her achievements. It gives me great pleasure to stand before this dignified assembly of most distinguished female lawyers from across our great but dark continent. That pleasure is clouded by the issue we are discussing at this session: Women's Right To Health – An Inalienable Right. For the next few minutes, we will look at the key concepts that are included in the topic: women, health, rights and their inalienability and interconnectedness. We will consider experiences of women of our region especially as these impact on their health and what this means for their rights. We will conclude by looking at what or how organizations like FIDA may choose to make a difference as members carry forward the mission to support women and children in the protection, respect and fulfillment of their rights.

By a show of hands, let me see how many of you have ever been pregnant? How many have had a delivery? How many of you who had a delivery have a living child from that experience? Maria was my cousin. We grew up together. She was pregnant with twins. She delivered one and had to have a CS for the second baby. There were complications, her wound got infected and before long, she was dead without ever holding any of her sons. A month later, one of them died. Many of you have your own Maria in your life. The stories are different. The women are different. But in the end, the result is the same – loss of her life. Children are a gift from God. They are our bundles of joy. Pregnancy is supposed to be a natural process, but in Africa, a woman going into delivery is in essence passing through death's door. The probability of her not returning could rise up to 1.8 in some countries within the Africa region, especially in Africa

south of the Sahara. In 2005 Nigeria, we had a maternal mortality ratio (per 100,000 live birth) of 1,100¹. Across Africa the figures are harrowing:

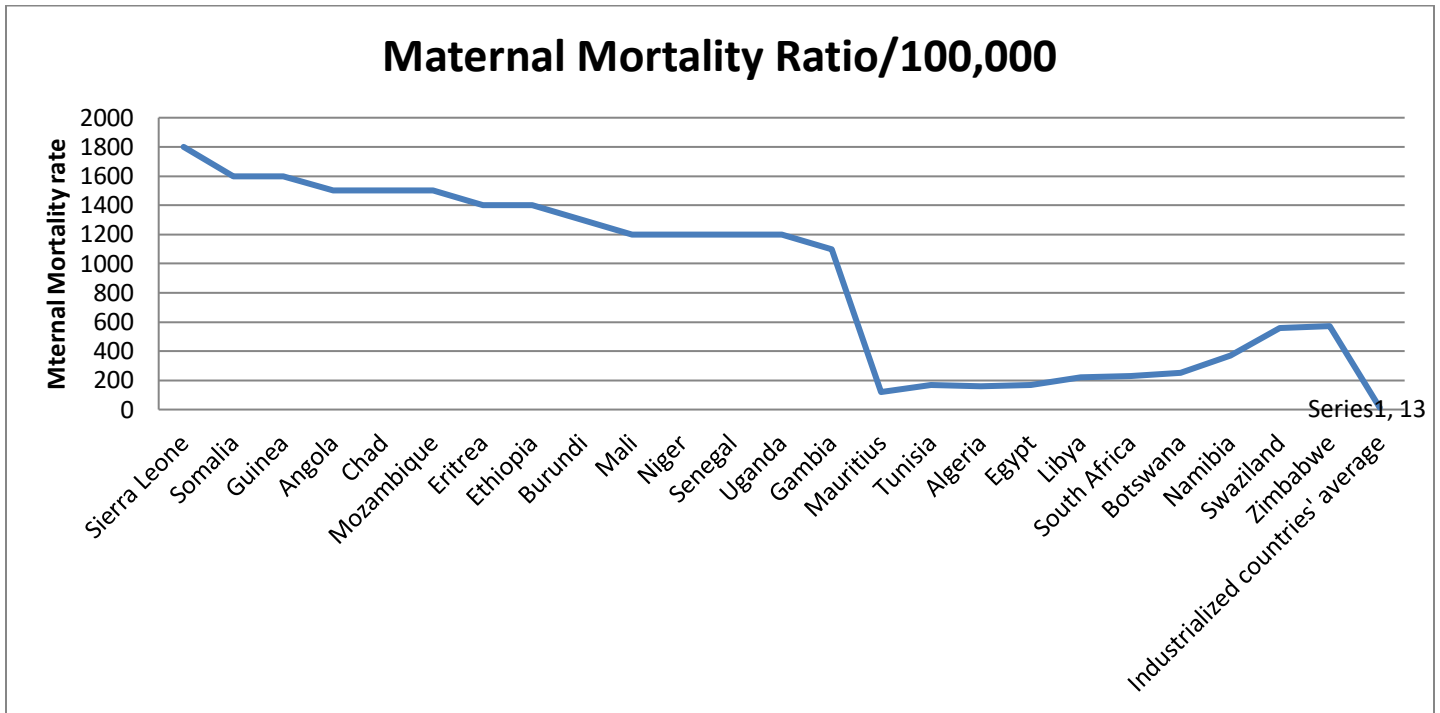


Figure 1 - Status of Women in Africa, UNECA²

¹ <http://www.fmh.gov.ng/archives/724>

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http://www.uneca.org/eca_resources/cdroms/status_of_african_women/pages/datapage.htm#WHAT%20THE%20STATISTICS%20SAY%20ABOUT%20THE%20LIVES%20OF%20AFRICAN%20WOMEN

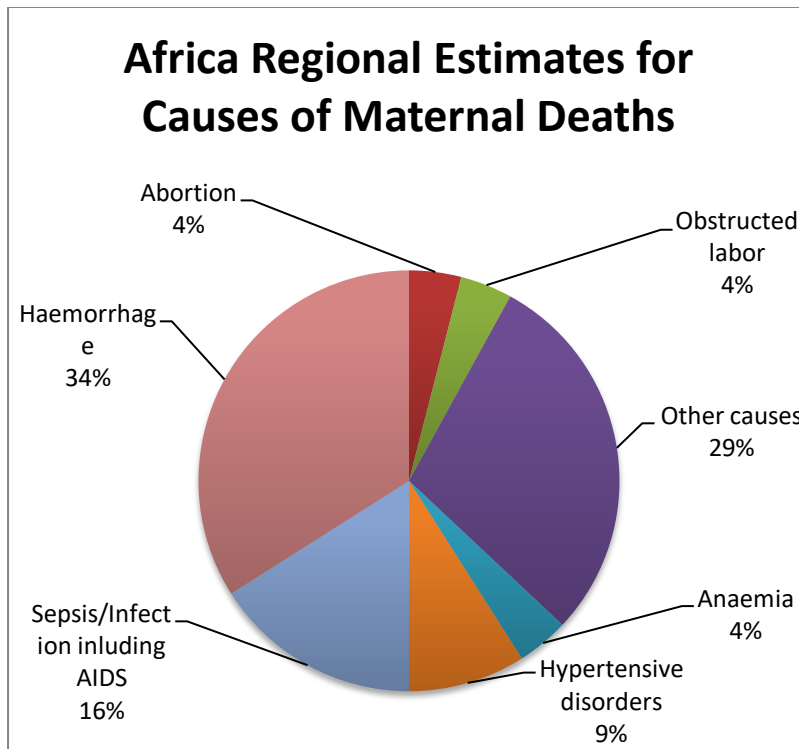


Figure 2 - Causes of Maternal Death in Africa³

Case Study: Nigeria

But these are just numbers. Data have a way of colouring what we hear and we lose sight of what they mean in reality. Taking Nigeria as a case study, what does 1,100 women dying from maternity related causes actually mean? 'People die, it is destiny whether you die today from maternity related causes or tomorrow from a plane crash'. We have had more than our fair share of plane crashes in Nigeria with 11 crashes since 1995. Resulting deaths have been close to 150 for some of them. In 2005, I lost three work colleagues in the same plane crash. I still think about them sometimes, young men with great promise. In spite of their youth, their legacies still outlive them today. When a plane crashes anywhere in the world, the global impact is devastating as it should be. The experiences have led to drastic action and reforms in the Nigerian aviation industry.

That however is not the case in the health sector in Nigeria. In 2005, total maternal deaths was 59,000⁴ women. That is one full plane load of women every single day at 161 women on board each plane in that year. Even more alarming that is only one out of numerous health challenges that African women face through their life because not only are they female, they are also African.

³ <http://www.fmh.gov.ng/wp-content/uploads/2010/06/country-profile.pdf>

⁴ <http://www.fmh.gov.ng/archives/724>

Conceptual Issues

Health

The World Health Organization in 1948 defined Health as 'a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity.' The WHO 1986 Charter for health promotion says 'health is a resource for everyday life, not the objective of living.' By our standards in Africa, so long as we are not sick and bedridden, we are grateful for our healthy state. Countries develop health systems to be able to meet the needs of their citizens. These systems, WHO describes as the people, institutions and resources, arranged together in accordance with established policies, to improve the health of the population they serve, while responding to people's legitimate expectations and protecting them against the cost of ill-health through a variety of activities whose primary intent is to improve health'. The Nigerian Constitution provides, among others, under its fundamental objectives and principles of state policy, that

17. (3) The State shall direct its policy towards ensuring that-
 - (d) there are adequate medical and health facilities for all persons:

It provides further in the Fourth Schedule that

2. The functions of a local government council shall include participation of such council in the Government of a State as respects the following matters –
 - (c) the provision and maintenance of health services

Every part of society is trying to contribute to improving the health of the citizens. In Nigeria as at 2007, there were just 17,068 Hospitals for 150 million people. Ownership ranged from the three tiers of Government to Private ownership, religious groups and community ownership. The actual problem though is more the challenges faced by most hospitals with inadequate medical personnel, lowering capacity, decaying structures, out of stock drugs, high cost of treatment and lack of appropriate equipment. Recurrent expenditure for health in Nigeria in the 2010 budget is 5.43% while it is 3.63% for capital expenditure bringing the total health budget to 4.58% of the total budget.

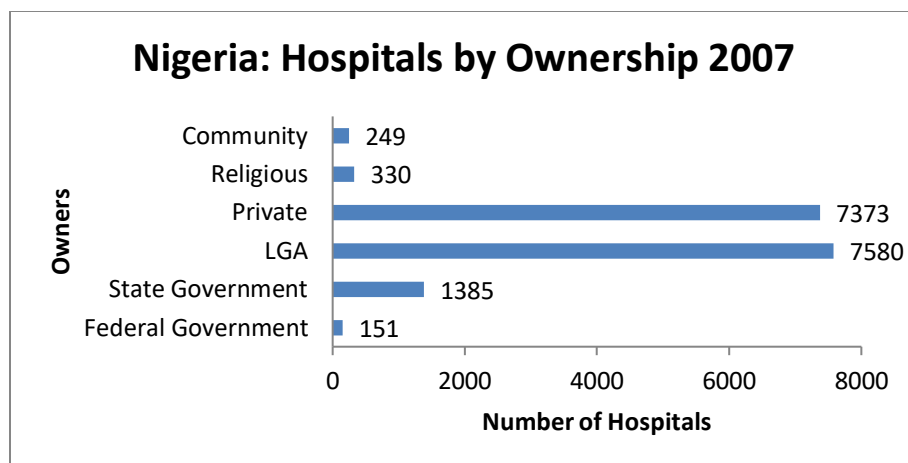


Figure 3 - Directory Of Health Establishments In Nigeria, 2007, NBS

Health facilities, while inadequate for the population, are under-utilized. Primary Healthcare Clinics are located throughout the country but cannot be used to full capacity because of other restrictive holds on women’s access to health services. These may include the need for permission from a male authority figure before they can attend a clinic, the cost of treatment, the lack of qualified personnel (the available medical personnel are inequitably distributed across the rural and urban areas), the spiritual and religious beliefs and practices, the accessibility of alternative treatment sources such as traditional birth attendants, traditional healers or the patent medicine dealer.

The availability of health workers is also quite inadequate.

S/N	Staff type	Nigeria Total
1	Doctors	39,210
2	Dentists	2,773
3	Nurses	124,629
4	Midwives	88,796
5	Pharmacists	12,072
6	Medical Laboratory Scientists	12,860
7	Physiotherapists	769
8	Radiographers	519
9	Health Record Officers	820
10	Community Health Officers/Community Health Environmental Workers	117,568

Figure 4 - Federal Republic of Nigeria: National Human Resources for Health Policy 2006

Right

Right, according to Black's Law Dictionary, may mean just, morally correct, or it could mean rules of positive law i.e. law which has been actually passed by proper authority such as a piece of legislation. The antonym for right could be wrong, illegal, unjust.

Inalienable Rights

Anything that is inalienable cannot be given up. You cannot buy it, you cannot sell it, you cannot transfer it. By their very nature, human rights are inalienable. They can never be surrendered or transferred without your consent. Even so, there are legislation which also provide for the total inalienation of some of the rights e.g. the right to life

Women

It is easy to think that a woman is a female specie of the human race and a man is the male. That is still 100% true. Unwrapping the package of what makes a woman in Africa, who she is comes the experiences of her context, her situation, her relationships and the opportunities and choices available to her. Many African practices designate the woman as a second class citizen.

17. (1) The State social order is founded on ideals of Freedom, Equality and Justice.

There is Constitutional provision in Nigeria prohibiting discrimination on grounds of sex. The perplexing thing is how that provision is never used to protect the enjoyment of women of their rights even to health but is quite often used to maintain the status quo.

Women's Right to Health

Women's rights usually refers to those freedoms and entitlements that are due to girls and women and are usually not an issue for boys or men. They differ from the rights that accrue to both men and women and relate to experiences that women have just because they are female. Underlying issues of women rights are gender considerations and the power relationship that exist between men and women in society. Contrary to popular opinion, gender does not equal women, but instead refers to the power relations between men and women and the social construction of both femininity and masculinity. Gender is a complex and highly contested term. The word "gender" is used to describe those characteristics of women and men, which are socially constructed, while "sex" refers to those, which are biologically determined. People are born female or male but learn to be girls and boys who grow into women and men. This learned behavior makes up gender identity and determines gender roles. Gender refers to women's and men's roles and responsibilities that are socially determined. Gender is related to how we are perceived and expected to think and act as women and men because of the way society is organized, not because of our biological differences. However,

gender is much more than the socialized behaviors of and relations between individuals. It is a key form of social stratification, which also determines unequal access to resources, biased public representation, and discriminatory institutional policies. Gender, interacting with social determinants, such as class, ethnicity and age, is profoundly and consistently related to, for instance, health mainly because these fundamental factors structure over the life course the likelihood of women's and men's differential risks, exposures and susceptibility to disease, their access to health protective resources, as well as differential consequences of ill health.

We have looked at maternal mortality issues. Other health issues for women include fertility, family planning, maternal health and obstetric fistula, nutrition, malaria especially in pregnancy, HIV and AIDS, domestic violence, maternal mortality, female genital mutilation/cutting and harmful traditional practices.

Lack of women's fulfillment of their right to health is related to practices such as early marriage, teenage pregnancy, lack of access to formal education, gender based violence, harmful cultural practices, poverty, illiteracy, lack of health personnel and infrastructures particularly in rural areas. Poverty, Effect of customary and religious laws and practices, Spiritual beliefs as to causes of ailments, restriction on movement, Harmful traditional practices that restricts or controls women's bodies such as FGM, Rude and outrightly harsh medical staff especially nurses and Doctors with poor human relations, Lack of appropriately disaggregated data that ought to facilitate effective planning and reform, Gender based violence.

women's participation in decision making	
percentage of currently married women age 15-49 who usually make specific decisions either by themselves or jointly with their husband, Nigeria 2008	
Area of Decision-Making	Total %
own health care	43.6
making major household purchases	37.6
making purchases for daily household needs	49.6
visits to her family or relatives	54.9
percentage who participate in all four decisions	31.4
percentage who participate in none of the four decisions	38.4
number of women respondents	23,578

Figure 5 - Women's Participation in Decision making, NDHS 2008

problems in accessing health care: state	
percentage of women age 15-49 who reported that they have serious problems in accessing health care for themselves when they are sick, type of problem, Nigeria 2008	
	state of residence
problems in accessing health care	total Nigeria
getting permission to go for treatment	13.6
getting money for treatment	56.4
distance to health facility	36.2
having to take transport	34
not wanting to go alone	17.2
concerned no female provider available	20.5
concerned no provider available	33.4
concerned no drugs available	41.3
at least one problem accessing health care	73.7
number of women	33,385

Figure 6 - Problems accessing healthcare, NDHS 2008

Recognizing Women's Right to Health is an Inalienable Right

Human rights are those rights that belong to every individual - man or woman, girl or boy, infant or elder - simply because she or he is a human being. They embody the basic standards without which people cannot realize their inherent human dignity. Human rights place a strong value and dignity on the human being. They promote equality, build the capacity of women, men and children to live meaningful lives regardless of their differences. The enjoyment of human rights increases participation of citizens in governance, encouraging public ownership of government, promoting individual and collective responsibility.

The State has an obligation to guarantee citizens' (including women) Human Rights in three ways:

Respect: Government must promote human rights and to refrain from denying or limiting equal access to their enjoyment. Government is to set up institutions, adopt policies and ensure legislative framework that promotes human rights education and entrenchment in governmental affairs.

Protect: Government must take adequate measures to protect individuals' rights from government or third party interference. This includes protection from the actions of individuals and groups at all levels of society, including corporations, institutions and public and private bodies. This protection should be through the introduction of laws to protect human rights, and the provision of affordable and accessible redress procedures in the event of abuse of the rights.

Fulfill: Government must adopt administrative, legislative, policy and budgetary measures towards progressive and full realization of human rights through the provision of social services and infrastructure like education, safe water, hospitals etc designed to ensure access by everyone to basic needs.

Human rights are inalienable. They are like gears engaged, interconnected and spinning each other. As one moves, it catalyses the next to start its own independent but interlocked relationship with the others. The converse is also true, any problem with one affects all the others.



Inequalities between women and men manifest themselves across all key areas of development, in a variety of ways which vary significantly from place to place. Nonetheless, it is possible to point to general trends which create the backdrop for international development efforts. The International Framework of The 4th World Conference on Women in Beijing in 1995 set out 12 critical areas of concern as the basis for the global Platform for Action as indicated below:

- Unequal access to health care and related services
- Unequal access to education and training
- The persistent and increasing burden of poverty on women
- Discrimination against and violation of the rights of girls
- Gender inequalities in the management of the environment
- Stereotyping of women and inequality in access to the media
- Lack of respect for the human rights of women
- Weak government and non-government mechanism for the advancement of women
- Violence against women
- The effects of armed and other kinds of conflict

- Inequalities in economic opportunities and access to resources
- Inequalities in the sharing of power and decision-making

This built on the 1979 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and other human rights instruments and agreements. As defined by the CEDAW, discrimination is symptomatic of a situation where patterns of structural inequality are maintained by rules, norms and procedures that dictate a subordinate role for women in all spheres of society. The combination of the International Development Targets, CEDAW, and the Platform for Action sets out a powerful and challenging framework of international agreements for the pursuit of gender equality. This calls for a fundamental transformation in the relations between women and men which will help unlock the full potential for economic, social and human development and bring benefits to all.

The Millennium Development Goals (MDGs) were born from the Millennium Declaration – an unprecedented global consensus reached in the year 2000 by 189 Member States of the United Nations including Nigeria. In the Declaration, nations together undertook to advance a global vision for improving the condition of humanity throughout the world in the areas of development and poverty eradication, peace and security, protection of the environment, and human rights and democracy. The Declaration in particular lays emphasis on the recognition of the rights to gender equality particularly of women as critically necessary for progress in these goals. The Millennium Declaration reconfirmed the central role of gender equality from the perspective of the UN Fourth World Conference on Women, Beijing 1995, Rio Conference on Environment and Development 1992, the Vienna Conference on Human Rights (1993), the Cairo Conference on Population and Development, 1994, the Copenhagen World Summit for Social Development (1995), the Istanbul Conference on Human Settlements (1996), and the 3rd World Conference on Women, Nairobi (1975).

The high priority accorded to Goal 3 – (Promote gender equality and women empowerment) - the Gender Equality Goal of the MDGs represents a global affirmation of women’s rights and gender equality as core issues of development, one of which the success of the others is dependent. This recognition is a culmination of years of advocacy and action by women movements and organizations at all levels of governments. This hard-won recognition that “development, if not engendered, is endangered” was also an outcome of debates and discussions at various conferences and for a as listed above.

Growing recognition of the gender dimensions of development paradigms and policies created the momentum for a consensus on gender mainstreaming – the incorporation of gender perspectives into all aspects of development theory and practice. Goal 3 is not specific to any particular sector or issue, since gender equality and women’s rights underpin all the other goals. It has been pointed out that attempting to achieve the MDGs without promoting gender equality will both raise the costs and decrease the likelihood of achieving the other goals. The

reverse is equally true – achievement of Goals 3 depends on progress made on each of the other goals. The implication is clear while accurate reporting against Goal 3 is critical, tracking gender gaps and inequalities against each of the other MDG targets and indicators is no less important. Goal 5 specifically focuses on improving maternal health. The same logic applies to Goal 5.

The response of Africa has been the Protocol to the African Charter on Human and Peoples' Right which sets out the comprehensive rights of women in the Region, including the right to control of their reproductive health. The Millennium Development Goals complete the framework for women's right to health as an inalienable right. The 28 goals have two focused on women and one of them specifically on health. The MDGs are recognized as a catalyst to development believing that advancement in the listed areas will lead to overall development. Health is intrinsically linked with the overall wellbeing of a human person, woman or man. The impact on other aspects of a woman's life when her health rights are challenged or vice-versa are quite obvious:



Figure 7 - Relationships between Women's Human Rights

FIDA Catalyzing the Change for Women' Right to Health

FIDA and its members stand in a very strategic position in the various countries where we have branches in the Region. Our mission to uphold the rights of the woman and the child situate us in a way that we must be accountable to the society and to all who are marginalized. Our understanding of rights and the role of law in development also means that we can easily apply the rights based approach to development which sees the link between needs and rights and factors the total person into any developmental work. FIDA has achieved so much already, but there is still room for growth, for replication of our efforts to scale such that we can easily reach the millions and millions of African women who are facing discrimination affecting their health and wellbeing.

I thank you for your time.

Bibliography

Maternal Mortality Ratios ⁵	
Country	MMR
Sierra Leone	1800
Somalia	1600
Guinea	1600
Angola	1500
Chad	1500
Mozambique	1500
Eritrea	1400
Ethiopia	1400
Burundi	1300
Mali	1200
Niger	1200
Senegal	1200
Uganda	1200
Gambia	1100
Mauritius	120
Tunisia	170
Algeria	160
Egypt	170
Libya	220
South Africa	230
Botswana	250
Namibia	370
Swaziland	560
Zimbabwe	570
Industrialized countries' average	13

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http://www.uneca.org/eca_resources/cdroms/status_of_african_women/pages/datapage.htm#WHAT%20THE%20STATISTICS%20SAY%20ABOUT%20THE%20LIVES%20OF%20AFRICAN%20WOMEN
http://www.uneca.org/eca_resources/cdroms/status_of_african_women/pages/datapage.htm#WHAT%20THE%20STATISTICS%20SAY%20ABOUT%20THE%20LIVES%20OF%20AFRICAN%20WOMEN