Preventing Maternal Mortality and Ensuring Safe Pregnancy

Government Duties to Ensure Pregnant Women’s Survival and Health

Every year, more than 500,000 women die from complications of pregnancy or childbirth, with 99% of these deaths occurring in the developing world.¹ Women’s rights to life, health, and non-discrimination entitle them to the services and care they need to survive pregnancy and childbirth. To fulfill their duties, governments must ensure women’s access to high-quality, appropriate reproductive health care; abolish discriminatory laws and social practices prejudicial to women’s health; and allow women to make autonomous decisions regarding their reproductive lives.

This briefing paper takes an in-depth look at the standards developed by six United Nations (UN) “treaty monitoring bodies,” or committees, in the area of safe pregnancy and childbirth. Following a brief overview of the origin and work of the committees, the briefing paper reviews standards each body has adopted as it has monitored governments’ compliance with their duties under international human rights law. Several committees have found violations of key human rights treaties where states have failed to take measures to prevent maternal mortality.
Background

Treaty Monitoring Bodies and their Role in Developing International Law

The UN treaty monitoring system was created to ensure governments’ compliance with their treaty obligations. Each of the major international human rights treaties provides for the establishment of a committee whose primary mandate is to monitor governmental progress in implementing the treaty. Monitoring is achieved primarily through a “country reporting” process, which requires states to report periodically on their efforts to respect, protect, and fulfill the human rights enshrined in a particular treaty. Following in-person dialogues with government representatives, committee members issue concluding observations to the reporting government. Every year, these observations are compiled in a report and sent to the General Assembly of the UN.

In addition to the concluding observations, committees have the authority to issue “general comments” or “general recommendations.” These documents elaborate on a treaty’s broadly worded human rights guarantees in order to guide government efforts to implement the treaty, providing a working interpretation of the rights in each of the major treaties. Some committees also have a mandate to examine individual complaints of human rights violations, in which cases they issue written decisions.

Key Human Rights Treaties and their Monitoring Committees

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taken together, the concluding observations, general comments, and case decisions of the committees guide governments and advocates in further promoting human rights. They are also a crucial tool for holding governments accountable under international human rights law. The standards elaborated upon by the committees, summarized in this briefing paper, can and should be used to measure government compliance with human rights treaty obligations. Materials cited in this paper can be used to support legal advocacy in national, regional, and international human rights institutions. They can also be used to hold governments politically accountable in campaigns aimed at ensuring that all women can experience pregnancy and childbirth in conditions of safety.

What follows is a discussion of the statements relating to safe pregnancy and childbirth made between January 1993 and June 2008 by six committees: the Committee on the Elimination of Discrimination against Women (CEDAW Committee); the Committee on the Rights of the Child; the Human Rights Committee; the Committee on Economic, Social and Cultural Rights; the Committee on the Elimination of Racial Discrimination; and the Committee against Torture.

Committee on the Elimination of Discrimination against Women

General Recommendations

General Recommendation 24: Women and Health
In its General Recommendation 24, the CEDAW Committee reinforces states parties’ obligations to protect women’s rights relating to health, as well as their obligation to “refrain from obstructing action taken by women in pursuit of their health goals.” The Committee recommends government action to ensure access to all aspects of health care for women and girls, including access to contraception, family planning services and information, and treatment for HIV/AIDS and other sexually transmitted infections.

Concluding Observations

Maternal Mortality
The CEDAW Committee has repeatedly expressed concern over high rates of maternal mortality and has framed the issue of maternal mortality as a violation of women’s right to life. The Committee has linked high rates of maternal mortality to lack of access to and insufficient availability of comprehensive reproductive health services as well as to lack of availability of safe abortion services; lack of access to quality post-abortion care for complications resulting from unsafe...
abortion; high rates of teenage pregnancy; and poor quality of diet. In one instance, the CEDAW Committee noted the efforts by a state party to improve women’s reproductive health, but expressed its concern with the lack of access to obstetric care and reproductive health services, the prevalence of dilapidated clinics, and the highly negative impact of protracted armed conflict on maternal mortality rates. In another instance, the Committee expressed concern over obstacles women face when seeking health services, including their lack of resources, the deficient health infrastructure, and poor roads and transportation.

In addition to requesting that countries adopt general measures aimed at reducing maternal mortality rates, the CEDAW Committee has specifically recommended that states parties increase access to reproductive health services and contraceptives; ensure that births are attended by trained personnel; implement comprehensive family planning policies and programs; include sexual education in school curricula; take measures to avoid women’s reliance on abortion as a primary means of birth control; take measures to protect women from unsafe abortions and ensure women have access to safe abortion (in accordance with local legislation); and develop preventive programs to address the problem of teenage pregnancy. To address abortion-related maternal mortality, the Committee has recommended that states parties review legislation prohibiting or restricting abortion.

The CEDAW Committee has commended the efforts of states parties to improve access to reproductive health services and decrease maternal mortality rates. It has expressed concern when country reports contain insufficient data regarding maternal mortality and the impact of measures taken to reduce maternal mortality.

Access to Reproductive Health Care

In its concluding observations, the CEDAW Committee has often expressed concern over women’s lack of access to reproductive health services and information, which it has characterized as discriminatory against women. The Committee has recognized that the influence of religion and cultural beliefs can compromise women’s rights to reproductive health. It has also noted that certain groups of women have more difficulty in accessing reproductive health care, among them sex workers, young women, low-income women, rural and marginalized women, indigenous women, and women belonging to ethnic or religious minorities. Recently, the Committee noted its concern about the right of access to health-care services at Israeli checkpoints and has called upon Israel to ensure that checkpoint authorities allow pregnant Palestinian women access to health-care services.

The Committee has emphasized the need for gender-sensitive reproductive health policies and programs and has recommended that states parties gather gender-disaggregated data.
2.

Committee on the Rights of the Child

General Comments

General Comment 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child

In its General Comment 4, the Committee on the Rights of the Child states that “the right of adolescents to access appropriate information is crucial if States parties are to promote cost-effective measures,” including family planning and protection from harmful traditional practices, such as early marriages and female genital mutilation. The Committee stresses that “States parties should provide adolescents with access to sexual and reproductive information, including on family planning and contraceptives, [and] the dangers of early pregnancy…” The Committee recommends that states parties ensure access to such information, regardless of marital status or the consent of parents or guardians.

The Committee also emphasizes that “[a]dolescent girls should have access to information on the harm that early marriages and early pregnancy can cause, and those who become pregnant should have access to health services that are sensitive to their rights and particular needs.” Moreover, the Committee recommends states parties “take measures to reduce maternal morbidity and mortality in adolescent girls” due to early pregnancy and unsafe abortion practices. The Committee urges states parties to develop and implement programs that provide access to sexual and reproductive health services, including family planning, contraception, safe abortion services, adequate and comprehensive obstetric care, and counseling.
The Committee notes that states parties must fulfill their obligations to ensure the health and development of adolescents by taking “all appropriate legislative, administrative and other measures for the realization and monitoring of the rights of adolescents to health and development as recognized in the Convention.” For example, states parties are required to fulfill their obligations by, \textit{inter alia}, ensuring adolescents have access to the information important for their health and development and can participate in decisions regarding their health, as well as by ensuring that all adolescents have access to quality health facilities, goods, and services, including counseling and health services for mental and sexual and reproductive health that are sensitive to adolescents’ concerns.

\textbf{General Comment 7: Implementing Child Rights in Early Childhood}\footnote{59}

In its General Comment 7, the Committee on the Rights of the Child urges states parties to take all possible measures to improve perinatal care for mothers and babies.

\textbf{Concluding Observations}

\textbf{Maternal Mortality}

The Committee on the Rights of the Child has frequently expressed concern over high rates of maternal mortality, particularly related to teenage pregnancy, poor maternal health, and early marriage. It has attributed these high rates of maternal mortality to unsafe or illegal abortion; insufficient prenatal care and assistance at birth; insufficient resources dedicated to maternal health care; and lack of access to reproductive health services, including the lack of adequate access to contraceptives, especially for teenagers. The Committee has expressed concern over the limited availability of programs and services and the lack of adequate data in the area of adolescent health, including data on early marriage and pregnancy. The Committee has further noted that reported maternal mortality rates may not reflect cases related to complications resulting from illegal abortions, particularly those involving pregnant adolescents.

The Committee has called upon states parties to reduce the rates of maternal mortality and has applauded those states parties that have taken measures to do so. In its concluding observation to one state party, the Committee noted the state’s strong commitment to maternal health and the significant improvements made in that area. In its concluding observations to another state party, the Committee noted that the state had taken measures consistent with its previous recommendations, including conducting a national survey on maternal and child health in 1999.

To address high rates of maternal mortality, the Committee has asked states parties to allocate adequate resources and develop comprehensive policies and programs to improve the health of women and adolescent girls. It has recommended measures to improve women’s access to...
pregnancy-related health care services, emphasizing the importance of appropriately trained birth attendants. Moreover, the Committee has recommended that measures be taken to facilitate cooperation between trained medical personnel and traditional healers, especially midwives. In addition, the Committee has recommended that states parties establish midwifery training programs to assure safe home delivery. The Committee has also suggested that states parties conduct campaigns to raise awareness about family planning, reproductive health, the benefits of prenatal care, and the harmfulness of certain traditional practices, such as early marriage. States parties should also take measures to address malnutrition and under-nutrition in pregnant women, and the Committee has suggested that states parties seek assistance from UN agencies to that end.

The Committee has asked states parties to increase women’s and adolescents’ access to comprehensive reproductive health-care services as well as programs and education in order to combat maternal mortality, and it has asked states parties to encourage male acceptance and use of contraceptives to avoid unwanted pregnancies. Moreover, the Committee has recommended that states parties plagued by war ensure universal access to maternal health-care services and facilities throughout their country, with special attention to conflict-affected areas. Similarly, the Committee has recommended that states parties take all necessary measures to ensure that mothers who give birth in prison and their babies are provided access to health services.

Where illegal and unsafe abortion contribute to high maternal mortality rates, the Committee has expressed concern over the criminalization of abortion. The Committee has recommended that one state party review legislation prohibiting abortion and that another take measures to ensure that abortions can be conducted with all due attention to minimum standards of health safety. The Committee has noted that legislation aimed at liberalizing criminal penalties for abortion in certain cases most likely will lower maternal mortality rates. The Committee has also recommended legalizing abortion for therapeutic reasons, including to protect women’s mental health.

Access to Reproductive Health Care
The Committee on the Rights of the Child has expressed concern over women’s inability to access prenatal and maternal health services, the high costs of pregnancy-related treatment, and adolescents’ lack of access to reproductive health services. The Committee has also expressed concern over the lack of attention to adolescent reproductive health issues and the inadequacy of those programs already in place. The Committee has commented that the low level of awareness of reproductive health issues among adolescents is a concern and that factors such as cultural attitudes and parents’ lack of personal knowledge and communication skills may hinder adolescents’ access to accurate reproductive health information and counseling. The Committee has also noted that women in rural areas are less likely to have access to reproductive health services and education.
The Committee has recommended that states parties develop, promote, evaluate, and/or strengthen comprehensive reproductive health policies and programs, and that states parties ensure access to reproductive health education in schools. In some instances, the Committee has recommended that states parties study the scope of adolescent health problems to develop responsive programs. The Committee has repeatedly stressed the need for “user-friendly,” “youth-friendly,” “adolescent-friendly,” and “women-friendly” health services and has strongly advocated for women’s and adolescents’ increased access to reproductive health information, education, counseling, and services. The Committee has specifically recommended providing adolescents with information on pregnancy prevention and family planning, and making a range of contraceptives available to prevent unwanted pregnancies. The Committee has recommended that states parties undertake further measures, including the allocation of adequate human and financial resources to evaluate the effectiveness of training programs in health education, particularly with regard to reproductive health.

### Human Rights Committee

#### General Comments

**General Comment 6: The Right to Life**

In its General Comment 6, the Human Rights Committee emphasizes that the inherent right to life should not be understood in a restrictive manner and requires that states parties take positive measures to ensure this right. The Committee specifically recommends that states parties take all possible measures to increase life expectancy.

**General Comment 28: Equality of Rights between Men and Women**

In its General Comment 28, the Human Rights Committee states that “[w]hen reporting on the right to life protected by article 6, States parties should provide data on birth rates and on pregnancy- and childbirth-related deaths of women….States parties should give information on any measures taken by the State to help women prevent unwanted pregnancies, and to ensure that they do not have to undergo life-threatening clandestine abortions….The Committee also wishes to have information on the particular impact on women of poverty and deprivation that may pose a threat to their lives.”
Concluding Observations

Maternal Mortality
The Human Rights Committee has consistently expressed concern over high rates of maternal mortality, which it considers a violation of women's right to life. The Committee has linked high maternal mortality rates to the inadequate availability of family planning services, early childbirth, and harmful practices, including child and forced marriage and female genital mutilation (FGM). In its comments to one state party, the Committee urged the state to abolish the practice of FGM in order to reduce maternal mortality. The Committee has also acknowledged the relationship between poverty and unemployment and high rates of maternal mortality. Additionally, the Committee has noticed a correlation between maternal mortality and infant mortality and a "low level of education."

Noting with concern the relationship between maternal mortality and illegal and unsafe abortion, the Committee has taken the position that legislation prohibiting abortion implicates the right to life. The Committee has requested that states parties gather information on maternal deaths resulting from illegal and unsafe abortion to determine the extent of the problem and it has recommended the review or amendment of punitive and restrictive legislation.

Access to Reproductive Health Care
The Human Rights Committee has framed women's lack of access to reproductive health services, including emergency obstetric care, as contributing to maternal mortality and as violating women's rights to equality and life. The Committee has recognized that the lack of availability of family planning services and information, including abortion, compromises women's ability to participate equally in all aspects of social, economic, and public life and increases the incidences of unwanted pregnancies, unsafe abortions, and maternal mortality.

The Committee has asked states parties to remove barriers to access, such as treatment costs, lack of reproductive health information, and restrictive abortion laws. It has also recommended the implementation of legal and policy measures to ensure equal access to a full range of reproductive health-care services and information, including contraceptives, family planning counseling, sex education, and safe abortion services.

The Committee has also noted that young, poor, rural, and minority women often face additional obstacles to reproductive health care, and has recommended that states parties take additional measures to ensure these women's access to health and education facilities.
4. Committee on Economic, Social and Cultural Rights

RELEVANT PROVISIONS OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS COVENANT

Article 10(2) provides that “[s]pecial protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.”

Article 12 protects the right to the highest attainable standard of physical and mental health.

Article 12(2)(a) requires that states parties take necessary steps to reduce the stillbirth rate and infant mortality rate and to provide for the healthy development of the child.

General Comments

General Comment 14: The Right to the Highest Attainable Standard of Health

In its General Comment 14, the Committee on Economic, Social and Cultural Rights interprets Article 12(2)(a) of the International Covenant on Economic, Social and Cultural Rights as the right to maternal, child, and reproductive health, which requires states parties to implement measures to “[i]mprove child and maternal health [and] sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to information, as well as to resources necessary to act on that information.”

In emphasizing women’s right to health, the Committee underlines the need for states parties to provide a full range of high-quality and affordable health care, including sexual and reproductive services. The Committee also highlights states’ obligation to reduce women’s health risks and lower maternal mortality rates. The general comment calls for states parties to remove all barriers to women’s access to health services, education, and information, including in the area of sexual and reproductive health.

The general comment also elaborates on the application of principles of non-discrimination on the basis of gender and equal treatment with respect to the right to health, and recommends that states parties integrate a gender perspective in their health-related policies, planning, programs, and research.

The general comment notes that the right to health gives rise to certain “core obligations” on the part of states “to ensure the satisfaction of, at the very least, minimum essential levels of…essential primary health care.” Among these obligations is the duty to “ensure the right of access to health facilities, goods, and services on a non-discriminatory basis” and to “ensure equitable distribution of all health facilities, goods and services....” The Committee confirms that the obligation to ensure reproductive and maternal care, both prenatal and postnatal, should have a priority comparable to core obligations.
Concluding Observations

Maternal Mortality

The Committee on Economic, Social and Cultural Rights has consistently expressed concern to states parties about high rates of maternal mortality, which the Committee views as a violation of the right to health. It has urged state parties to make reducing maternal mortality a higher priority.

Linking high maternal mortality rates to inadequate health and family planning services, the Committee has recommended that states parties take measures to address the problem, including the review of health policies and restrictive legislation, and the implementation of programs that increase women’s access to comprehensive reproductive health care and information.

The Committee has frequently acknowledged that clandestine abortion is a major cause of maternal mortality and has requested that states parties strengthen reproductive health programs and liberalize restrictive abortion laws to address the problem.

The Committee has also expressed concern about particularly high rates of maternal mortality among rural, poor, uneducated, and indigenous women; it has asked states parties to ensure that these populations have access to health care.

Access to Reproductive Health Care

The Committee on Economic, Social and Cultural Rights has expressed concern over women’s inability to access reproductive health services, and it has criticized states parties’ inadequate policies and programs. The Committee has commented that women’s inability to access reproductive health care is discriminatory in that it deprives them of their ability to fully enjoy their economic, social, and cultural rights on an equal basis with men.

The Committee has asked states parties to establish policies and programs to ensure women’s access to comprehensive reproductive health-care services and to allocate adequate financial resources for their effective implementation. The Committee has recommended that states parties take measures to improve the conditions of maternal health care, including prenatal services and birth assistance. Along these lines, the Committee has recommended that states parties provide assistance and training to midwives. It has recommended that states parties eliminate barriers to services by ensuring their affordability and increasing public awareness about their availability. Finally, it has recommended improving access to reproductive health education and family planning information, including through school curricula.
5. Committee on the Elimination of Racial Discrimination

General Recommendations

General Recommendation 25: Gender-Related Dimensions of Racial Discrimination

In its General Recommendation 25, the Committee on the Elimination of Racial Discrimination recognizes that some forms of racial discrimination may be experienced only by women and may be directed at women because of their gender. In the recommendation, the Committee states that it will take gender factors into account when evaluating and monitoring racial discrimination against women and how such discrimination affects the exercise of all their rights. This would include the right to health.

Concluding Observations

Although the Committee on the Elimination of Racial Discrimination has frequently commented on the right to be free from discrimination in exercising the right to health, the Committee has only recently started to address women’s reproductive health issues. The Committee has expressed concern about the state of minority and marginalized women’s reproductive health and about the fact that these groups have disproportionately higher maternal mortality rates than the general population.

The Committee has recommended that states parties take measures to combat maternal mortality, including ensuring equal access to reproductive health services; increasing the number of available doctors and health facilities; and improving access to and affordability of family planning, maternal health-care, and emergency obstetric services. It has urged a state party to pay particular attention to women in a disadvantaged group and to ensure their right to health is protected. The Committee has also requested that a state party include information and data on minority women’s reproductive health in future reports.
6. Committee against Torture

Concluding Observations

The Committee against Torture has not addressed the issue of maternal mortality or access to reproductive health care in its concluding observations.

KEY CONCLUDING OBSERVATIONS ON MATERNAL MORTALITY

“The Committee recommends that the State party allocate adequate resources to improve the status of women’s health, in particular with regard to maternal and infant mortality, and make every effort to increase access to health-care facilities and medical assistance by trained personnel, particularly in rural areas and particularly for post-natal care.” Concluding Comment of the CEDAW Committee: Turkey, ¶ 38, UN Doc. CEDAW/C/TUR/CC/4-5 (2005).

“While noting the considerable efforts made by the State party, the Committee remains concerned by the high maternal and infant mortality rate in Mali, due in particular to the relative inaccessibility of health and family planning services, the poor quality of health care provided, the low educational level and the practice of clandestine abortions (article 6 of the Covenant).

So as to guarantee the right to life, the State party should strengthen its efforts in that regard, in particular in ensuring the accessibility of health services, including emergency obstetric care. The State party should ensure that its health workers receive adequate training. It should help women avoid unwanted pregnancies, including by strengthening its family planning and sex education programmes, and ensure that they are not forced to undergo clandestine abortions, which endanger their lives. In particular, attention should be given to the effect on women’s health of the restrictive abortion law.” Concluding Observations of the Human Rights Committee: Mali, ¶ 14, UN Doc. CCPR/CO/77/MLI (2003).

Summary Assessment

All of the committees, with the exception of the Committee against Torture, have expressed concern over maternal mortality and have recommended that states parties take measures to reduce maternal
mortality rates and improve maternal health. Most have addressed specific interventions to prevent maternal death, including skilled attendance at birth and access to emergency obstetric care. The CEDAW Committee, the Committee on the Rights of the Child, the Human Rights Committee, and the Committee on Economic, Social and Cultural Rights have linked the lack of access to modern contraceptive methods and high rates of teenage pregnancy to maternal mortality. While most of the committees have recognized the relationship between illegal, unsafe abortion and high rates of maternal mortality, the CEDAW Committee and the Human Rights Committee have characterized the criminalization of abortion as a violation of women’s right to life and, along with the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child, have explicitly advocated that states parties review restrictive abortion laws. Furthermore, the Human Rights Committee has linked maternal mortality to harmful traditional practices, such as child and forced marriage and FGM, commenting specifically on the discriminatory cultural attitudes towards women that perpetuate such practices and contribute to high maternal mortality rates. More recently, the Committee on the Elimination of Racial Discrimination has commented on the impact of the lack of accessible and affordable health services on maternal mortality rates among minority and marginalized populations.

Conclusions

- The committees could recommend more specific policies aimed at reducing maternal mortality. They could continue to encourage governments to prioritize the interventions proven to be most effective at reducing maternal mortality, including assistance at birth from a trained provider and access to emergency obstetric care. Recommendations could also include suggesting measures that would increase women’s access to services, such as reducing costs; allocating resources outside of urban areas and focusing them on vulnerable populations; training and equipping health providers; and educating communities.

- To address high rates of maternal mortality among adolescents, the committees could ask states parties to remove all legal and regulatory barriers to reproductive and sexual health care for minors regardless of their marital status and to create and ensure access to comprehensive, age-specific health programs as part of the country’s overall health policy.

- The committees could recommend that states parties seek input from women representing the communities being served in the planning, implementation, and evaluation of programs to prevent maternal death. That would help ensure that services are provided in a culturally
appropriate manner, which would in turn result in increased use of maternal health care services.

- The Committee on the Elimination of Racial Discrimination’s attention to the issue of maternal health and mortality of minority and marginalized women could serve as a springboard for a more comprehensive analysis of how gender and racial discrimination intersect and how maternal and reproductive health information and services can be provided in a manner that is sensitive to and respectful of all women.

- The committees could call upon states parties to develop monitoring mechanisms, including health audits that look beyond shortfalls in service delivery and address broader socio-economic, political, and cultural barriers to maternal health.

- States parties could be called upon to develop national action plans for the reduction of maternal mortality that adopt a human rights approach, supported by strong institutions, funding and accountability mechanisms.
Endnotes:


4. For a fuller explanation of the work of the committees, see Center for Reproductive Rights, Bringing Rights to Bear 21-34 (2002).


6. The following treaties have either an additional optional protocol empowering the treaty monitoring body to hear individual complaints, or a similar mechanism found in the treaty itself: Convention on the Elimination of All Forms of Discrimination against Women, International Covenant on Civil and Political Rights, International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.


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