

August 8, 2018

The Human Rights Committee

RE: Supplementary information for list of issues for the Federal Republic of Nigeria, scheduled for adoption by the Human Rights Committee during its 124th Session, October 2018

Honourable Committee Members:

The Center for Reproductive Rights (the Center), Legal Defence and Assistance Project (LEDAP), and Women Advocates Research & Documentation Centre (WARDC) jointly submit this letter to the Human Rights Committee (the Committee) ahead of its adoption of list of issues for Nigeria during its 124th Session. The Center for Reproductive Rights (the Center) is a non-profit legal advocacy organization dedicated to promoting and defending reproductive rights worldwide. The Center uses the law at the national, regional, and international levels to advance reproductive freedom as a fundamental right that all governments are legally obligated to protect, respect and fulfil. The Center has strengthened reproductive health laws and policies across the globe by working with more than 100 organizations in fifty nations in Africa, Asia, Europe, Latin American and the Caribbean, the United States, and through in-depth engagement with UN and regional human rights bodies. LEDAP is a non-governmental organization of lawyers and law professionals engaged in the promotion and protection of human rights, the rule of law, and good governance in Nigeria. Founded in 1997 by a group of pro bono lawyers working to protect and support political prisoners, the organization has grown to 1700 members across Nigeria. LEDAP provides free legal representation to poor and vulnerable victims of human rights violations. It also works to promote and protect rights of women under its domestic violence and reproductive health programmes. WARDC is a non-profit civil rights organization established in the year 2000 to promote respect for human rights, gender equality, equity, rule of law, accountability and social justice in Nigeria. Since its inception, WARDC has filed over 450 cases in court, instituted four class actions and receives an average of six women every week for legal and social counselling on gender-based violence and other civil matters that affect women.

This letter highlights the various reproductive health and rights issues that the Center, LEDAP and WARDC hope the Committee will take into account while adopting list of issues for Nigeria: (i) violations of women's and girls' reproductive rights in situations of conflict; (ii) high maternal mortality and lack of access to maternal health care; (iii) lack of access to contraceptives and family planning information and services; (iv) high rate of unsafe abortions and lack of post-abortion care; and (v) sexual and gender-based violence against women and girls.

The Right to Equality and Non-Discrimination

The obligation to ensure the right to non-discrimination and substantive equality for all people underlies all international human rights. Indeed, the International Covenant on Civil and Political Rights (ICCPR) recognizes that equality between men and women is essential to the enjoyment of the rights stipulated in the Covenant.¹ Accordingly, the Human Rights

¹ International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, art. 3, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* Mar. 23, 1976) (*acceded* Dec. 22, 1993) [[hereinafter ICCPR](#)].

Committee has urged states to address both de jure and de facto discrimination in private and public spheres.² It has further noted that ensuring equality requires not only removing barriers but also taking “positive measures to achieve the effective and equal empowerment of women.”³ In this regard, the Committee has specifically urged states to “adopt whatever legislation is necessary to give full effect to the principle of equality between men and women,”⁴ develop policies that promote gender equality,⁵ take efforts to eliminate gender stereotypes about women in the family and society,⁶ and address practices such as cutting funds to social programs that have a disproportionate impact on women.⁷

Equality and non-discrimination in the context of sexual and reproductive rights encompasses the right of women and girls “to enjoy equal access to the same range, quality and standard of sexual and reproductive health facilities, information, goods and services, and to exercise [these] rights . . . without experiencing any discrimination” on basis of their gender, sex or disability or any other status.⁸

Reproductive equality requires states to not only address barriers to accessing reproductive health services but also take positive measures to ensure women’s access to these services. Both the Human Rights Committee and the Committee on Economic, Social and Cultural Rights (ESCR Committee) have noted that fulfilling the right to equality in the context of sexual and reproductive health may require amending legislation or administrative regulations and addressing non-legal barriers that impact access to reproductive healthcare, such as the high cost of contraceptive services and supplies and transportation barriers for women in rural areas.⁹ The Human Rights Committee has also recommended implementing legal and policy measures to ensure access to a full range of reproductive health care services and information, including contraceptives, family planning counselling, sexuality education and safe abortion services.¹⁰ In addition, the ESCR Committee has noted that young, poor, rural, and minority women often face additional obstacles to reproductive health care, and has recommended that states take extra measures to ensure their access to health.¹¹

However, despite these requirements, women and girls in Nigeria continue to face numerous reproductive rights violations.

² See, e.g., Human Rights Committee, *Concluding Observations: Jordan*, para. 7, U.N. Doc. CCPR/C/JOR/CO/4 (2010).

³ Human Rights Committee, *General Comment No. 28: Article 3 (The equality of rights between men and women)*, (68th Sess., 2000), para. 3, at 228, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter Human Rights Committee, *Gen. Comment No. 28*].

⁴ Human Rights Committee, *Concluding Observations: Dominican Republic*, para. 10, U.N. Doc. CCPR/C/DOM/CO/5 (2012).

⁵ Human Rights Committee, *Concluding Observations: Guatemala*, para. 8, U.N. Doc. CCPR/C/GTM/CO/3 (2012).

⁶ Human Rights Committee, *Concluding Observations: Cape Verde*, para. 8, U.N. Doc. CCPR/C/CPV/CO/1 (2012)

⁷ Human Rights Committee, *Concluding Observations: Canada*, para. 20, U.N. Doc. CCPR/C/79/Add.105 (1999).

⁸ Committee on Economic and Social Cultural Rights [ESCR Committee], *General comment No. 22 on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, para. 22, U.N. Doc. E/C.12/GC/22 (2016) [hereinafter ESCR Committee, *Gen. Comment No. 22*].

⁹ See, e.g., Human Rights Committee, *Concluding Observations: Guatemala*, para. 8, U.N. Doc. CCPR/C/GTM/CO/3 (2012) (calling on the state to adopt and implement gender equality legislation and to “develop additional policies to promote genuine gender equality” which especially address the needs of indigenous women and Afro-descendent women who face multiple forms of discrimination); ESCR Committee, *Gen. Comment No. 22, supra* note 8, para. 28.

¹⁰ See, e.g., Human Rights Committee, *Concluding Observations: Argentina*, para. 14, U.N. Doc. CCPR/CO/70/ARG (2000); Human Rights Committee, *Concluding Observations: Poland*, para. 12, U.N. Doc. CCPR/C/POL/CO/6 (2010).

¹¹ ESCR Committee, *Gen. Comment No. 22, supra* note 8, para. 16.

A. Violations of Women's and Girls' Reproductive Rights in Situations of Conflict

Conflict worsens peoples' health status partly because it destroys health infrastructure and disrupts services.¹² In such situations, vulnerable populations, including women, people with disabilities and children, bear the greatest brunt.¹³ "Essential services such as basic health care, including reproductive health care and counselling, are often disrupted or become inaccessible during conflict situations."¹⁴ The Committee has recognized the particular vulnerability of women during periods of internal or international armed conflicts and has highlighted the importance of taking measures during such situations to protect women from all forms of gender-based violence, including sexual violence.¹⁵ For instance, in its 2017 recommendation to the Democratic Republic of Congo (DRC), the Committee raised concern over the "use of sexual violence as a weapon of war in conflict areas, both by armed groups and the armed forces of the Democratic Republic of the Congo."¹⁶ The Committee was further concerned about victims having difficulty in gaining access to legal services and existence of social stigma, fear of reprisals and inducement to accept amicable settlements that deterred victims of sexual violence from filing complaints or continuing proceedings against their aggressors.¹⁷ The Committee recommended investigation and prosecution of cases of sexual violence and punishment of perpetrators found guilty.¹⁸ Additionally, the Committee recommended provision of physical and psychological support to victims of sexual violence, as well as facilitation of victims' access to legal services.¹⁹

Since 2009, more than 2.2 million people have been internally displaced, 20,000 civilians killed, and as many as 7,000 women and girls abducted as a result of the Boko Haram conflict.²⁰ 1.17 million of the internally displaced persons (IDPs) are women, and 510,555 are of reproductive age.²¹ Women and girls in conflict zones in Nigeria continue to face numerous reproductive rights violations. These include child and forced marriage, sexual and gender-based violence, unsafe abortions, preventable maternal deaths and injuries, and lack of access to family planning information and services.²²

Preliminary findings from interviews and focus group discussions conducted by the Center and LEDAP in February 2018 among women and girls who have been internally displaced due to the conflict in North East Nigeria indicate a wide range

¹² See U.N. CHILDREN'S FUND [UNICEF], THE IMPACT OF CONFLICT ON WOMEN AND GIRLS IN WEST AND CENTRAL AFRICA AND THE UNICEF RESPONSE 3 (2005), available at https://www.unicef.org/publications/files/Impact_final.pdf [hereinafter UNICEF, THE IMPACT OF CONFLICT]; see also SENATOR ABDUL-AZIZ MURTALA NYAKO, CONCEPT NOTE ON NORTH EAST DEVELOPMENT COMMISSION: AN INSTITUTIONAL FRAMEWORK FOR A SUSTAINABLE SOLUTION TO THE NORTH-EAST NATIONAL SECURITY CHALLENGE, sec. 3.4, at 13 (2015), available at <http://adamawacentral.gov.ng/wp-content/uploads/2016/02/North-East-Development-Commission-Bill.pdf> ("The cumulative effect of the conflict [in Nigeria] has worsened the general socio economic and governance situation in the North East Zone. Major economic and social infrastructure such as the transport, communication systems, health care, education, banking structures in the Zone have either been destroyed or seriously damaged.").

¹³ UNICEF, THE IMPACT OF CONFLICT, *supra* note 13, at 3 (2005); *People with Disabilities at Risk in Conflict, Disaster*, HUMAN RIGHTS WATCH (May 19, 2016), <https://www.hrw.org/news/2016/05/19/people-disabilities-risk-conflict-disaster>.

¹⁴ U.N. POPULATION FUND [UNFPA], THE IMPACT OF ARMED CONFLICT ON WOMEN AND GIRLS: A CONSULTATIVE MEETING ON MAINSTREAMING GENDER IN AREAS OF CONFLICT AND RECONSTRUCTION 3 (2001), available at https://www.unfpa.org/sites/default/files/pub-pdf/impact_conflict_women.pdf; see also CENTER FOR REPRODUCTIVE RIGHTS, HIDDEN CASUALTIES: SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS AND SEXUAL VIOLENCE IN CONFLICT 1 (2016), available at https://www.awid.org/sites/default/files/atoms/files/sexual_reproductive_rights_sexual_violence_in_conflict.pdf [hereinafter HIDDEN CASUALTIES].

¹⁵ See Human Rights Committee, *Gen. Comment No.28*, *supra* note 3, para 8.

¹⁶ Human Rights Committee, *Concluding observations on the fourth periodic report of the Democratic Republic of the Congo*, para. 19, U.N. Doc. CCPR/C/COD/CO/4 (2017).

¹⁷ *Id.*

¹⁸ *Id.* para. 20.

¹⁹ *Id.*

²⁰ UNFPA, ADOLESCENT GIRLS IN DISASTER & CONFLICT: INTERVENTIONS FOR IMPROVING ACCESS TO SEXUAL AND REPRODUCTIVE HEALTH SERVICES 42 (2016), available at https://www.unfpa.org/sites/default/files/pub-pdf/UNFPA-Adolescent_Girls_in_Disaster_Conflict-Web.pdf.

²¹ *Id.*

²² See generally *id.*

of inadequacies with the provision of sexual and reproductive health services.²³ Women and girls shared experiences of systemic and widespread sexual violence and exploitation to access food, water, and medicine.²⁴

While some women in IDP camps had access to free maternal healthcare services during pregnancy, they were required to pay out-of-pocket for medications and did not have adequate food to sustain nursing, and in their own words “there is no overnight stay in the clinic after labour unless you give birth at night. One woman who gave birth during the day and could not remain in the clinic overnight died in her tent during the night”.²⁵

Focus group discussion participants also raised concerns about increased levels of child and forced marriage among IDPs as a survival measure.²⁶ An adolescent girl whose parents had forced her to marry a much older man spoke about being abandoned with two children and living in a host community without adequate shelter.²⁷ There were also disparities in access to healthcare services, including reproductive healthcare services, between IDPs in formal camps and those in host communities or in camps where relocation efforts were previously ordered.²⁸ IDPs in Damare camp indicated that there was no health clinic or water source in the camp.²⁹

Systematic sexual and gender-based violence has been a well-documented feature of Boko Haram’s treatment of the women and girls it abducts. According to a recent study by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), “gender-based violence and child marriages in [Nigerian] camps for displaced people were confirmed by both State and non-State actors.”³⁰ Rape cases involving girls as young as 3 years were also reported.³¹ In one case, the perpetrator was released after handing a bribe.³² Similarly in 2016, a report of the UN Secretary-General indicated that “four girls were pregnant as a result of sexual violence during their captivity and that all 68 mothers of the 112 children under 5 years of age [in captivity] had been either raped and/or were [forced into marriage by] Boko Haram members.”³³

In 2017, the Committee on the Elimination of Discrimination Against Women (CEDAW Committee), while reviewing Nigeria, raised concerns that “[a] significant number of girls who were abducted by Boko Haram from Chibok and Damasak in Borno State in April and November 2014, respectively, ha[d] not been rescued and [that they] continue[d] to be subjected to rape, sexual slavery, forced marriage and impregnation by insurgents.”³⁴ The CEDAW Committee further expressed their concern over sexual exploitation in IDP camps, especially in Maiduguri, and that “girls and children born as a result of rape and sexual slavery committed by Boko Haram insurgents are subject to stigma and social isolation.”³⁵ The CEDAW Committee urged Nigeria to “protect women and girls who are disproportionately affected by conflicts and attacks by Fulani herders and ensure that perpetrators of such attacks, including gender-based violence, are arrested, prosecuted and punished with appropriate sanctions.”³⁶ Despite these calls, approximately 110 school girls were abducted in Dapchi, Yobe State on

²³ Interviews and Focus Group Discussions with internally displaced women and girls, in Yola, Adamawa State, Nigeria [Feb.24, 2018].

²⁴ Interviews and Focus Group Discussions with women and girls at camps hosting internally displaced persons (IDPs), in Yola, Adamawa State, Nigeria (Feb. 24, 25, 2018).

²⁵ Interviews with women and girls, in Fufore IDP Camp, Yola, Adamawa State, Nigeria (Feb. 24, 2018)..

²⁶ Focus Group Discussions with NGOs and their clients, in Yola, Adamawa State, Nigeria (Feb. 24, 2018). The clients were women and girls affected by the conflict and living in IDP host communities.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Interviews and Focus Group Discussions with women and girls, in Damare IDP Camp, Yola, Adamawa State, Nigeria (Feb.24, 2018).

³⁰ AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD, CONTINENTAL STUDY ON THE IMPACT OF CONFLICT AND CRISES ON CHILDREN IN AFRICA 69 (2016), available at <http://www.acerwc.org/the-committee-releases-its-study-on-children-and-armed-conflicts/>.

³¹ *Id.*

³² *Id.*

³³ U.N. Secretary-General, *Children and Armed Conflict: Rep. of the Secretary-General*, para. 192, U.N. Doc A/70/836-S/2016/360 (Apr. 20, 2016).

³⁴ Committee on the Elimination of Discrimination Against Women [CEDAW Committee], *Concluding Observations: Nigeria*, para. 15(a), U.N. Doc. CEDAW/C/NGA/CO/7-8 (2017).

³⁵ *Id.* para. 15(c).

³⁶ *Id.* para. 16(e).

February 19, 2018 and, while most of them were subsequently recovered, it is unclear what condition they are in and one of the school girls is yet to be recovered.³⁷

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), to which Nigeria is a state party, provides that abortion should be permitted in situations of rape, incest and sexual assault, among other grounds.³⁸ The Committee has constantly urged states to review their restrictive abortion laws to guarantee effective access to safe legal abortion by victims of sexual violence as such restrictions may result in unsafe abortion. For instance, in 2018, the Committee urged Cameroon to “lift the requirement that prior court authorization must be given for an abortion in the event of pregnancy resulting from rape.”³⁹ Similarly, in 2017, the Committee urged the Democratic Republic of Congo to review its laws to ensure that women have access to safe legal abortion where such pregnancy would cause psychological pain, especially when the pregnancy is the result of rape or incest.⁴⁰ In addition to its recommendations to states under review, the Committee's General Comment No. 28 requires states, when reporting on its compliance with articles 7⁴¹ and 24⁴² of the ICCPR, to provide information on “whether [it] gives access to safe abortion to women who have become pregnant as a result of rape.”⁴³ Other treaty bodies have also reinforced the obligation to guarantee access to safe legal abortion and post-abortion care in situation of conflict. In its General Comment No. 30, the CEDAW Committee recommends that states ensure that provision of sexual and reproductive health care services in situation of conflict includes access to safe abortion services and post-abortion care.⁴⁴ The Committee against Torture (CAT Committee) has also raised concerns over restrictive abortion laws that deny victims of rape and incest access to safe, legal abortion. In 2013, the CAT Committee urged the government of Kenya to “amend its legislation in order to grant women who ha[d] been subjected to rape or incest the right to abortion independently of any medical professional's discretion.”⁴⁵

However, survivors of sexual slavery, rape, forced pregnancy and forced marriage in Nigeria lack access to safe legal abortion services.⁴⁶ This is primarily due to Nigeria's very restrictive abortion law which permits abortion only when the life of the woman is in danger.⁴⁷ In the absence of an enabling legal framework, these survivors are forced to carry the pregnancy or seek an unsafe abortion. For instance, of the more than 700 women and girls rescued by the Nigerian Army from Boko Haram in 2015, over 200 were reported to have been pregnant as a result of serial rape.⁴⁸ Humanitarian aid workers were unable to grant the survivors access to safe abortions, leading some of them to seek out illegal, unsafe abortions.⁴⁹

³⁷ Stephanie Busari & Bukola Adebayo, *More Than 100 Girls Missing After Raid on Nigerian School*, CNN (Feb. 26, 2018), <https://edition.cnn.com/2018/02/25/africa/nigeria-boko-haram-father/index.html>; Ali Abare Abubakar & Jabeen Bhatti, *Schoolgirl Kidnapped by Boko Haram Refuses to Convert to Islam, Family Says*, USA TODAY (Mar. 27, 2018), <https://www.usatoday.com/story/news/world/2018/03/27/schoolgirl-kidnapped-boko-haram-still-held-christian/460554002/>.

³⁸ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Ordinary Sess., Assembly of the Union, *adopted* July 11, 2003, art. 14, para. (2)(c), CAB/LEG/66.6 (2000) (*entered into force* Nov. 25, 2005) [hereinafter Maputo Protocol].

³⁹ Human Rights Committee, *Concluding observations on the fifth periodic report of Cameroon*, para. 22, CCPR/C/CMR/CO/5 (2017).

⁴⁰ Human Rights Committee, *Concluding observations on the fourth periodic report of the Democratic Republic of the Congo*, para. 22, U.N. Doc. CCPR/C/COD/CO/4 (2017).

⁴¹ ICCPR, *supra* note 1, art. 7 (“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”).

⁴² *Id.* art. 24, para. 1 (“Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.”).

⁴³ Human Rights Committee, *Gen. Comment No. 28*, *supra* note 3, para. 11.

⁴⁴ CEDAW Committee, *General Comment No. 30 on women in conflict prevention, conflict and post-conflict situations*, para. 52(c), U.N. Doc. CEDAW/C/GC/30 (2013).

⁴⁵ Committee against Torture, *concluding observations on the second periodic report of Kenya*, adopted by the Committee at its fiftieth session (6 to 31 May 2013), para. 28, U.N. Doc. CAT/C/KEN/CO/2 (2013).

⁴⁶ HIDDEN CASUALTIES, *supra* note 14, at 1–2.

⁴⁷ Criminal Code Act Cap. (77), sec. 228–230, 297, 309, 328, Laws of the Federation of Nigeria (revised edition 1990) (Nigeria).

⁴⁸ Laura Basset, *Instruments of Oppression*, HUFFINGTON POST (2015), <http://highline.huffingtonpost.com/articles/en/kenya-abortion/>.

⁴⁹ *Id.*

Family planning remains out of reach for millions of women and girls affected by crisis. In conflict settings, “unsafe, restrictive, or repressive environments; prohibitive costs; lack of information in a language they understand; and fear of further violence or stigmatization for seeking care make it difficult for women and girls to access [sexual and reproductive healthcare] services.”⁵⁰ According to the most recent Demographic and Health Survey (DHS), contraceptive use is as low as 3% among married women in the North East Zone of the country,⁵¹ which is in a state of humanitarian crisis due to the ongoing conflict, and as low as 1% in five states in the North West Zone.⁵² For the vast majority of women and girls living in (IDPs) camps, the poor sanitation and hygiene they face makes it extremely difficult to manage menstrual hygiene.⁵³ “Research in Nigeria indicates that 90% of the IDPs [are] poor [and] cannot afford off-the-shelf sanitary pads and instead improvise with materials . . . such as cloth, newspaper, and even dried grass.”⁵⁴ Menstrual hygiene, if not properly managed, is a risk factor for reproductive tract infections.

B. High Maternal Mortality and Lack of Access to Maternal Health Care

The Committee, as well as other treaty-monitoring bodies (TMBs), have framed the issue of maternal mortality as a violation of women’s and girls’ rights to health and to life.⁵⁵ Other TMBs have also confirmed that ensuring equality of health results—including by lowering the maternal mortality rate—is an important indicator of a state’s success in overcoming rights violations.⁵⁶ Indeed, the ESCR Committee has confirmed that the obligation to ensure reproductive and maternal care, both prenatal and postnatal, is of comparable priority to the minimum core obligations to ensure access to health facilities, goods, and services without discrimination.⁵⁷

The maternal mortality rate remains high in Nigeria. According to the World Health Organization’s latest report on maternal mortality, Nigeria had the highest numbers of all maternal deaths worldwide in 2015, with an approximate 58,000 maternal deaths (19%).⁵⁸ One Nigerian woman dies every 13 minutes—that is 109 women dying each day—from preventable causes

⁵⁰ HIDDEN CASUALTIES, *supra* note 14, at 1.

⁵¹ NIGERIA NAT’L POPULATION COMMISSION & ICF INT’L, NIGERIA DEMOGRAPHIC AND HEALTH SURVEY: KEY FINDINGS 5 (2013), available at <https://dhsprogram.com/pubs/pdf/sr213/sr213.pdf> [hereinafter NDHS 2013 KEY FINDINGS].

⁵² NIGERIA NAT’L POPULATION COMMISSION & ICF INT’L, NIGERIA DEMOGRAPHIC AND HEALTH SURVEY 95 (2013), available at <https://dhsprogram.com/pubs/pdf/fr293/fr293.pdf> [hereinafter NDHS 2013].

⁵³ See WATER, SANITATION AND HYGIENE [WASH] SECTOR, NIGERIA & GLOBAL WASH CLUSTER, WASH BASELINE ASSESSMENT: AN EVIDENCE BASE FOR FOCUSED AID DELIVERY: BORNO STATE, NIGERIA 33 (2017), available at http://www.reachresourcecentre.info/system/files/resource-documents/reach_nga_report_wash_baseline_assessment_in_borno_state_october_2017.pdf [hereinafter WASH BASELINE ASSESSMENT]; MERCY CORPS, RAPID NEEDS ASSESSMENT: DAMBOA LOCAL GOVERNMENT AREA (LGA), BORNO STATE, NIGERIA 6, 14 (2016), available at

https://reliefweb.int/sites/reliefweb.int/files/resources/nga_mercycorps_borno_damboa_rapid_needs_assessment_072016.pdf.

⁵⁴ Dr. Mike Iyanro, *Neo-Pad: Powering Menstrual Hygiene Management and Developing an Affordable Sanitary Pad*, OpenIDEO (Sept. 13, 2017), <https://challenges.openideo.com/challenge/reproductive-health/ideas/neo-pad-powering-menstrual-hygiene-management-and-developing-an-affordable-sanitary-pad>; see also WASH BASELINE ASSESSMENT, *supra* note 53 at 33.

⁵⁵ See, e.g., Human Rights Committee, *Concluding Observations: Mali*, para. 14, U.N. Doc. CCPR/CO/77/MLI (2003); see also Human Rights Committee, *Concluding Observations: Ecuador*, para. 11, U.N. Doc. CCPR/C/79/Add.92 (1998) (“[T]he Committee regrets the State party’s failure to address the resulting problems [of the prohibition of abortion] faced by adolescent girls, in particular rape victims, who suffer the consequences of such acts for the rest of their lives. Such situations are . . . incompatible with articles 3, 6 and 7 of the Covenant, and with article 24 when female minors are involved.”); ESCR Committee, *General Comment No. 14: The right to the highest attainable standard of health (Art. 12)*, (22nd Sess., 2000), para. 14, at 81, para. 52, U.N. Doc. E/C.12/2000/(2000) 4 [hereinafter ESCR Committee, *Gen. Comment No. 14*]; CEDAW Committee, *Concluding Observations: Belize*, para. 56, U.N. Doc. A/54/38 (1999); CEDAW Committee, *Concluding Observations: Colombia*, para. 393, U.N. Doc A/54/38 (1999); CEDAW Committee, *Concluding Observations: Dominican Republic*, para. 337, U.N. Doc A/53/38 (1998); CEDAW Committee, *Concluding Observations: Madagascar*, para. 244, U.N. Doc A/49/38 (1994).

⁵⁶ See, e.g., CEDAW Committee, *General*

Recommendation No. 24: Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women – women and health, (20th Sess., 1999), para. 27, at 6, U.N. Doc. A/54/38 (Part I) (1999).

⁵⁷ ESCR Committee, *Gen. Comment No. 14*, *supra* note 55, para. 44(a).

⁵⁸ WORLD HEALTH ORG. [WHO], UNICEF, UNFPA, WORLD BANK GROUP, U.N. DEVELOPMENT PROGRAM [UNDP], TRENDS IN MATERNAL MORTALITY: 1990 TO 2015, xi (2015), available at http://apps.who.int/iris/bitstream/10665/194254/1/9789241565141_eng.pdf?ua=1.

related to pregnancy and childbirth. For each death, there are an estimated 30 to 50 women who will experience life-long conditions and disabilities such as obstetric fistula.⁵⁹

Several barriers continue to impede accessibility, availability and quality of maternal health care in Nigeria. According to a recent study, cost of services, distance to health facilities, and inadequate and long waiting times for those seeking care at public health facilities are key barriers to quality maternal health care.⁶⁰ Further, there is disparity in access based on women's geographical location,⁶¹ age⁶² and socio-economic status.⁶³ Adolescent girls, uneducated women, and women in rural areas and from the northern part of Nigeria are at higher risk of maternal death compared to those in urban areas and from the south of the country.⁶⁴ These at-risk women are less likely to use skilled providers and formal health facilities at delivery, tend to deliver at home without a skilled attendant, and are more likely to turn to unsafe termination of pregnancies.⁶⁵ In 2013, 78% and 75% of women in the South East Zone and South West Zone, respectively, reported delivering their babies in a health facility, compared to only 20% and 11% in the North East and North West Zones.⁶⁶ In 2013 the DHS showed that 8% of women did not deliver in a health facility because of unaffordable cost and as many as 56% of women could not afford the cost of antenatal care.⁶⁷ Pregnancy-related complications are the leading cause of death among young women aged 15-19 years.⁶⁸

In 2017, the CEDAW Committee highlighted maternal mortality, high incidence of obstetric fistula and the limited access to antenatal, delivery and postnatal care owing to physical and economic barriers as issues of concern.⁶⁹ The CEDAW Committee recommended to Nigeria to take steps to "reduce the incidence of maternal mortality, including through the training of midwives and the effective implementation of the national midwives' service scheme, especially in rural areas, to ensure that all births are attended by skilled health personnel, in line with Sustainable Development Goals 3.1 and 3.7."⁷⁰

Abuse and mistreatment of care-seekers by health care providers at public health facilities is also widespread.⁷¹ In a recent study on facility-based child- birth in Enugu in southeastern Nigeria, 36% of the women interviewed reported to have been physically abused during childbirth, while others reported discrimination, lack of confidential care, poor, unfriendly provider attitudes, abandonment and neglect.⁷² Further, 22% of women reported having been detained in health facilities for failure to pay their bills.⁷³

Maternal health remains underfunded. Since the Abuja Declaration in 2001,⁷⁴ Nigeria has not attained the pledged funding benchmark of 15% of the annual budget.⁷⁵ In 2018 only N340.45 billion, representing 3.9% of the N8.6 trillion expenditure

⁵⁹ AFRICAN POPULATION HEALTH AND RESEARCH CENTER [APHRC], MATERNAL HEALTH IN NIGERIA: FACTS AND FIGURES 1 (2017), available at <http://aphrc.org/wp-content/uploads/2017/06/APHRC-2017-fact-sheet-Maternal-Health-in-Nigeria-Facts-and-Figures.pdf>.

⁶⁰ APHRC, MATERNAL HEALTH IN NIGERIA: SITUATION UPDATE 24 (2016), available at http://aphrc.org/wp-content/uploads/2016/05/Maternal-Health-in-Nigeria_Final-Report.pdf [hereinafter APHRC, SITUATION UPDATE 2016].

⁶¹ *Id.* at 16–17.

⁶² *Id.* at 14–15.

⁶³ *Id.* at 17–20.

⁶⁴ *Id.* at xi.

⁶⁵ *Id.*

⁶⁶ *Id.* at 7.

⁶⁷ *Id.* at 24; NDHS 2013, *supra* note 52, at 137.

⁶⁸ APHRC, SITUATION UPDATE 2016, *supra* note 60, at 14.

⁶⁹ CEDAW Committee, *Concluding Observations: Nigeria*, para. 37(a), (d), U.N. Doc. CEDAW/C/NGA/CO/7-8 (2017).

⁷⁰ *Id.* para. 38(a).

⁷¹ See generally Foluso Ishola, Onikepe Owolabi & Veronique Filippi, *Disrespect and Abuse of Women During Childbirth in Nigeria: A Systematic Review*, 12 PLOS ONE (2017).

⁷² Innocent I. Okafor, Emmanuel O. Ugwu & Samuel N. Obi, *Disrespect and Abuse During Facility-Based Childbirth in a Low-Income Country*, 128 INT'L J. GYNECOLOGY & OBSTETRICS 110, 112 tbl. 3 (2015).

⁷³ *Id.*

⁷⁴ Org. for African Unity [OAU], Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases, art. 26, OAU Doc. OAU/SPS/ABUJA/3 (Apr. 27, 2001).

⁷⁵ WHO, THE ABUJA DECLARATION: TEN YEARS ON 2 (2011), available at http://www.who.int/healthsystems/publications/abuja_report_aug_2011.pdf.

plan, were allocated to health sector, which is less than the 4.16% and 4.23% made to the health sector in 2017 and 2016 budgets, respectively.⁷⁶

C. High Rate of Unsafe Abortions & Lack of Post-Abortion Care

The Committee has recognized that states' duty to protect and ensure the right to life includes a duty to protect women who terminate their pregnancies.⁷⁷ The revised draft General Comment No. 36 on article 6 of the ICCPR on the right to life, provides that states must provide safe access to abortion to protect the life and health of pregnant women, and in situations in which carrying a pregnancy to term would cause the woman substantial pain or suffering, especially in cases of rape, incest and fatal foetal impairment.⁷⁸ The Committee has further called upon states to take measures "to ensure that women do not risk their life because of restrictive legal provisions on abortion," which may force them to seek abortions under clandestine, unsafe conditions.⁷⁹ For instance, in 2018, during its review of state parties to the ICCPR, the Committee urged the government of Lebanon to "ensure that women and girls who have recourse to abortion and the doctors who attend to them are not subjected to criminal penalties."⁸⁰ The Committee recommended that the government of Lebanon should remove barriers such as "multiple medical authorizations and conscientious objection, since the existence of such penalties and barriers compel women and girls to resort to unsafe abortions, which put their lives and health at risk."⁸¹ Similarly, several human rights bodies have found that both restrictive abortion laws and the failure to ensure access to abortion when it is legal are incompatible with international human rights obligations, amounting to violations of the rights to life and health, the right to be free from torture and cruel, inhuman and degrading treatment, and the right to be free from discrimination.⁸² The UN Special Rapporteur on torture, for instance, has affirmed that the abuse and mistreatment that women face when seeking reproductive health services can "cause tremendous and lasting physical and emotional suffering."⁸³ The Special Rapporteur further noted that women face numerous violations, including denial of legally available health services such as abortion and post-abortion care services among others.⁸⁴

In 2017, the CEDAW Committee raised concern over the high rate of maternal mortality in Nigeria due to high number of unsafe abortions⁸⁵ and the high incidence of unsafe abortion due to the country's restrictive laws.⁸⁶ At the regional level,

⁷⁶ Ebuka Onyeji, *2018 Budget: Again, Nigeria Falls Short of AU Health Funding Commitment*, PREMIUM TIMES (Nov. 10, 2017), <https://www.premiumtimesng.com/news/headlines/248909-2018-budget-nigeria-falls-short-au-health-funding-commitment.html>; Kingsley Obiejesi, *2018 Budget Maintains Abysmal Allocation to Health Sector*, INT'L CENTRE FOR INVESTIGATIVE REP. (Nov. 8, 2017), <https://www.icirnigeria.org/2018-budget-maintains-abysmal-allocation-health-sector>.

⁷⁷ Human Rights Committee, *Concluding Observations: Chile*, para. 15, U.N. Doc. CPR/C/79/Add.104 (1999); Human Rights Committee, *General Comment No. 36 on article 6 of the International Covenant on Civil and Political Rights on the right to life, revised draft prepared by the Rapporteur*, para. 9 (July 2017) (by Yuval Shany), available at https://www.ohchr.org/Documents/HRBodies/CCPR/GCArticle6/GCArticle6_EN.pdf (adopted at 120th session).

⁷⁸ *Id.*
⁷⁹ Human Rights Committee, *Concluding observations on the fifth periodic report of Cameroon*, paras. 21, 22, U.N. Doc. CCPR/C/CMR/CO/5 (2017), paras. 21, 22; Human Rights Committee, *Concluding observations on the third periodic report of Lebanon*, paras. 25, 26, U.N. Doc. CCPR/C/LBN/CO/3 (2018); Human Rights Committee, *Gen. Comment No. 28, supra* note 3, para. 10.

⁸⁰ Human Rights Committee, *Concluding observations on the third periodic report of Lebanon*, para. 26, U.N. Doc. CCPR/C/LBN/CO/3 (2018).

⁸¹ *Id.*
⁸² Office of the U.N. High Commissioner for Human Rights, *Practices in adopting a human rights-based approach to eliminate preventable maternal mortality and human rights*, para. 26, U.N. Doc. A/HRC/18/27 (July 8, 2011).
⁸³ Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Rep. of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, para. 46, U.N. Doc. A/HRC/22/53 (Feb. 1, 2013) (by Juan E. Méndez).

⁸⁴ *Id.* para. 46.

⁸⁵ CEDAW Committee, *Concluding Observations: Nigeria*, para. 37(a), U.N. Doc. CEDAW/C/NGA/CO/7-8 (2017).

⁸⁶ *Id.* para. 37(b).

the African Commission on Human and Peoples' Rights launched a continental campaign on decriminalization of abortion.⁸⁷ Additionally, the Committee on the Prevention of Torture in Africa (CPTA) has recognized that denial of abortion and post-abortion care can amount to torture or other cruel, inhuman or degrading punishment or treatment.⁸⁸ In its thematic report in 2017, the CPTA urged states to "repeal restrictive abortion laws, including the removal of onerous conditions and barriers, restrictions on training of health-care workers on provision of safe abortion services or comprehensive abortion care, and third party authorisation for women and adolescents that hinder access to and timely provision of safe abortion care."⁸⁹ Nigeria has signed and ratified the Maputo Protocol without reservation and therefore has legal obligations to decriminalize abortion and ensure access to it.⁹⁰ Despite all the clear calls by different human rights bodies, women and girls continue to lack access to safe, legal abortion and post-abortion care in Nigeria.

Abortion laws in Nigeria remain very restrictive, permitting access only to save a pregnant woman's life.⁹¹ Outside of this narrow exception, women who procure an abortion, persons who aid an abortion and persons who supply any material used to procure an abortion are subject to up to fourteen years imprisonment.⁹² In 2013, when Imo State, in Nigeria, passed a law permitting abortion in cases of rape, incest or endangerment of the woman's mental or physical health, the State Assembly repealed the law after intense lobbying by religious groups.⁹³

Consequently, the majority of abortions performed in the country are clandestine and unsafe, that is, they are performed either by persons lacking the necessary skills, or in an environment lacking the minimal medical standards, or both.⁹⁴ According to the latest available study, in 2012 alone, 1.25 million induced abortions occurred in Nigeria, which amounts to 33 abortions per 1,000 women aged 15-49.⁹⁵ In 2012, fifty-six percent of unintended pregnancies ended in abortion, amounting to 14% of all pregnancies in Nigeria.⁹⁶ For instance, a study of 497 women suffering complications from induced abortions found that over 41% of the abortions had been performed by people who were not medical practitioners⁹⁷ in unhygienic environments and using dangerous methods.⁹⁸ Even in situations where the procedures were performed by medically qualified persons, they sometimes occurred in places, such as homes and private clinics, where aseptic rules were not followed, such as their homes and private clinics.⁹⁹ Even where a woman obtains a legal abortion at a health care facility, inadequate staffing, training and equipment expose women to unnecessary risks.¹⁰⁰ Among those who have had an abortion performed by a physician, a large number have developed complications and have sought post-abortion care (PAC),

⁸⁷ Press Release, African Commission on Human and Peoples' Rights [ACHPR], Launch of the Campaign for the Decriminalization of Abortion in Africa: Women and Girls in Africa are Counting on Us to Save Their Lives (Jan. 18, 2016), <http://www.achpr.org/press/2016/01/d287/>.

⁸⁸ Commissioner Lawrence M. Mute, Chairperson, Committee for the Prevention of Torture in Africa, Inter-Session Activity Rep. (May 2017 to November 2017) and Thematic Rep. on Denial of Abortion and Post-Abortion Care as Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment, Presentation at the 61st Ordinary Session of the ACHPR (Nov. 1-15, 2017), http://www.achpr.org/files/sessions/61st/inter-act-reps/299/comm_mute_cpta_61_act_report_eng.pdf.

⁸⁹ *Id.* para. 21.

⁹⁰ Maputo Protocol, *supra* note 38, art. 14, para. 2(c).

⁹¹ Criminal Code Act Cap. (77), Laws of the Federation of Nigeria (revised edition 1990), sec. 228-230, 297, 309, 328.

⁹² *Id.*

⁹³ Allyn Gaestel, *Abortions in Nigeria Are Legally Restricted, Unsafe – and Common*, AL JAZEERA AMERICA (Dec. 10, 2013), <http://america.aljazeera.com/articles/2013/12/10/abortions-in-nigeriaareillegalunsafeandcommon.html>.

⁹⁴ See APHRC, SITUATION UPDATE 2016, *supra* note 60, at 12.

⁹⁵ GUTTMACHER INSTITUTE, FACT SHEET: ABORTION IN NIGERIA (2015), available at <https://www.guttmacher.org/sites/default/files/factsheet/fb-nigeria.pdf>.

⁹⁶ Akinrinola Bankole et al., *The Incidence of Abortion in Nigeria*, 41 INT'L PERSPECTIVES. ON SEXUAL & REPROD. HEALTH 4, 170, 175 (2015).

⁹⁷ Cajethan Ife Emechebe et al., *Complications of Induced Abortion: Contribution to Maternal Mortality in a Tertiary Center of a Low Resource Setting*, 5 SAUDI J. FOR HEALTH SCI. 1, 34 (2016).

⁹⁸ *Id.* at 37.

⁹⁹ *Id.*

¹⁰⁰ See SUSHEELA SINGH, ET AL., ABORTION WORLDWIDE: A DECADE OF UNEVEN PROGRESS, GUTTMACHER INSTITUTE 28 (2009).

indicating that the physician had not well-trained in abortion services.¹⁰¹ Indeed, few general practitioners receive proper training to perform abortions.¹⁰²

As a result, unsafe abortions account for 20 to 40% of maternal deaths in Nigeria, and many more women suffer serious injuries.¹⁰³ Of the 1.25 million induced abortions in Nigeria in 2012, 40% resulted in complications serious enough to require treatment in a facility.¹⁰⁴ About 212,000 women were treated in health facilities for complications of induced abortion that year, while 285,000 additional women suffered serious health complications but were not treated in medical facilities.¹⁰⁵ Many women who suffer from complications are unable to pay for PAC.¹⁰⁶ Furthermore, many doctors refuse to operate on post-abortion patients for fear of criminal consequences.¹⁰⁷ Although the Nursing and Midwifery Council of Nigeria incorporated PAC into the midwifery training curriculum,¹⁰⁸ a survey of 437 medical health practitioners in South East Nigeria found that 24.5% of the respondents were not aware of PAC services and only 35.5% used manual vacuum aspiration to treat incomplete abortions, the recommended method in such cases.¹⁰⁹ Another study of health care professionals in the same area found that only 40.1% of them had been trained in PAC counselling.¹¹⁰

D. Lack of access to contraceptives and family planning information and services

The Committee has recognized that the right to contraception is rooted in the right to life, rights related to family, and the right to equality and non-discrimination.¹¹¹ To this end, the Committee has consistently urged state parties to ensure access to appropriate and affordable contraception and modern methods of contraceptive, and dissemination of information on effective modern methods of contraceptives to all, in particular to those in rural and remote areas.¹¹² The right to affordable contraception and family planning information and services has been reinforced by other TMBs as well. In 2017, the CEDAW Committee raised concerns over the limited use of modern contraceptives by women and girls in Nigeria.¹¹³ In its 2017 recommendations to Nigeria, the CEDAW Committee urged the country to “ensure that all women and girls have affordable access to modern forms of contraception and intensify efforts to raise awareness of contraceptive use and sexual and reproductive health and rights, targeting both women and men.”¹¹⁴

¹⁰¹ *Id.*

¹⁰² See Rosemary Ogu, *Outcome of an Intervention to Improve the Quality of Private Sector Provision of Postabortion Care in Northern Nigeria*, 118 INT’L J. GYNECOLOGY & OBSTETRICS 2, 57 (2012).

¹⁰³ Mustafa Adelaja Lamina, *Prevalence of Abortion and Contraceptive Practice Among Women Seeking Repeat Induced Abortion in Western Nigeria*, J. PREGNANCY 1, 1 (2015).

¹⁰⁴ Bankole, *supra* note 49, 170 and 174.

¹⁰⁵ *Id.* at 170.

¹⁰⁶ *Id.* at 173, 176.

¹⁰⁷ See Elizabeth Dwyer, *How Nigeria’s Police Are Becoming Allies for Safe Abortion*, THE WORLD POST (June 29, 2016), https://www.huffingtonpost.com/entry/nigeria-police-abortions_us_5773ef93e4b0eb90355d0822.

¹⁰⁸ Echendu Dolly Adinma, *Post Abortion Care Services in Nigeria*, available at <

https://www.researchgate.net/publication/221921718_Post_Abortion_Care_Services_in_Nigeria>

¹⁰⁹ JIB Adinma et al., *Awareness and Practice of Post Abortion Care Services Among Health Care Professionals in Southeastern Nigeria*, 41 SE. ASIAN J. TROPICAL MED. & PUB. HEALTH 3, 696 (2010).

¹¹⁰ JIB Adinma et al., *Post Abortion Care Counseling Practiced by Health professionals in Southeastern Nigeria*, 111 INT’L J. GYNECOLOGY & OBSTETRICS 1, 53 (2010).

¹¹¹ Human Rights Committee, *Concluding Observations: Albania*, para. 14, U.N. Doc. CCPR/CO/82/ALB (2004); Human Rights Committee, *Concluding Observations: Hungary*, para. 11, U.N. Doc. CCPR/CO/74/HUN (2003); Human Rights Committee, *Concluding Observations: Mali*, para. 14, U.N. Doc. CCPR/CO/77/MLI (2003); Vietnam, para. 15, U.N. Doc. CCPR/CO/75/VNM (2002).

¹¹² Human Rights Committee, *Concluding observations on the fifth periodic report of Cameroon*, para. 22(d), U.N. Doc. CCPR/C/CMR/CO/5 (2017); Human Rights Committee, *Concluding observations on the third periodic report of Lebanon*, para. 26, U.N. Doc. CCPR/C/LBN/CO/3 (2018); Human Rights Committee, *Concluding observations on the fifth periodic report of Romania*, para. 26, U.N. Doc. CCPR/C/ROU/CO/5 (2017).

¹¹³ CEDAW Committee, *Concluding observations on the combined seventh and eighth periodic reports of Nigeria*, para. 37(c), U.N. Doc. CEDAW/C/NGA/CO/7-8 (2017).

¹¹⁴ *Id.* para. 38(d).

Lack of access to contraception remains pervasive, demonstrating the government's continued failings in its obligation to address the low rates of contraceptive use. According to the latest DHS, the use of any family planning method among currently married women increased only moderately between 2003 and 2013, from 13% to 15%.¹¹⁵ Only 10% of women use a modern contraceptive method.¹¹⁶ This figure represents a very small improvement from the 2003 rate of 8%.¹¹⁷ This low contraceptive usage is the leading contributory factor to high rates of unwanted and unplanned pregnancy in Nigeria.¹¹⁸ More than 60% of women who have had unplanned pregnancies had not used contraception.¹¹⁹ Surveys show that in 2013, 16% of married women had an unmet need for family planning, meaning that those who wished to space their next pregnancies or to stop bearing children, were unable to do so due to their lack of contraceptive use.¹²⁰ According to the 2013 DHS, this unmet need was higher (19%) among women with primary education only.¹²¹ Nigerian women have on average of one child more than the number they want to have, meaning that the total fertility rate is 15% higher than it would be if all unwanted births were avoided.¹²²

Low income women, women with a low educational level and those residing in rural areas have limited access to contraceptives,¹²³ Demonstrating the government's failure to ensure access to contraceptives for all. The use of any family planning method increases with educational attainment.¹²⁴ Only 3% of women with no education use contraception, compared to 37% of women who have completed more than a secondary education.¹²⁵ In rural areas, only 9% of women use any family planning method, and only 6% use a modern method, as compared with 27% of women in urban areas, who use any method, and 17%, who use a modern method.¹²⁶

The low contraceptive use and the high level of unmet demand is indicative of the number of barriers Nigerian women and adolescent girls encounter in accessing these services. For instance, family planning outreach programs have failed to interact with the vast majority of women in Nigeria.¹²⁷ The 2013 DHS found that over 90% of women who do not use any form of contraception had never discussed family planning with a fieldworker or a staff member at a health facility.¹²⁸ These women represent a significant population which family planning programs are not reaching.¹²⁹ Lack of stable and continuous supply of family planning methods throughout the country also impedes access. Clinics have reported difficulty maintaining supplies of the preferred forms of contraception.¹³⁰ Clinics in rural areas, where women have to travel great distances to the nearest health care facility, have reported shortages of the contraceptive injection, the most preferred contraceptive method because its effect lasts for several months.¹³¹ In addition, emergency contraception (EC), an essential tool to prevent unwanted and unplanned pregnancy and a critical component of care for survivors of sexual violence, is not available in many public facilities.¹³² According to the 2013 DHS, only 56% of sexually active unmarried women and 30% of all women

¹¹⁵ NDHS 2013 KEY FINDINGS, *supra* note 51, at 5.

¹¹⁶ *Id.*

¹¹⁷ NDHS 2013, *supra* note 52, at 97.

¹¹⁸ Lamina, *supra* note 103.

¹¹⁹ *Id.*

¹²⁰ NDHS 2013, *supra* note 25, 105–106.

¹²¹ *Id.*

¹²² *Id.* at 81.

¹²³ *Id.* at 94.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *See id.* at 114.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *See, e.g.,* Jane Dreaper, *Contraception: Rural Nigeria's Family-Planning Challenge*, BBC NEWS (July 11, 2012), <http://www.bbc.co.uk/news/health-18763614>.

¹³¹ *Id.*

¹³² *See* INT'L CONSORTIUM FOR EMERGENCY CONTRACEPTION, COUNTING WHAT COUNTS: TRACKING ACCESS TO EMERGENCY CONTRACEPTION (2013), available at <http://www.cecinfo.org/custom-content/uploads/2013/05/ICEC-Nigeria-Fact-Sheet-2013.pdf>.

know about EC.¹³³ A study of health care providers in Kaduna and Abuja States found that, while 57% of the providers had been trained in EC counselling, only 12% were considered to possess comprehensive knowledge about EC.¹³⁴

E. Sexual and gender-based violence against women and girls

The right to be free from discrimination includes the right to be free from gender-based violence and harmful practices. The Committee has consistently highlighted sexual and gender-based violence against women and girls as an issue of concern during the review of state parties, urging states to take all necessary measures including legislative reforms, prosecution of perpetrators and provision of psychosocial support to victims of sexual and gender-based violence.¹³⁵

In its last universal periodic review, several states urged Nigeria to take appropriate measures to eliminate violence against women including by enacting appropriate laws and improving public policies to combat violence.¹³⁶ In 2015, after a ten-year-long legislative process, the laws on gender-based violence were consolidated and entered into law as the Violence against Persons (Prohibition) Act of 2015 (VAPP Act), which broadly covers physical, psychological, economic, and sexual violence, including rape, as well as harmful traditional practices.¹³⁷ The VAPP Act, however, applies in the Federal capital of Abuja only.¹³⁸ Several of Nigeria's states do not have specific laws prohibiting sexual and gender-based violence. Currently, there is no legislation at the federal level prohibiting female genital mutilation, and one-third of the country has no laws in place to protect women against any form of violence.¹³⁹ Moreover, section 55 of Nigeria's Penal Code specifically allows husbands to discipline their wives just as it allows parents and teachers to discipline children—as long as they do not inflict grievous harm.¹⁴⁰ Numerous studies have shown the endemic nature of violence against women in Nigeria.

According to the latest DHS, nearly three in ten women have experienced physical violence since age 15, mostly at the hands of their partners, with one-quarter of ever-married women having suffered from spousal physical, emotional or sexual abuse at some point in their lives.¹⁴¹ A study from 2015 showed that 85% of 480 out-of-school girls aged 10-19 from Lagos State had experienced at least one form of physical, psychological or sexual domestic violence in the twelve months leading up to the study.¹⁴² Where victims have attempted to bring charges, the perpetrators faced penal laws that are inadequate and outdated.¹⁴³ Only 2% of women who report violence go to the police.¹⁴⁴ Most of the 31% of women who actually seek help,

¹³³ NDHS 2013, *supra* note 52, at 90.

¹³⁴ BABATUNDE AHONSI ET AL., POPULATION COUNCIL, PROVIDERS' AND KEY OPINION LEADERS' ATTITUDES, BELIEFS, AND PRACTICES REGARDING EMERGENCY CONTRACEPTION IN NIGERIA, FINAL SURVEY REPORT 6 (2012), available at <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.571.1041&rep=rep1&type=pdf>.

¹³⁵ See Human Rights Committee, *Concluding observations on the fourth periodic report of the Democratic Republic of the Congo*, paras. 19, 20, U.N. Doc. CCPR/C/COD/CO/4 (2017); Human Rights Committee, *Concluding observations on the fifth periodic report of Cameroon*, para. 19, U.N. Doc. CCPR/C/CMR/CO/5 (2017); Human Rights Committee, *Concluding observations on the initial report of Pakistan*, paras. 15–16, U.N. Doc. CCPR/C/PAK/CO/1 (2017).

¹³⁶ See, e.g., Rep. of the Working Group on the Universal Periodic Review: Nigeria, paras. 135.94, 135.97, 135.98, 135.99, U.N. Doc. A/HRC/25/6 (Dec. 16, 2013).

¹³⁷ Violence Against Persons (Prohibition) Act (2015) (Nigeria); see Cheluchi Onyemelukwe & Ifeoma Okekeogbu, *The Violence against Persons (Prohibition) Act: A CHELD Brief*, CENTER FOR HEALTH ETHICS LAW AND DEVELOPMENT (2015), available at <http://www.cheld.org/wp-content/uploads/2012/04/Violence-Against-Persons-Prohibition-Act-2015-A-CHELD-Brief.pdf>.

¹³⁸ CEDAW Committee, *List of issues and questions in relation to the combined seventh and eighth periodic reports of Nigeria: Replies of Nigeria on its Sixty-Seventh Session*, para. 50, U.N. Doc. CEDAW/C/NGA/Q/7-8/Add.1 (2017).

¹³⁹ See CEDAW Committee, *Consideration of reports submitted by States parties under article 18 of the Convention: Combined seventh and eighth periodic reports of States parties due in 2014: Nigeria*, para. 3.11, U.N. Doc. CEDAW/C/NGA/7-8 (2015).

¹⁴⁰ Penal Code Act (1960) Cap. (532), sec. 55(1), Laws of the Federation of Nigeria (Abuja) (Nigeria), available at http://oceansbeyondpiracy.org/sites/default/files/Nigeria_Penal_Code_Act_1960.pdf.

¹⁴¹ NDHS 2013, *supra* note 52, at 301.

¹⁴² NDHS 2013 KEY FINDINGS, *supra* note 51, at 15.

¹⁴³ AMNESTY INT'L, NIGERIA: RAPE – THE SILENT WEAPON 22, AI Index AFR 44/020/2006 (2006), available at <https://www.amnesty.org/download/Documents/68000/afr440202006en.pdf>.

¹⁴⁴ NDHS 2013, *supra* note 52, at 327.

turn to family.¹⁴⁵ As of 2015, only eighteen people in Nigeria had ever been convicted of rape,¹⁴⁶ despite the fact that, between 2012 and 2013, the Lagos State Police Command alone recorded 678 cases of rape in the state.¹⁴⁷

QUESTIONS

We hope that the Committee will consider addressing the following questions to the government of Nigeria:

- i. What measures is Nigeria taking to investigate and prosecute perpetrators of sexual and reproductive rights violations against women and girls affected by conflict, including effective mechanisms for accountability and redress?
- ii. What measures is the Nigerian government taking to ensure that women and girls in Internally Displaced Camps and host communities have access to quality maternal health services including access to skilled birth attendants and adequate food during nursing?
- iii. What concrete measures is Nigerian government taking to address the increased child and forced marriages in IDP camps and host communities and among survivors who have resettled or returned to their communities?
- iv. What measures is the government undertaking to reform its laws on abortion and ensure that women have access to legal, safe abortion and post-abortion services. Specifically, what measures is the Nigerian government taking to ensure its abortion law, which has only a life exception, does not prevent women and girl survivors of sexual violence, including abductees, from accessing terminations of pregnancy if requested?
- v. What measures is Nigeria taking to ensure that there are sufficient resources to properly implement the 2015 Violence against Persons (Prohibition) Act?
- vi. What is the government doing to eliminate abuse and mistreatment of women seeking maternal health services by medical and hospital staff?
- vii. What measures is the government taking to ensure that women and girls seeking maternal health services are not detained in hospitals post-delivery or are not denied services due to inability to pay?
- viii. What measures is the Nigerian government taking to ensure that there is adequate budget for reproductive health care services given the health sector budget cut in 2018?
- ix. What measures does the government plan to undertake to remove the barrier women and girls face in accessing contraceptive services including by ensuring that they have access to comprehensive reproductive health information and services?

We hope that this information is useful during the Committee's review of Nigeria. If you would like further information, please do not hesitate to contact the undersigned.

¹⁴⁵ *Id.*

¹⁴⁶ *Only 18 Rape Convictions Recorded In Nigeria's Legal History – Lawyer*, PREMIUM TIMES (Nov. 9, 2015), <http://www.premiumtimesng.com/news/top-news/192895-only-18-rape-convictions-recorded-in-nigerias-legal-historylawyer.html>.

¹⁴⁷ Patience Obgo, *Lagos Records 678 Rape Cases in One Year*, EAGLE ONLINE (Apr. 15, 2013), <https://theeagleonline.com.ng/lagos-records-678-rape-cases-in-one-year>.

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