

Global Trend towards the Reproductive Health Right of Nigerian Women: The Health Promotion Perspective

Beatrice. N. Okpalaobi and Helen O. Onyi-Ogelle
Nnamdi Azikiwe University, (Awka), Nigeria

Corresponding Author: Beatrice. N. Okpalaobi

The right to perfect reproductive health –something that in its fullest sense is unattainable- and the right to pursue it can distract us from achieving goals that take into account the inevitability of disability, death and the necessity of providing people with the capacities and rights that will enable each person to cope with their own imperfection. We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. Women globally are rubbed of these ideals. The aim of this paper is to identify areas of need on reproductive health, problems associated with reproductive health of women and solutions to the problems.

Keywords: reproductive health, right, women, problems. Nigeria

INTRODUCTION

Reproductive right has been defined simply as the right to reproduction and reproductive health by Blacks Law Dictionary (B. A. Garner 2004). Reproductive health is a fundamental aspect of one's well-being and it implies that people are able to have safe and satisfying sex lives. It gives one the capability to reproduce and the freedom to decide if, when and how often to reproduce, it also implies that people especially women are able to have access to extensive health care, before, during and after reproduction. Reproductive health is impair material to maternal health which is a state of women's health especially in the significant reduction of maternal mortality and morbidity and their impacts on infant mortality (M. T. Ladan 2003). In the consideration of reproductive health of women, certain indices should readily come to mind, family planning and services, abortion, sexually transmitted diseases including HIV/AIDS, premature and early marriage, safe motherhood comprising pre-natal care, safe delivery, obstetric care, safe sex and gender equality, sexual dysfunction in women e.g. infertility, female genital mutilation, marital rape, other sexual violence against women and reproductive health problems associated with menopause (M. T. Ladan 2003). A right to health plainly means the right to be in a state of complete well-being from illness. This rights is guaranteed under the (Universal Declaration of Human Right 1948) referred to as (UDHR)

Everyone has the right to a standard of living adequate for the well-being of himself and his family including food, clothing, housing and medical care, necessary social services and the right to

security and in the event of sickness, disability---

Nigeria by acceding to this declaration is bound by the provisions of the Declaration and under the Constitution of the Federal Republic of Nigeria (Constitution of Federal Republic of Nigeria 2004). The only obstacle is that it is under the Directive Principles of State Policy which is unjustifiable by the strong wording of section 6 (6) (c) 1999 Constitution.

Historical Origin of Reproductive and Health Right

Historically, the concept of reproductive and health right was not officially recognized until 1968. However, in 1945, the United Nations Charter made declarations related to reproductive health rights although the charter did not define the rights. Also the United Nations General Assembly in 1966 adopted a resolution on population growth and economic development, recognizing the principle that "the size of the family should be the free choice of each individual family".

Nonetheless Teheran Declaration in 1968 marked the first international legal document to mention reproductive health rights as a subset of human rights. The proclamation states that "parents have a basic right to decide freely and responsibly on the number of spacing of their children and a right to adequate education and information in this respect" (M.T. Ladan 2003). This proclamation therefore presupposes that reproductive rights being a subset of human rights, is a basic right of every individual irrespective race, sex, religion etc. Subsequently in 1974, The Population Plan of Action further

reaffirms the right to reproductive decision making at the World Population Conference held in Bucharest, Romania. In 1975, The International Women's Year Conference held in Mexico also asserted the right to reproductive health and choice in notion of bodily integrity and control. From 1976-1986, the overriding importance of reproductive rights was emphasized in the Convention of The Elimination of Discrimination Against Women (CEDAW). This was followed by the Universal Declaration of Human Rights (UDHR) of 1948, the International Covenant for Civil and Political Rights (ICCPR) of 1966, the African Charter on Human and Peoples' Right of 1981, and the International Conference on Population and Development (ICPD) of 1994 etc. In addition to the recognition of the reproductive health right. Further, the "Cairo Programme of Action" was adopted in 1994 at the International Conference on Population and Development (ICPD) in Cairo. The Cairo Programme of 1994 emphasized the importance of protecting women's rights, particularly those relating to reproductive health. It is also expanded the definition of the World Health Organization on reproductive health. The Beijing platform of 1995 followed, as it demarcated twelve interrelated critical areas of the human rights of women that require advocacy; it also formed women's reproductive rights as indivisible, inalienable and universal and further supported the Cairo programme's definition of reproductive health, but established a broader context of reproductive rights.

The most recent declaration is the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity adopted in November 2006 which declares in its Preamble that "international community has recognized the rights of persons to decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free from coercion, discrimination, and violence." Also Principle 9 which deals with "the right to Treatment with Humanity while in detention made certain provisions in relation to reproductive health. Nigeria subsequently became bound by the provisions of some of these international instruments for example CEDAW by becoming signatories to these international instruments. Subsequently federal legislations for example the Food and Drugs Act, was made to protect the health of citizens which invariably protects the reproductive rights of citizens of Nigeria. She also enacted several policies on the reproductive health for example the National policy on the Elimination of Female Genital Mutilation, National Policy on Reproductive Health etc which apart from the obvious, aims at improving the health and quality

of girls and women. All these led to the recognition of reproductive and sexual health as a matter of social justice.

Importance of Reproductive Health Rights

The reproductive and health rights are of paramount importance as a vital aspect of general health. It is the central feature of human development as it reflects health as childhood, adolescent and adulthood. The disregard for these rights can be catastrophic. This is so because where there is a mismanagement in the reproductive health of an individual, whether male or female, it affects the health of the next generation depending on the level of mismanagement. Although reproductive health is a universal concern, it is of special importance to women especially in their reproductive years. Thus adequate attention is required as the health of a new born is largely determined by the state of mother's health which includes nutritional status and her access to health care services. Also after the reproductive years (15-45), of a woman general health continue to reflect earlier reproductive life event during old age notwithstanding that most reproductive health issues arise during the reproduction years.

More still, reproductive health is highly connected to many of young people's top-line issues, such as completing education, finding employment securing their economic position, making secure relationships and, eventually, founding a family of their own. Thus reproductive right as a right to reproductive health is important to the young as well although there is public reticence as young people themselves do not put sexual and reproductive health high on their list of active concerns. Furthermore, as a result of the fact that reproductive health is such an important component of general health, it is prerequisites for social, economic and human development. This is so because since human energy and creativity are the drawing forces of development, the highest attainable level of health is essential because it is not only a fundamental right for all but also a social, economic and imperative one. Little wonder reproductive health activities constitute a significant part of all World Bank-leading for population, health and nutrition activity.-

Relationship between Reproductive and Health Rights

Having dealt extensively with the meaning of reproductive rights on one hand and health rights on the other, the relationship between them seems to be evident. Reproductive rights being a right on reproduction and reproductive health, is deeply rooted in health rights. This is for the simple reason that reproductive health is a branch of

health which is a general phenomenon. Thus one can readily see the connection between both concepts as where there is no right to reproductive health, then there is no right to health *abinitio*, also a person cannot be said to be healthy without the provision of reproductive health care services.

Nonetheless, reproductive right can be differentiated from health right as it deals strictly with the right to reproductive health which is firmly discriminatory. However, health rights deals with the right to the highest level of general well-being that will permit an individual to live optimally and participate fully in the affairs of the community where he is a part (U. Achor, 2001). It is the right to general medical services that guarantees a healthy and fulfilling life. Whether different or similar, both reproductive rights and health rights are rights to be recognized and enforced as a violation of these rights is a violation of human right. The laws that recognized and protect these rights both nationally and internationally will now be considered.

Legal Regime for the Protection of the Reproductive Health Rights of Women in Nigeria.

A careful reading of Section 37 of the Constitution of the Federal Republic of Nigeria guarantees the right to privacy and be that as it may it presupposes that Nigerian women will have the right to determine what to do with themselves as far as her reproductive status is in issue. Section 37 states.

The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.

Also section 17 (3) (C) of the same Constitution though under Chapter II on Directive Principles of State Policy

The State shall direct its policy towards ensuring that the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused

Other local enactments, include the Anambra State Women's Reproductive Rights Law, 2005 and Imo State Women's Reproductive Bill, 2009 all geared towards the protection and promotion of the reproductive health of Women under chapter II on Directive principles of State Policy. The African Charter on Human and Peoples' Right (The African Charter on Human and Peoples' Right 1993) states that:

- (1) Every individual shall have the right to enjoy the best attainable state of physical and mental health.
- (2) State parties to the present charter shall take all necessary measures to protect the

health of their people and to ensure that they receive medical attention when they are sick.

Then the Protocol to the African Charter on Human and Peoples' Rights on the Right of Women in Africa (Protocol to the African Charter 2005) in its provision states:

- (1) State parties shall ensure that the right to health of women including sexual and reproductive health is respected and promoted; this includes:
 - (a) The right to control their fertility;
 - (b) The right to decide whether to have children, the number of children and the spacing of children
 - (c) The right to choose any method of contraception;
 - (d) The right to self-protection and to be protected against sexually transmitted infections, including HIV/AIDS;
 - (e) The right to be informed on one's health status.....
 - (f) The right to have family planning education

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence nor to unlawful attacks on his honour and reputation. Everyone has the right to protection of the law against such interference or attacks.

It presupposes from the above provisions of the law that Nigerian women can take a legal action when there is an intrusion to their privacy rights based on reproductive health. The reason for this is because of the protection accorded to women through these national and international enactment which Nigeria is a signatory and to which they have domesticated.

Factors that Affect the Reproductive and Health rights in Nigeria

It is pertinent to know the short comings of the Nigerian laws as regards the reproductive rights and health of citizens so as to enable one to understanding the problem and the proffering of a solution. There are certain factors that affect the reproductive and health rights of Nigerians. They includes:-

Early/Child Marriage

Early marriages for girls have been linked as harmful to women's health since usually the girl-child-wife is yet to attain physiological as well as emotional maturity as is suited for child bearing. Thus the underdeveloped pelvic cavity at the early stage usually occasions difficulty for child delivery resulting in prolonged labour, tear and perforation of the bladder. With such perforation creating an abnormal communication between the bladder and

the vagina or rectum, the victim leaks urine or faeces from the abnormal orifice-condition that is known in medical parlance as Vesico-Vaginal Fistulae or Recto-Vaginal Fistulae. Other effects of early pregnancy for the immature girl-child living with a debilitating disease, social ostracization and denial of the opportunity for self-actualization and the fact that the Constitution in section 79 (4) (b) further regards a girl of full age by virtue of being married does not help the situation. Traditionally, apart from the above, early marriages deny their young female victims the right to exercise choice in the issue of who to marry and even where there is consent, it is usually questionable since they lack the capacity and information to exercise sound judgment.

Female Genital Mutilation (FGM)

This is a major constraint to the enjoyment of reproductive health and right in Nigeria. The procedure is carried out with primitive and unsterilized instruments while the young girl is forcibly held down. This practice results in immediate complication, for example shock, hemorrhage, injury to adjacent organs, infections and death. Thus there is need for the eradication of this practice of which only a few states (Constitution of World Health Organization 1969) have laws prohibiting Female Genital Mutilation (FGM).

Unsafe Abortion

This is defined as a procedure for terminating unwanted pregnancy either by persons lacking the necessary skills or in an environment lacking the minimal medical standards or both (International Covenant 1966). unsafe abortion is one of the greatest dangers to women's reproductive health being a major cause of maternal mortality and morbidity and this as a result of our restrictive abortion laws. A variety of complications, injuries, illness as well as death occur as a result of unsafe abortions.

Family Planning

Since reproductive rights includes the right of couples to decide freely and responsibly the number, spacing and timing of their children, there is need for family planning however, population control is not an issue under our customary laws as a woman has no say in respect of the number of children she will have or the spacing of the children.

Gender Inequality/Violence

Unequal power relationships create problems. For example lack of communication and understanding may lead to physical, domestic and sexual violence which seriously affects the health of both spouses particularly the women.

Other factors include:-

1. unenforceability of laws due to the absence of political will by the three tiers of government and other national authorities who have showed no appreciation to treaties and declarations.
2. Limited access to reproductive health services due to inadequate information and unavailability of finances and to meet up with high charges on the treatment of reproductive and health ailments.
3. HIV/AIDS scourge and Rape which is a public health issue that affects citizens mostly women and children.
4. Poor population policies and implementation to determine Nigeria's population for sustainable development.
5. Exclusion of children and adolescents from the government agenda
6. Lack of enforcement mechanisms of international laws.

Challenges to the Protection of the Reproductive Health Rights of Nigeria Women.

Lack of Awareness

Many women in Nigeria are ignorant of the existence of these provisions of the law and many as a result of lack of knowledge have been under the intimidation of the male.

Lack of Political Will

Our government is insincere. Most of the infrastructures are not in place. Corruption and embezzlement of public funds is the order of the day, hence non implementation of most of the laws. Women on their part also lack the will to decide on what they want in life hence indecision and this leads to having more children than they can contend with.

Cultural Stereotypes

Our culture holds it that a woman cannot on her own decide what she should do to or with her body. Culture holds it that she is the property of her husband on the basis of the bride price and other matters incidental to the marriage which was borne by the husband, and on what ground she is a chattel owned by her husband.

Religious and Familial Hierarchies

Teachings of the church and families on power of the male being more superior than women. They argue that any freedom or power given to the female will destabilize traditional gender and that such sexual relatives will threaten established political, religious and familial hierarchies.

Poverty

Poverty level in the country is highly unprecedented; as a result of this many women cannot access the

health care system thereby worsening their already weak health status.

RECOMMENDATIONS

- Chapter II of 1999 constitution should be made justifiable
 - A global and widespread awareness should be created to enable all women know the provisions of the law on their rights and also know how, when to seek medical attention .
 - Political activism is needed to further an agenda of change that brings social justice and erotic justice
 - They government should be more proactive to providing the infrastructure where women could easily access their health timorously and efficiently.
 - Trained medical personnel on women's reproductive health should be provided.

CONCLUSION

Reproductive freedom is critical to a whole range of issues. If we can't take charge of this most personal aspect of our lives, we can't take care of anything . it should not be seen as a privilege or as benefit, but a fundamental human right (F. Wattleton 2011).

The importance of the reproductive and health rights of citizens in Nigeria cannot be over emphasized. This is why legislations are enacted for it to be enforced. The non-enforceability of some of these rights contained in our legislations and other international instruments is unacceptable. Thus the enforcement of these rights lies in our hands and also in the hands of the government to make the society a better and conducive place to live in. The only tolerable reason for the non-enforcement of these rights by the government is where it is proved that its enforcement threatens public good. To say that these legislations are against public good is as good as saying that law itself is unnecessary for the good and development of the society.

REFERENCES

Achor U. 2001, Managing the Environment in Popular Neighbourhoods, Lagos, SERII p. 15

Garner B.A, 2004, Black's Law Dictionary, Eight edition (St. Pauls Minnesota) West Publishing Co. at 881

Ladan, M.T. , 2003, "Overview of Reproductive Rights and Health" Journal of Economic , Social and Cultural Rights vol. 1 No. 7 Lagos, Socio Economic Rights Initiative (SERI) p. 20

UDHR 1948 Article 21. International Covenant on Civil and Political Right of the United Nations of 1966

OUA Doc. 1986, LAB/LEG/67/3rev 5. Adopted 1981 and entered into force in Article 16(1) and (2)

Preamble to the Constitution of the World Health Organization, 1969, Chap.1. n.3, p.100

Protocol to the Africa Charter on Human and People's Right 2005 Article 14

Wattleton F. 2011, "Reproductive Right" at <http://www.Cab.uscourt.gov/opinions.Pdf/07904429-06.pdf>