



Reproductive Health and Rights in Nigeria: Aspects of Sustainable Development

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ABSTRACT

The reproductive health of women is very vital to their development and empowerment and required in building a socially and economically viable nation. Empowered women are not only able to access available resources or participate in politics and public life but also enjoy freedom from violence, bodily autonomy and integrity which are the cruxes of reproductive health. Recognized at the International Conference on Population and Development (ICPD) distinctly as a concept, the reproductive health of women remains an integral aspect of their overall well being and self-determination. Women make huge impacts on the nation. When women are healthy, exposed to sound education and allowed to freely and fully participate in the affairs of the society, it triggers progress in their families, communities and the nation at large. There is therefore need to instill a healthy system, effectively responsive to the reproductive health and rights of women in the nation. This paper emphasizes the role of women's reproductive health and rights in the attainment of sustainable socio-economic development, highlights some shortfalls in the existing legal framework and suggests some reformations necessary for a more suitable health system, inconformity with international standards.

Keywords: Reproductive health, Reproductive right, Sustainable development, Sustainable Development Goals, Violence against women.

INTRODUCTION

The Millennium Development Goals (MDGs) serves as a corner stone for the existence of the protective measures around issues of women's reproductive health and right in Nigeria today. Initiated in the year 2000 (Abdulgafar et al, 2013), reproductive health matter such as reduction of child mortality, maternal mortality and combating HIV/AIDS by ensuring a universal access to its treatment (Oyeniran & Onikosi-Aliyu, 2015) gained prominence. Accordingly, Nigeria committed herself to achieving these goals by initiating a number of policies which include, Safe Motherhood Initiative (SMI), Primary Health Care Scheme and Guinea Worm Eradication Program, Better Life for Rural Women (BLP), The Family Support Program (FSP), The National Health Insurance Scheme (NHIS), The National Action Committee on AIDS (NACA), The Prevention of Mother to Child Transmission of HIV Program (PMTCT), Midwives Service Scheme (MSS), Village Workers Health Scheme (VWHS) and The National Strategic Health Development Plan (2010-2015) (Oyeniran & Onikosi-Aliyu, 2015).

Despite these laudable efforts, Nigeria fell short of under-five mortality rate (U5MR) target of 64 deaths per 1000 live births by 28% and the level of infant mortality rate (IMR) stood at 58 deaths per 1000 live births in 2014, short of the 2015 target of 30 deaths per 1000 live births (OSSAP-MDGs, 2015). While maternal health improved merely from 58% in 2005 to 66% in 2013, HIV/AIDS amongst pregnant rose from 53.2% in 1990 to 58% in 2013 and the number of children living with HIV/AIDS increased from 160,000 in 1990 to 320,000 in 2013 (WHO, 2014). In summary, Nigeria failed to meet the millennium development goals on women reproductive health at the end of its first phase in 2015, (OSSAP-MDGs, 2015).

The Sustainable Development Goals (SDG) have been adopted under the second phase which took of immediately and is as much committed to securing women's reproductive issues as its former counterpart. In the words of Dr. Natalia Kanem (executive director of United Nations Population Fund), "if we are serious about achieving the Sustainable Development Goals, the time to act is now!" (Kanem, n.d). Nigeria has already commenced actions geared towards achieving these goals. For instance, there is the creation and appointment of a Senior Special Assistant to the President on SDGs to oversee SDG matters, establishment of Inter-Ministerial and similar structures at both national and sub-national levels laden with functions of developing implementation plans, policies and strategies and relating with relevant Ministries, Departments and Agencies. Also at the legislative level, 2(two) committees have been set-up in the various houses of the National Assemble to cater for the law making functions on matters of SDG (Office of the Senior Special Assistant to the President on SDG, 2017) (OSSAP on SDG).

Objectives of Research

1. To elucidate the importance of women reproductive health and rights in sustaining development in Nigeria
 2. Appraise the existing laws on women reproductive health and rights in Nigeria
 3. Identify some lapses in the protection of these rights
 4. Advance possible reforms for ensuring better legal protection of women.
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Conceptual Clarification

Reproductive Health & Rights

Reproductive health has been described by the United Nations Fund for Population Activities (UNFPA) as a complete physical, mental and social well-being in all matters relating to the reproductive system (United Nations Fund Population Activities, n.d.), and not merely the absence of diseases or infirmity. "It encompasses efforts to eliminate preventable maternal and neonatal mortality and morbidity, to ensure quality sexual and reproductive health services, including contraceptive services and to address sexually transmitted infections (STI) and cervical cancer, violence against women and girls and sexual and reproductive health needs of adolescents" (World Health Organization, n.d.). The fundamentals of reproductive health include ability and willingness to reproduce, safe motherhood, family planning, infertility treatment, infant and child survival, prevention and treatment of sexually transmitted diseases, safe abortion, Harmful traditional practices such as female circumcision, menopausal issues.

On the other hand reproductive rights are the rights of individuals (in this case, women) "to their body autonomy and integrity and non discrimination in matters of their sexuality and reproduction. These reproductive rights are hinged on human rights such as, right to life, right to liberty, right to equality, freedom from discrimination, right to privacy, right to freedom of thought, right to information and education, right to human dignity etc." (Republic of the Philippines Department of Health, n.d.). It entails the ability of women to make certain important decisions as it affects their sexuality and childbearing such as to participate in or decide freely and responsibly the number and spacing of her children, family planning and access to the highest attainable standard of sexual and reproductive health.

Sustainable Development

Development means a progressive transformation of the economy and society. To achieve such transformation, the economic and social goals must be defined in terms of sustainability. It is fundamentally, a question of people's opportunities to influence their future, claim their rights and voice their concerns, which are made easier if a population is in good health (Berkley et al., 2013). Since the 1994 International Conference on Population and Development (ICPD) Cairo, 1994, women's reproductive health and right, women empowerment and gender equality as subsets of human rights, have been placed at the core of development and population. It therefore means that without a sustainable health of the women population, attaining sustainable development of the nation will be hindered. Of immense relevance to this discourse is Principle 1, Agenda 21 of RIO Declaration which states that humans are at the centre of concerns for sustainable development and are entitled to a healthy and productive life in harmony with nature.

Impact of Women's Reproductive Health on the Socio-Economic Development of the Nation

The core position of good health in the attainment of socio-economic goals cannot be doubted. Attention cannot be accorded to various aspects of development at the expense of health matters as it is only a healthy and empowered population that can effectively pilot the affairs of a nation and engineer development thereto. It then follows that anything that challenges the health of the nation, challenges its sustainability. Just as a report indicates, 1 extra year's increase in average life expectancy can increase gross domestic product by 4% (Bloom et al.2004).

For socio-economic goals to be well attained and sustained, every human whether, male or female become stakeholders to the achievement of these goals. Sustainable development must therefore have in its very centre, the health of the nation (WHO, 2013).

The reproductive health of women becomes peculiar in this respect because it is an indispensable factor to the attainment of women empowerment. It requires well empowered women to contribute meaningfully and productively to the achievement of economic and social goals of the nation and women cannot be fully empowered when their reproductive health and rights are under threat.

The reproductive health of women is key to the eradication of poverty as families are better off when women are gainfully engaged.

International Concern for Reproductive Health and Rights of Women

The international recognition of women's reproductive health and rights actually began in 1968 at the United Nations International Conference on Human Rights where it was stated that parents have a basic human right to determine freely and responsibly the number and spacing of their children (Freedman & Isaacs, 1993). In addition, the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) held in 1975 has also spearheaded the fight for the freedom from discrimination against women as part of human rights, following advocacies by concerned civil societies (Shalev, 1998).

However, women's reproductive health and right gained full conceptualization at the International Conference on Population and Development (ICPD) In Cairo 1994. This move continued in 1995 at the Fourth World Conference on Women held in Beijing, (Sen & Mukherjee, 2014). Eventually, it was captured in the MDGs in 2000 even though not in entirety but most of its subsets,

Legal and Institutional Framework on Women Reproductive Health and Rights in Nigeria

The 1999 Constitution of the Federal Republic of Nigeria

Embedded in the 1999 Constitution are the human rights to life, human dignity, freedom from discrimination on the account of sex amongst others, private and family life accorded to all persons in Nigeria. The Constitution also guarantees ensuring adequate health, safety and welfare for all persons in employment. There are also social and economic objectives which are founded on the ideals of freedom, equality and justice.

Violence against Persons (Prohibition) Act (VAPP) Act, 2015

The VAPP Act is recent and has the primary objective of eliminating common forms of violence meted out on women as relates their private and public life. The Act has widely received praises from the populace in its attempt to go further or expand the protection afforded to women by the Criminal and Penal Codes. Amongst the achievement of the law is the expansion of the Nigerian jurisprudence on rape. Formerly, the offence of rape was expressly restricted to virginal penetration. Under the new Act however, there is express and clear recognition of anal and mouth penetration as mediums of committing rape. Thus an act will constitute rape when a person intentionally uses any part of his/her body or thing to penetrate the vagina, anus or mouth of another person, provided the other person did not consent or the consent was obtained by fraud or by any other unlawful means (VAPP Act, section 1(1)). This is laudable in this area of discourse as same has for long been advocated. In addition, to procure another into engaging in sexual activities by administering a substance with the effect of overpowering or stupefying such person is also a punishable offence under the Act (VAPP Act, Section 22). Other women reproductive health and rights covered by the Act include: Infliction of physical injury on another by any means, prohibition of Female Genital Mutilation, prohibition of harmful cultural practices especially those meted out to widows and compensation to victims of the offences under this Act (Global Citizen, n.d.)

African Human and Peoples Rights (Ratification and Enforcement) Act

This Act recognizes the rights of every human to his or her dignity. Every individual is also conferred with the rights to maximum attainable state of physical and mental health, freedom from discrimination against women and protection of the rights of women and children.

The Criminal and Penal Codes & Administration of Criminal Justice Act

While the Criminal and Penal Codes in respect to women's reproductive rights offer generally, protection of the woman from rape and sexual assaults, the Administration of Criminal Justice Act, prohibits the carrying out of a death sentence on a pregnant woman, instead she gets a life imprisonment.

The Nigerian Health Policy

There are a number of health policies geared towards ensuring a comprehensive protective, preventive, restorative and rehabilitative primary health care which includes reproductive health particularly, the 2001 National Reproductive Health Policy and Strategy which provides specific objectives such as drastic reduction of maternal morbidity and mortality, reduction of prenatal, perinatal, neonatal morbidity, reduction of sexually transmitted diseases, infections and prevalence of unwanted pregnancies, reduction of infertility and promoting adoption as an alternative to childbirth, promoting reproductive biology and knowledge amongst adolescents and curbing the commonness of breast cancer and cervical cancer. Other related policies include, National Policy on Maternal and Child Health 1994, National Adolescents Health Policy 1995, National Policy on Population and Development, Unity, Progress and Self-reliance 1998 & 2004, National Policy on Women 2000, National Policy on the Elimination of Female Genital Mutilation 1998 & 2002, National Policy on HIV/AIDS 2003, National Health Policy and Strategy, 1998 & 2004 (Centre for Reproductive Rights, 2003).

Challenges to Womens Reproductive Health and Rights in Nigeria

In Nigeria today, especially in the rural settings, women are seen very vulnerable to some cultural or customary practices which impede their reproductive rights (Gbadamosi, 2010). Some of these practices are patriarchy (Akhrome-Omonufuegbe, 2019) violence against women, widow disinheritance, polygyny (Omolade, 2012), girl marriage, female genital mutilation (Ogugua, 2015), trafficking in women and girls and denial of women's input in number and spacing of children even when the mother's health is at risk (Ifemeje, 2013).

Evident in our legislations also, are some limitations on women's reproductive rights. With the recently enacted VAPP, one would have thought that the long awaited recognition of marital rape would have been covered. The reality is that we are still stuck with no recognition of marital rape. It is worthy of note that the issue of marital rape has been long recognized under international law some of which Nigeria is a signatory. For instance, Nigeria is a signatory to the United Nations Declaration on the Elimination of Violence against Women (United Nations Children's Fund, 1997) but is yet to domesticate the law or recognize the offence of marital rape in the law. Another issue as regards rape cases is the strictness attached to proving the crime. Firstly, the offence must be proved beyond all reasonable doubts. Secondly, there is the need for corroborative evidence (maybe eyewitnesses). Although it is not a formal requirement of the law, it has long prevailed as a rule of procedure; so that a court will be very reluctant to convict an accused of rape relying only on the uncorroborated evidence of the complainant. It gets worse in cases of child rape due to the formal requirement that a child under 14 years of age, can only give an unsworn evidence which can only secure a conviction if corroborated by some other material evidence,

(Evidence Act 2011, Section 209), (McPherson, 2020). With the increasing incidents of rape in the country, the laws and procedural rules of rape should be made more effective as a way to curb the crime.

Section 26 VAPP Act establishes an offence known as Indecent Exposure in ambiguity as the Act fails to stipulate the ingredients of the offence or elaborate same. It states that a person who intentionally exposes his or her genital organ or a substantial part thereof and consequently causes stress to another person or induces such a person to commit any of the offences established by the VAPP Act, commits an offence and liable. Such offence is vague and novel leaving one pondering on questions such as "What constitutes substantial exposure here?". "How do you determine an exposure that caused stress" and most importantly, will penalty await one who claims he or she got induced into raping another or will such person just be acquitted on the ground that he or she was induced?(Nwazuoke, 2016).

Strengthening the Case for Sustainable Framework on Women Reproductive Health and Rights in Nigeria

There is no gainsaying sustainable development thrives on sustainable laws and effective implementation strategies. A sustainable framework on women's reproductive health and rights requires the availability of very suitable laws and policies and unmitigated implementation. The existing laws on subject are yet to capture all subsets of women reproductive health and rights. Although apparently, there seem to be a number of laws touching on same and thus can ground an argument of proliferation of laws on subject, the reality remains that they are yet to be exhaustive. Matters such as marital rape, rigidity in proof of rape and sexually transmitted diseases such as HIV/AIDS arising from sexual offences are still dangling. These have founded the long agitation for a separate law on women reproductive health in Nigeria which will hold a compendium of matters of reproductive rights.

However, with the dawn of the VAPP Act, it appears the better action to take will be to amend the existing Act to incorporate a distinct section, where all the matters on subject will be adequately treated. There is also need for the all states to adopt and domesticate the law.

From the statistics of the WHO 2014, an improvement on child mortality was recorded. However, Nigeria still rates high in maternal mortality, HIV/AIDS and sexually transmitted diseases. It becomes necessary that the government engages policies, schemes and techniques at combating them. Unsafe abortion has been identified as the cause of high rate of maternal mortality amongst women of childbearing age. Unsafe abortions are still on the increase due to some legal, cultural and social factors which prompt the victims to patronize quacks. Without conceding to the call for a total removal of limitations on abortion, the laws should however be somewhat relaxed and concurrently, huge efforts put in educating our adolescents especially on the merits and ideals of chastity and the harm of careless sexual habits. By the way, the criminality of the act has not deterred the resort to abortion which ordinarily is the envisaged aim but has instead kept unsafe abortion on the increase. Law is expected to achieve positive results. If the ideals of chastity can be well inculcated in our youths, unwanted pregnancies with its consequent unsafe abortions will drastically reduce. The transmission of HIV/AIDS and other sexually transmitted diseases will also be reduced. In protection of people already living with the virus, there should be laws specifying civil and criminal liabilities in cases of AIDS infection arising from sexual violence.

While the laws are being updated accordingly, there is also need to birth good implementation strategies. The crux of this lies with the several relevant Government agencies. It isn't in dispute that Nigeria generally has problem with implementation of its laws therefore very strong implementation action plan and strategies should be set-up to achieve relevant laws.

Another determinant of a sustainable women reproductive health and rights regime is instilling a vibrant information dissemination attitude. Women especially in the rural setting are not even aware of the existence of such protective laws while it is their human right and reproductive right to be informed of every matter pertaining to their reproductive health. To achieve this, both government and civil societies/non-governmental organizations are enjoined to disseminate relevant information ceaselessly. There should be integrated in the health policies and other government policies, heightened access to information on reproductive health and rights. There should be increased coalition of the government and civil society in organizing media and advocacy campaigns to raise awareness about existing legislation (Mbadugha, 2016). A right-based approach, (Sen & Mukherjee, 2014) should be adopted in respect to women's reproductive health and as such must remain at the fore of every government policies. Efforts should be made to making justiciable, health policies in Chapter 2 of the constitution. Adequate measure should be adopted in promoting women's empowerment in their social, economic and political status as this will enhance their sense of relevance to the society, better build their self confidence and worth. With the right empowerment, they are better equipped with the necessary information and rights attitudes towards protecting their reproductive health rights. Enhancing their participation in the health sector will also enable them canvass better adequate protection of tier reproductive health and rights. State government should be encouraged to make laws against various kinds of social and cultural discrimination so the girl child is exposed to the right indoctrination from a tender age, through their families, schools and civil societies.

Conclusion

Women's reproductive health is their human right. To deny them these rights is to deny them their very existence.

Sustainable development is tied to a healthy and productive populace as its goals cannot be achieved with a poverty and disease stricken population.

The Post-2015 Millennium Development Goals or post-2015 Sustainable Development Goals are hinged on the former (SDGF n.d.) With women empowerment and gender equality still at the core, Nigeria should strive to meet the 2030 target in this respect. There's no gainsaying that the attainment of same is highly dependent on embarking on and beefing up relevant legal framework.

Recommendation

In addition to paragraph II above, the following should be accommodated in our legal system:

1. The adoption of the VAPP by all states in the federation
2. An expunction of section 26 or a rephrasing of the section for clarity and best utility

3. Accommodation of the prohibition of marital rape and other reproductive health matters not yet captured in the VAPP Act.
4. Inclusion of a more victim-friendly proof of rape
5. A special trial for sexual offences (rape inclusive) given their sensitivity so as to afford the victims more psychological and emotional protection. The idea of making such trials private and hearing them in a special court has also been canvassed, (Micheal & Toluwani, n.d.).

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