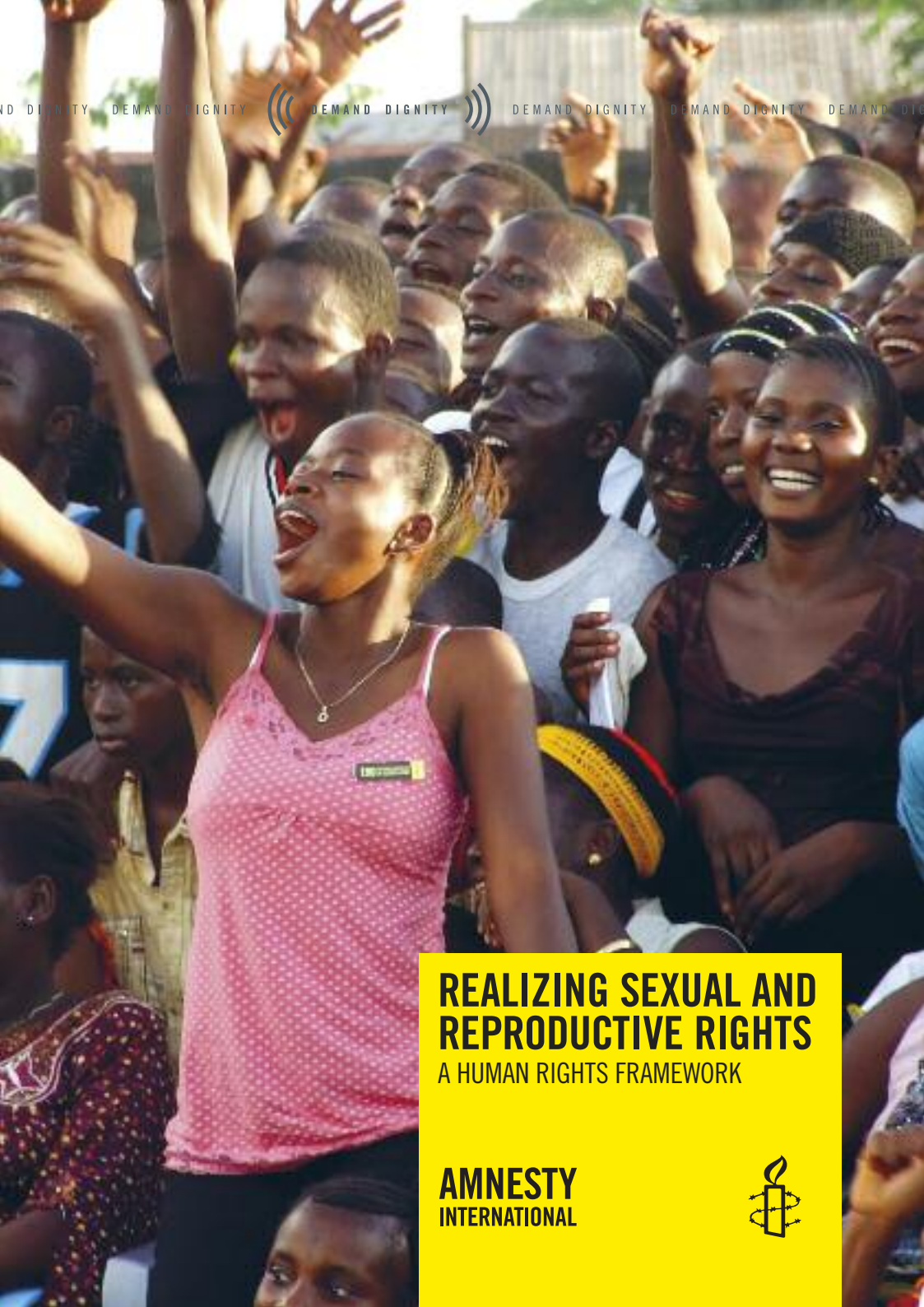

REALIZING SEXUAL AND REPRODUCTIVE RIGHTS

A HUMAN RIGHTS FRAMEWORK

AMNESTY INTERNATIONAL

REALIZING SEXUAL AND REPRODUCTIVE RIGHTS

A HUMAN RIGHTS FRAMEWORK

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A HUMAN RIGHTS FRAMEWORK

AMNESTY INTERNATIONAL

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Cover image: In 2009 Amnesty International launched a campaign across Sierra Leone on the issue of maternal mortality in the country, encouraging people to become active in demanding their rights and accountability from the authorities.

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CONTENTS

Women queuing outside a health centre in San Juan de Ccharhuacc in Huancavelica province in rural Peru, September 2008.

1/INTRODUCTION

"OUR AGENDA IS UNDERPINNED BY GENDER EQUALITY. ATTENTION TO THIS IS NOT A DISTRACTION OR SIDE ISSUE, BUT AN UNAVOIDABLE MEANS AND MECHANISM."

Professor Gita Sen, *Moving Beyond 2014: A Civil Society Stakeholder Meeting*, United Nations Population Fund (UNFPA), December 2011

Women's equality, their ability to make their own decisions freely and without coercion, is central to any effective population and development policy. More than 18 years since the world's governments adopted a landmark Programme of Action on population and development, it is clearer than ever that the autonomy of women and girls – to decide, free of coercion and violence, whether, when and with whom to be sexually active; whether and when to become pregnant and have children; and whether or not to marry – is fundamental to any effective progress.

"Liberty! Equality! Autonomy!"

Message on a placard carried by young women on the demonstration to mark the Day for the Decriminalization of Abortion in Latin America and the Caribbean, Nicaragua, September 2011

Women and girls all over the world are at the forefront of highlighting this crucial link. They are demanding that governments fulfil their commitments to protect the human rights of girls and women, whatever choices they may make about sexuality, pregnancy and motherhood. These human rights, set out in various international human rights treaties, were reaffirmed in 1994 at the International Conference on Population and Development (ICPD) in Cairo, Egypt. Leaders of 179 countries, representing all regions of the world, adopted by consensus a Programme of Action

which has helped transform the way in which population policies and programmes are formulated and implemented.

The Programme of Action moved the debate away from a narrow focus on demographic targets and family planning methods towards a more comprehensive approach to sexual and reproductive health. For the first time, member states of the UN recognized reproductive rights as human rights and declared that the principles of gender equality, equity and women's empowerment were crucial to effective population and development strategies.[1] The Programme of Action emphasizes the importance of ensuring that women and men are able to decide, individually or as a couple, whether, when, and how often to have children, and that they have all the necessary information and means to do so.[2]

KNOW YOUR RIGHTS

Everybody has sexual and reproductive rights. States have an obligation to ensure that everyone can freely, without fear, coercion or discrimination:

- Make decisions about her or his own health, body, sexual life and identity.
- Ask for and receive information about sex, contraception and related health services.
- Decide whether and when to have children.
- Choose whether or not to marry and what type of family to create.
- Have access to comprehensive and integrated sexual and reproductive health services. Nobody should be deprived of health care or information on the basis of who they are or what they can afford.
- Live free from rape and other violence, including forced pregnancy, abortion, sterilization or marriage, or female genital mutilation/cutting.

The Programme of Action adopted in Cairo in 1994 is divided into 16 chapters and includes measures focusing on reducing infant, child and maternal mortality; population and the environment; internal and international migration; preventing and controlling HIV/AIDS; information, education and communication; and technology, research and development.[3]

In the years since the Programme of Action was adopted, some important steps have been taken to realize the commitments it set out. However, it is painfully clear that progress has been uneven and slow[4] and that in relation to sexual and reproductive health specifically, it has been, at best, mixed. For example, while improvements in reproductive health services, such as antenatal care, have been reported, in other areas, notably safe abortion and comprehensive sexuality education, progress has been woefully inadequate.[5]

Sexual and reproductive health services desperately needed by women and girls are often not available because they are not seen as a priority by governments.[6] Even where governments have developed programmes and allocated resources to reproductive health, the impact has often been limited because they have not addressed the structural barriers that prevent women getting access to these services. In other words, positive initiatives have been undermined by the continued failure by governments to address underlying discrimination and inequality.

> *"The greatest difficulty I have is the distance between my house and the health post… I've got to walk up the mountain to go to my pregnancy check up… I can't move fast… my house is not near a road and I have to walk a lot".*
>
> Yolanda Solier Taipe, an Indigenous woman in Peru pregnant with her seventh child. She lives about an hour away from the nearest health post, on a track that cannot be used by cars. Amnesty International interview, Peru, 2009.

For example, health services are often concentrated in more affluent communities or in urban areas and women living in others areas have a

radically different experience in terms of getting the services they need.[7] Factors such as the prevalence of gender-based violence, including early or forced marriage, and lack of control over the use of family planning services are at least as important as the availability of health services in determining whether women and girls are able to safeguard their health and realize their sexual and reproductive rights.

The 20-year review of the implementation of the Programme of Action offers a key opportunity both to reaffirm the importance of this landmark document and to ensure a comprehensive and integrated approach to sexual and reproductive rights in the future. Reviews of individual countries, recommendations from regional consultations, studies and any outcomes of the 2014 review must focus on practical implementation measures that will ensure sexual and reproductive rights for all.

Significant gaps and political challenges will need to be addressed in the coming decade in order to implement the Programme of Action effectively and make it possible for a new generation of women, men, adolescents and young people to claim and realize their sexual and reproductive rights. Amnesty International believes that the full realization of human rights, including sexual and reproductive rights, is critical for the delivery of the Programme of Action, and must, therefore, be at the centre of these discussions.

This briefing sets out the link between human rights and the improvement of sexual and reproductive health and explains how the Programme of Action, if effectively implemented, would contribute both to the realization of human rights and to better development and population indicators. Drawing on Amnesty International's research, it highlights some of the gaps in and challenges to the implementation of the Programme of Action in relation to sexual and reproductive rights. The briefing ends with a series of recommendations to end exclusion, increase participation and accountability, and ensure sexual and reproductive rights as human rights.

KEY RECOMMENDATIONS

Amnesty International calls on states to ensure that:

- Population and development policies and programmes have an overarching focus on gender equality. Governments must take all necessary measures to address gender discrimination in law, policy and practice.

- Effective measures are taken to promote the empowerment of women and girls through the implementation of clear programmes and policies aimed at addressing gender equality and removing stereotypes.

- Sexual and reproductive rights are fully recognized as human rights in the development and implementation of policies and programmes.

- Laws, policies and other barriers to the realization of sexual and reproductive rights are removed.

- Everyone has access to quality, comprehensive, integrated sexual and reproductive health services, counselling, comprehensive sexuality education and information.

- Women and girls can participate effectively in setting priorities for, planning, implementing and monitoring programmes and policies related to sexual and reproductive rights.

- Everyone is able to use the law to enforce their sexual and reproductive rights and access remedies and redress for violations of these rights.

Women domestic workers demonstrate for their rights, Jogjakarta, Indonesia.

2/IMPLEMENTATION AND REVIEW

> "TO FULLY CARRY OUT THE CAIRO PROGRAMME OF ACTION MEANS PROVIDING WOMEN WITH REPRODUCTIVE HEALTH SERVICES, INCLUDING FAMILY PLANNING. IT MEANS BACKING POVERTY-ERADICATION INITIATIVES. AND IT MEANS PREVENTING RAPE DURING WARTIME AND ENDING THE CULTURE OF IMPUNITY".
>
> UN Secretary-General Ban Ki-moon, commemoration event on the occasion of the 15th anniversary of the ICPD

The ICPD is responsible for a fundamental change in the views and perceptions of policymakers around the world on how population policies and programmes should be formulated and implemented. It replaced a top-down approach based on demographic goals with one that seeks to respond to the needs of "couples and individuals".[8]

The two decades that followed the 1994 ICPD in Cairo have seen a surge in activity in the area of international development. The UN Millennium Development Goals and the Beijing Declaration and Platform for Action were two key landmarks in this process. In addition, international human rights mechanisms increasingly took up ICPD issues, giving guidance on human rights obligations in this area and highlighting violations of these rights by states.[9]

The UN also conducted mid-term reviews of the Programme of Action in 1999, 2005 and 2009. All these reviews acknowledged that while progress had been achieved in many areas, the ICPD agenda set out in the Programme of Action remained unfinished business. Despite the change of

emphasis and perspective set out at the Cairo ICPD, ministries of health, UN agencies and others have persisted in promoting and implementing narrow, top-down interventions (for example on HIV/AIDS, family planning and maternal health) and have ignored commitments to gender equality and equity. Such interventions, which prioritize some health issues, divert human and financial resources away from the treatment of other major causes of death and disability.

The last two decades have also seen a backlash against sexual and reproductive rights and gender equality at the international, regional and national level. Many states and non-state actors, often well-funded and supported by the state, have actively sought to limit and obstruct the realization of the commitments adopted by consensus at Cairo and to discredit the Programme of Action.[10]

ICPD+5

In June 1999, the UN General Assembly hosted a special review session on the ICPD. This was preceded by a series of meetings focusing on progress and challenges in the implementation of the Programme of Action since its adoption. The session identified Key Actions for the Further Implementation of the ICPD Programme of Action,[11] including new benchmark indicators of progress in four key areas: education and literacy,[12] reproductive health care and unmet need for contraception,[13] maternal mortality reduction,[14] and the prevention and control of HIV/AIDS.[15]

Civil society reviews highlighted that in many countries very little progress had been made in the first five years in the areas of sexual health, abortion, adolescents' health, and, in particular, sexual and reproductive rights.[16] Governments had neglected those issues that required a deeper institutional and cultural transformation, such as abortion.[17] The reviews also identified opposition by governments and non-state actors on grounds of culture and religion as an important obstacle to the full implementation of the Programme of Action.[18]

ICPD+10

In 2004, the mid-point of the 20-year Programme of Action, the UN Commission on Population and Development conducted a review. This reaffirmed the ICPD Programme of Action and Key Actions and reiterated that governments in every region should continue to commit themselves, at the highest political level, to achieving the ICPD goals and objectives.[19]

The 10-year review revealed that while some countries had made progress in some areas, major challenges to the full implementation remained. These included inadequate and declining resources for sexual and reproductive health, gender discrimination, ineffective approaches to tackling HIV/AIDS, and lack of appropriate data collection and analysis systems.[20] The review highlighted the need for a commitment to increase funding and address gaps if the Programme of Action was to be implemented effectively.[21]

ICPD+15

In 2009, the UN organized a number of technical meetings and consultations to review progress and identify gaps in realizing the ICPD Programme of Action. These again highlighted the slow and uneven progress made regarding sexual and reproductive health and the fact that these rights remained highly contested.[22] Many countries and civil society organizations stressed their concerns about the impact of the financial crisis on implementation at the national level because of budget constraints in developing countries and reduced development assistance from donor countries.[23]

ICPD+20 – THE HUMAN RIGHTS IMPERATIVE

The United Nations Population Fund (UNFPA) has been mandated by the UN General Assembly to undertake an operational review of the implementation of the ICPD Programme of Action.[24] The review will consist of a series of interrelated activities, including a global survey, country consultations,

regional consultations, thematic reports, in-depth studies and expert group meetings. It will form the basis of two reports – a comprehensive global report on the state of population and development, and a report of the UN Secretary-General which will distill the main messages of the global report – being prepared for the 47th session of the Commission on Population and Development and the UN General Assembly Special Session, both of which will take place in 2014.

Human rights standards must form the backbone of this review. For example, it is important to assess the level of access to services enjoyed by groups facing discrimination on grounds prohibited under international law, such as, for example, gender or ethnic origin. Such an analysis would require that data collected by states be disaggregated appropriately and that the key set of indicators include human rights considerations. For example, in order to arrive at a comprehensive picture, data must be included about the level of participation by individuals and groups from disadvantaged sectors of society in formulating health policies and their access to monitoring and accountability, as well as public health indicators.[25]

It is also important that the review is not a top-down, technocratic exercise, but rather a process in which different groups affected by the ICPD issues – particularly women and girls – can participate fully and meaningfully. This must involve providing opportunities for different groups to influence the outcome of the discussions at the national, regional and global level. It should also include training and capacity-building for relevant participants, including for civil society organizations, government officials and technical experts.

PROGRAMME OF ACTION – KEY HUMAN RIGHTS PRINCIPLES

■ All human beings are born free and equal in dignity and rights. Everyone has the right to life, liberty and security of person. (Principle 1)

■ Advancing gender equality and equity and the empowerment of women, and eliminating all forms of violence against women, are cornerstones of population and development-related programmes. (Principle 4)

■ Everyone has the right to enjoy the highest attainable standard of physical and mental health. All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so. (Principle 8)

■ Everyone has the right to education. Education should be designed to strengthen respect for human rights and fundamental freedoms. (Principle 10)

■ Every child has the right to an adequate standard of living, health and education and to be free from neglect, exploitation and abuse. (Principle 11)

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Just out of the operating theatre, Alima is left on the floor because there is no bed available for her. Yalgado Hospital, Ouagadougou, Burkina Faso.

3/AN UNFINISHED AGENDA

> **"WHILE SOME PROGRESS HAS BEEN MADE BY OUR COUNTRIES TOWARDS THE ACHIEVEMENT OF THE GOALS OF THE INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT, CHALLENGES REMAIN TO PUT CONCRETE MEASURES IN PLACE TO FULLY IMPLEMENT THE AGENDA".**
>
> Istanbul Statement of Commitment, Fifth International Parliamentarians' Conference on the Implementation of the ICPD Programme of Action, Istanbul, Turkey, 2012

Respect for sexual and reproductive rights is essential for human dignity and for the enjoyment of physical, emotional, mental and social well-being. However, discriminatory gender stereotypes and norms regarding sexuality and reproduction remain deeply embedded in state policies, laws and practices and in wider attitudes and practices in society.

The Programme of Action, the Key Actions for Further Implementation and various other documents reflect the ongoing consensus that there is a need for collective action by governments, UN agencies and others on the issue of sexual and reproductive rights.[26] However, the agenda set out remains unfinished in two key respects. Firstly, states have yet to fully implement the commitments they have undertaken. And secondly, some of the commitments set out in the Programme of Action fall short of international human rights standards and therefore need to be strengthened. Addressing these two crucial gaps is essential in order to ensure a new generation of women, men, adolescents and young people can claim and realize their sexual and reproductive rights.

GENDER EQUALITY, EQUITY AND NON-DISCRIMINATION

> *"Advancing gender equality and equity and the empowerment of women, and the elimination of all forms of violence against women, are… cornerstones of population and development-related programmes."*
> Principle 4, United Nations Population Division, Programme of Action, 1994

Under international human rights law, all states are required to ensure non-discrimination and gender equality. In order to fulfil these obligations, states need to address and eliminate discrimination in laws, policies and in practices, including the actions not only of agents of the state, but also of private organizations and individuals. They also need to take broader measures to address factors that cause or perpetuate discrimination, and ensure that men and women are truly able to enjoy their human rights equally. States, therefore, need to identify and address the reasons why certain groups of women are not able to exercise choice and control over decisions affecting their lives, or get the information or adequate and timely sexual and reproductive health services they need.[27]

The UN Convention on the Elimination of All Forms of Discrimination against Women calls on states to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."[28] Yet from the adolescent girls denied access to education about sexuality at school, to the women who cannot get access to contraception without their husband's consent, in every region of the world, women and girls are denied their sexual and reproductive rights simply because of their gender.

"Gender inequality has long been a problem… women don't have the right to make important decisions, even decisions that impact their own lives."

Dr Budiharja Moehamad Singgih, Director General Community Health, Ministry of Health, Indonesia, 2010

Far from challenging and eradicating discrimination, governments themselves often reinforce it, compelling people to conform to stereotypes and discriminatory norms regarding sexuality, sexual and other forms of partnership, reproduction and parenthood. This coercion takes many forms, including forcing women and girls who become pregnant as a result of rape to carry the pregnancy to term, as is the case in Nicaragua where the law criminalizes abortion in all circumstances.[29] Another example of such coercion is not permitting girls and women to make decisions about when and with whom they will have sex or whether they will marry. Consensual sexual relationships between men and women, if one of those involved is married, are criminalized in national law. In Aceh, the provincial legislature has passed bylaws governing the implementation of Shari'a law, making it an offence for unmarried adults to be together alone (*khalwat*); the punishment for this is caning.[30]

The lack of priority given to services that are needed by women, such as maternal health services, is in itself a form of discrimination. Even where governments have prioritized some of these services, the programmes do not look at those factors that make it difficult or impossible for women to get access to the services available. Even the best designed and resourced population or development programme will not succeed in improving people's lives if the legal and political commitments made by governments to ensure gender equality are not at the heart of the programme.

Programmes that are designed around enabling and supporting women to make choices are the ones that will lead to real change. Such programmes must involve providing women with the information they need to make informed choices, implementing measures to challenge discrimination both in the family and among those involved in providing, designing, delivering or

implementing services. There needs to be a real focus not only on increasing the availability of services, but also on removing the barriers women face in obtaining them.

MULTIPLE DISCRIMINATION

> *"Black women are often not taken seriously at health care facilities; our symptoms are ignored."*
>
> Shafia Monroe, President, International Center for Traditional Childbirth, Portalnd, Oregon, Amnesty International interview, 28 August 2008

Some groups of women, in addition to suffering from discrimination directed against them as women, also experience multiple forms of discrimination based on "race, ethnic or religious identity, disability, age, class, caste or other factors."[31] Multiple and intersecting discrimination presents serious obstacles to women in getting access to sexual and reproductive health services.[32] However, many countries fail to recognize the existence and impact of intersecting discrimination. As a result, the experiences and needs of women from marginalized communities are not integrated into national strategies to combat gender inequality and racial discrimination, further entrenching the discrimination and disadvantage they face.

One most invidious manifestations of intersecting discrimination is the large number of women around the world who die in pregnancy and childbirth – some 800 women a day.[33] For every woman who dies, another 20 endure lifelong suffering because of injury, infection, disease or disabilities due to pregnancy, childbirth or unsafe abortion.[34] An estimated 10 million women worldwide who survive their pregnancies experience injuries.[35]

Most maternal deaths and injuries are preventable – the health care interventions needed to save women's lives are well known. However, governments are not providing women with the information and services they need. Health care systems in many countries are often inaccessible to

women and girls living in poverty or from rural or Indigenous communities who do not have the money or transport to travel to health facilities. But access to health care services, though vital, is only part of the solution to reducing maternal mortality and morbidity. Any real solution has to address the root causes that stop women from making decisions about their own health and prevent them choosing whether or not they wish to get pregnant or how many children they want and when.

The Programme of Action highlights the large number of women dying in pregnancy and childbirth and calls on countries to achieve a significant reduction in maternal mortality by 2015. It also reflects the consensus among governments that safe motherhood is intrinsically linked to family planning and other reproductive health services.[36] Despite this apparent recognition that tackling root causes, including discrimination, is a key part of any effective strategy to reduce maternal mortality, governments have tended to pursue narrow health reforms that do not address underlying factors contributing to maternal deaths and injuries. Unless these structural human rights issues and related violations are addressed, the Programme of Action commitment, even if fulfilled, will be implemented in a way that masks unequal progress, discrimination and even retrogression.

Amnesty International's research on maternal health in Sierra Leone highlighted the link between the high levels of discrimination against women and girls and the high risk of pregnancy-related deaths and illnesses. For example, it shows how the failure of government to enforce the legal minimum age of marriage often results in girls as young as 10 being married. In these marriages, girls are often powerless to make decisions about their sexual and reproductive health and suffer from early pregnancies and a lack of access to education and information.[37]

In Northern Nigeria, Amnesty International found that laws that criminalize sex outside marriage expose women pregnant from a man not recognized as their husband to the risk of prosecution.[38] As a result of such laws, and the social attitudes they reflect and enshrine, some women are unable to seek the health care they need.

Governments must take urgent steps to address inequity and discrimination experienced by women and girls. To do this, they need to take measures such as monitoring and assessment on the basis of disaggregated data, policy assessment and review, and legal reform. Effective measures also require broader initiatives to eliminate attitudes and customary and other practices that are based on the unequal status of women.

COMPREHENSIVE, INTEGRATED SEXUAL AND REPRODUCTIVE HEALTH SERVICES

The Programme of Action defines comprehensive sexual and reproductive health services to include: gynaecological care; all forms of safe and effective contraception; safe abortion and post-abortion care; maternity care; and the prevention, timely diagnosis and treatment of sexually transmitted infections (including HIV); breast and reproductive cancers; and infertility. These services should be integrated, one-stop services tailored to women's needs throughout their life cycle, with effective referral.[39] Importantly, the Programme of Action unequivocally recognizes that population targets and quotas should not condition whether and how services are delivered and that no one should be coerced in any way regarding their sexuality and reproductive lives.[40]

Sexual and reproductive health services must be provided with attention to quality of care and with full recognition of human rights. Selective approaches – for instance, those that include prevention of unwanted pregnancy but do not address unsafe abortions – violate human rights and lead to detrimental outcomes in terms of an individual's health and decision-making power and autonomy. Equally, approaches that exclude some groups – for instance, girls and young women, those who are unmarried, or lesbian, gay, bisexual or transgender people – violate human rights.[41]

There is clear evidence that integrating sexual and reproductive health services improves women's health by encouraging greater use of these services.[42] Family planning and maternal and child health services, for instance, should be integrated: women will need both at different moments

in their reproductive lives.[43] Decision about when and where to offer specific services as part of an integrated package, and to whom, must be based on scientific evidence. They must take into account the needs for prevention and treatment that have been identified and allocate resources in accordance with established priorities.[44]

Equitable access to quality, comprehensive, integrated sexual and reproductive health services, counselling, and information still eludes many women and girls around the world. Contrary to clear public health evidence and human rights obligations, governments, UN agencies and others continue to push for and put into effect narrow, selective, top-down programmes. As a result, government programmes have focused primarily on achieving targets and goals rather than on strengthening health systems and addressing the sexual and reproductive health needs of women and girls. Experiences across the world show that pushing this narrow vision can result in serious violations of women's rights. The imposition of coercive family planning measures such as forced sterilization is one such example of a violation of women's rights.[45]

Even where laws and policies are focused on improving public health outcomes, such as reducing maternal mortality, many either ignore or do not address adequately issues that are considered politically or culturally sensitive, such as contraception and safe abortion services. This often results in violations of women's human rights and ineffective laws and policies. In Indonesia, for instance, both the Population and Family Development Law (No.52/2009) and the Health Law (No.36/2009) provide that access to sexual and reproductive health services may only be given to legally married couples.[46]

> *"[It] is very taboo for an unmarried person to look for contraceptives… S/he will be seen as looking for free sex."*
> A human rights activist, Indonesia, March 2010

Governments must take urgent steps to ensure universal access to quality, comprehensive, integrated sexual and reproductive health services,

counselling, and information for women and adolescent girls. They must also ensure that these services are provided without coercion, with attention to quality of care, with respect for rights, and in accordance with the ICPD Programme of Action.

BARRIERS TO SEXUAL AND REPRODUCTIVE HEALTH SERVICES

> *"Gender inequality in health care is significant and pervasive. Women in Sierra Leone have unequal access to basic health services and unequal opportunities for the protection, promotion, and maintenance of health."*
> Shadow Report on Sierra Leone to the CEDAW Committee, 38th Session, 2007

The Programme of Action recognizes that governments should: "make it easier for couples and individuals to take responsibility for their own reproductive health by removing unnecessary legal, medical, clinical and regulatory barriers".[47] This has also been reaffirmed in various other documents, most recently in the UN Secretary-General's Global Strategy on Women's and Children's Health. This calls on governments and policy makers to:

> *"Introduce or amend legislation and policies in line with the principles of human rights, linking women's and children's healthy to other areas (diseases, education, water and sanitation, poverty, nutrition, gender equity and empowerment)".*[48]

However, women and girls in many countries continue to face multiple barriers to realizing their sexual and reproductive rights. These range from legal and statutory barriers, to social, cultural, economic and structural obstacles. For example, in Peru, Amnesty International's research in 2009 showed that women living in poverty or in rural or Indigenous communities face particular barriers in accessing sexual and reproductive health care.

Some often have limited access to health care generally, and to free health services in particular, because they do not have identity documents or lack information. Language barriers and the discriminatory attitudes of some health professionals pose further obstacles for Indigenous women in getting the services they need and are entitled to.[49]

In Burkina Faso, Amnesty International found that the availability of and access to sexual and reproductive health services remained very limited, especially in rural areas. Despite government policies to address this, women continued to face multiple social, cultural and structural barriers in their attempts to access these services, resulting in high numbers of early, mistimed and unwanted pregnancies.[50] Faced with unwanted pregnancies many women, especially unmarried girls, resort to life-threatening unsafe, clandestine abortions.[51]

Barriers to services often reflect disparities between different groups in society and affect sexual and reproductive health in developed, as well as developing countries. For example, Amnesty International's research in the USA in 2010 highlighted widespread and entrenched discrimination in access to maternal health services. Despite the huge amounts of money spent on maternal health, women, particularly those on low incomes, continue to face a range of legal, social, cultural, economic and other barriers in obtaining the services they need.[52]

Overall lack of resources is sometimes cited as a reason for this failure. However, in many countries, it is not lack of resources but the failure to prioritize sexual and reproductive health and distribute services equitably that is often the problem. Unless governments take urgent steps to remove these barriers, sexual and reproductive rights will remain an empty promise for millions of women and girls.

ABORTION AND CRIMINALIZATION

The Programme of Action recognizes that reproductive health services should include abortion and the management of the consequences of abortion.[53] It urges governments and others "to strengthen their commitment to women's health, to deal with the health impact of unsafe abortion as a major public health concern and to reduce the recourse to abortion through expanded and improved family-planning services". It also states that: "In circumstances where abortion is not against the law, such abortion should be safe."[54]

This text, the result of arduous negotiations, was a compromise and falls short of international human rights standards. Human rights standards require governments to review laws that contain punitive measures against women who have undergone illegal abortions.[55] These standards also require governments to provide safe and legal abortions at least in cases where a woman becomes pregnant as the result of rape, sexual assault or incest, or where a pregnancy poses a risk to a woman's life or health. However, many governments have persistently failed to fulfil this obligation.

> *"I had a friend who was pregnant when she was in "kelas 2" [grade of senior high school]… she tried to have an abortion with out of date medication when she was 40 days pregnant but it didn't work… in the end the baby was born with complications… Now her child… cannot walk properly or speak normally."*
>
> Detty, 18-year-old domestic worker, Indonesia, 2010

The ICPD recognizes that comprehensive sexual and reproductive health services include women's access to safe abortion services and post-abortion care. The World Health Organization has noted that: "the more restrictive legislation on abortion [is], the more likely abortion [is] to be unsafe and to result in death."[56] In spite of this clear warning, governments have continued to impose restrictions on women's access to safe abortion services; in some cases they have imposed a complete ban on all abortions in all circumstances.

In Nicaragua, all abortion, including for survivors of rape and incest, has been criminalized under legislation that came into effect in 2008. Under this law, rape survivors must either carry the pregnancy to term, or seek an unsafe, illegal abortion and risk possible imprisonment if they are discovered. The overwhelming majority of girls pregnant as a result of rape or incest in Nicaragua are young – aged between 10 and 14. The law is denying these girls their human rights and putting their health and lives at risk from unsafe, clandestine abortion or pregnancy and childbirth at an early age. The law also puts health professionals who cause unintended harm to a foetus, including in the course of providing life-saving treatment to a woman, at risk of a prison sentence. Women and girls who have suffered a miscarriage may also face punishment.[57]

> *"And what about the girls who are pregnant because of rape, and who live in poverty? They have no other [legal] choice but to give birth."*
>
> Health worker at a centre providing psychosocial support for survivors of sexual violence, interviewed by Amnesty International, Nicaragua, October 2008

In his recent report, the UN Special Rapporteur on the right to health examined the impact of laws that criminalize or put other restrictions on abortion; on conduct during pregnancy; on contraception and family planning; and on the provision of sexual and reproductive education and information. He noted that such restrictions are often discriminatory in nature and violate the right to health by restricting access to quality goods, services and information.[58] The Special Rapporteur also emphasized that: "the application of such laws as a means to achieving certain public health outcomes is often ineffective and disproportionate."[59]

Governments around the world have committed themselves to reducing maternal mortality by 75 per cent by 2015 and to ensuring universal access to reproductive health.[60] Criminalization of abortion runs contrary to these efforts.

Governments must, therefore, take urgent steps to review and amend all laws that have the purpose or effect of imposing punitive sanctions on

women and girls for having an abortion. They must also ensure women and girls have information about and access to safe and legal abortion services, and train health workers in safe abortion and post-abortion care.

COMPREHENSIVE SEXUALITY EDUCATION

The UN Commission on Population and Development has repeatedly recognized the responsibility of governments to: "provide young people with comprehensive education on human sexuality, on sexual and reproductive health, on gender equality and on how to deal positively and responsibly with their sexuality."[61]

Programmes that empower women, particularly adolescent girls and young women, by encouraging them to know their bodies and to exercise their rights, however, remain extremely rare.[62] According to UN estimates, the vast majority of adolescents and young people still do not have access to the comprehensive sexual and reproductive health services and education on sexuality that they need for a healthy life.[63]

Evidence has shown that providing young people with comprehensive sexuality education[64] – that is, scientifically accurate and rights-based information about sexuality and reproductive health appropriate to their age – is effective in improving their health.[65] However, far too few young people are receiving adequate preparation. This leaves them vulnerable to coercion, abuse, exploitation, unintended pregnancy and sexually transmitted infections, including HIV.[66] The 2008 UNAIDS *Report on the Global AIDS Epidemic* reported that among young people aged between 15 and 24 – a group that accounts for 45 per cent of all new HIV infections – only 40 per cent had accurate knowledge about HIV transmission.[67]

In some countries, governments use criminal laws and other punitive measures to control access to education and information about sexuality. Amnesty International's research in Indonesia highlighted how laws that contain provisions that criminalize supplying information about the prevention and interruption of pregnancy make it extremely difficult for

adolescent girls to get the education and information about sexual and reproductive health they need.[68]

At the 45th Session of the UN Commission on Population and Development, UN member states agreed to a set of actions to promote young people's sexual and reproductive health and rights. They agreed, among other things, to "give full attention to meeting the reproductive health service, information and education needs of young people with full respect for their privacy and confidentiality, free of discrimination, and to provide them with evidence-based comprehensive education on human sexuality, on sexual and reproductive health, human rights and gender equality, to enable them to deal in a positive and responsible way with their sexuality".[69] Governments must move urgently to fulfil this commitment and ensure that adolescents and young people have access to evidence-based, comprehensive sexuality education.

SEXUAL AND REPRODUCTIVE RIGHTS ARE HUMAN RIGHTS

> *"Reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the rights to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents."*
>
> ICPD Programme of Action, paragraph 7.3

The Programme of Action sets out the sexual and reproductive rights that arise from a number of other human rights, such as the rights to health and non-discrimination. The ICPD, therefore, does not create new international

human rights, but rather affirms that universally recognized human rights standards must be observed in all aspects of population and development programmes.

However, the promotion and protection of reproductive rights as human rights and international recognition of sexual rights as human rights, remain a largely unfinished agenda. Some remarkable progress has been made at the national, regional and international levels.[70] However, the last 20 years have often seen an intense backlash from governments and non-state actors.[71]

In Indonesia, for example Amnesty International found that even in life-threatening situations women were not allowed access to legal abortion services unless they had a husband and he consented.[72] In Burkina Faso, Amnesty International collected numerous testimonies of women who were denied the right to decide on contraceptive use. In many cases husbands and male relatives opposed the use of contraceptives and criticized medical professionals for providing contraceptive products and advice to their wives.[73]

> *"After seven pregnancies and five live children, I told my husband that I wanted to use contraceptive methods but my husband refused and told me that if I did this, I should return to my mother's home. I therefore had to obey him."*
>
> Amnesty International interview with a woman in Ouagadougou, Burkina Faso, March 2009

Full recognition and implementation of sexual and reproductive rights, through laws, policies and programmes, is urgently needed to ensure that women, adolescents and young people are able to exercise their right to sexual and reproductive health.

SEXUAL RIGHTS

Sexual rights embrace human rights recognized in national laws and international human rights standards. They include the right of all people, free of coercion, discrimination and violence, to:

- the highest attainable standard of sexual health, including access to sexual and reproductive health care services
- seek, receive and impart information related to sexuality
- education on sexuality
- respect for bodily integrity
- choose their partner
- decide to be sexually active or not
- consensual sexual relations
- consensual marriage
- decide whether and when to have children
- pursue a satisfying, safe and pleasurable sexual life.

> *"Human sexuality and gender relations are closely interrelated and together affect the ability of men and women to achieve and maintain sexual health and manage their reproductive lives".*
> ICPD Programme of Action, paragraph 7.34

The Programme of Action includes important references to sexuality and gender and their relationship to each other. It also recognizes that gender-based sexual violence and efforts to control women's sexuality affect both women's health and their status in society.[74] Another important feature of the Programme of Action is its recognition that reproductive health includes a satisfying and safe sex life and that sexual health involves "the enhancement of life and personal relations, and not merely disease prevention".[75] However, the Programme of Action did not explicitly

recognize sexual rights, including the right to diversity of sexual expression and orientation.[76] The 1995 Beijing Declaration and Platform for Action sought to address this gap.[77]

> *"The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence. Equal relationships between women and men in matters of sexual relations and reproduction, including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behaviour and its consequences.*
>
> Beijing Platform for Action, paragraph 96

This position was, however, strongly contested and five years later, despite intense campaigning by women's health and human rights groups, attempts to include "sexual rights" and "sexual orientation" in the Further Actions and Initiatives for Beijing+5 failed.[78] This has since been repeated in other documents and resolutions at the international level.[79] At the national level, protection in law and practice of sexual rights continues to be problematic.

The UN Committee on the Elimination of Discrimination against Women has expressed concern about lesbian, bisexual, transgender and intersex women as "victims of abuses and mistreatment by health service providers."[80] Homophobic, sexist and transphobic practices and attitudes on the part of health care institutions and personnel in some cases deter lesbian, gay, bisexual, transgender and intersex people from seeking services. This, in turn, has a negative impact on efforts to tackle health concerns, including HIV/AIDS.[81]

Amnesty International has documented police brutality against lesbian, bisexual and transgender women in many countries. In the USA, as elsewhere, violence against these women is part of a spectrum of violence against women who depart from accepted codes of sexual behaviour and gender presentation. Amnesty International's research has shown that

discrimination on the basis of sexual orientation and gender identity means that lesbian, bisexual and transgender women are often blamed for the violence targeted at them. The violence is seen by perpetrators and many law enforcement officials as a "punishment" for their failure to conform to social conventions.[82]

> *"They just think that I did it to myself… I think they're saying that, because I choose to look like this I deserve it or something. It's as if – if I want to look like a guy, I should get beat up like a guy."*
>
> Amnesty International Interview with a lesbian woman who was attacked by four men who slashed her with razor blades, USA, 2005

Access to education may also be affected when girls are denied the right to freely determine their gender identity or sexual orientation. In 2006, 12 young women students were expelled from a college in Cameroon after being suspected of lesbianism. Three of the students and a friend, a young woman football player, were released after a court in Douala sentenced them to a three-year suspended prison sentence and a fine. The court ordered that they be imprisoned for six months if they were found to have engaged in "homosexual acts".[83]

Sexual and reproductive health information and services continue to be geared towards the experience and needs of those conforming to set gender roles. Harassment, exclusion, discrimination and other abuse of patients by health personnel because of their real or perceived sexual orientation or identity remain a serious concern in many countries, reflecting the failure to recognize diverse sexual orientations and gender identities in the sexual and reproductive health information and services provided.[84]

PARTICIPATION

> *"The full and equal participation of women in civil, cultural, economic, political and social life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex, are priority objectives of the international community."*
>
> Principle 4, United Nations Population Division, Programme of Action, 1994[85]

Under international human rights standards, governments have an obligation to ensure the right of individuals to active, informed participation in decision-making that affects them, including on matters related to their health.[86] The Programme of Action reaffirms this right in relation to sexual and reproductive health and the need to involve those directly affected, including those excluded as a result of discrimination, coercion or violence, in developing laws, policies and practices.

The UN Committee on the Elimination of All Forms of Discrimination against Women has noted that, in general, the participation of women in government at the policy level continues to be low. Although significant progress has been made in some countries, in many others women's participation has actually declined.[87] The Convention on the Elimination of All Forms of Discrimination against Women requires state parties to ensure that women have the right to participate fully and be represented in public policy formulation in all sectors and at all levels (Article 7(b)).[88]

Women's participation in policy-making helps ensure that a gender perspective is fully integrated into public policy and there is increasing evidence that where such participation is guaranteed, the health system is more responsive to the needs of women. For example, in Nepal, a controlled trial of a community-based participatory intervention in rural areas showed that women who had participated in the trial were more likely than those who had not to have had antenatal care; to have given birth in a health facility, with a trained attendant or a government health worker present; and to have used a clean home delivery kit or a boiled blade to cut the umbilical cord.[89]

REMEDIES AND ACCOUNTABILITY

"I have countless questions that will probably never get the answers to."

Joseph LaGrew, husband of Trudy LaGrew who died following complications of childbirth, three and a half months after giving birth, Amnesty International interview, USA, 2009

Accountability and access to effective remedies for violations of sexual and reproductive rights are often lacking. For example, in many countries, there are no effective structures to file complaints when sexual and reproductive health information and services are denied. Where such structures do exist, those at particular risk of having their rights denied do not have the necessary information and financial resources to file a complaint.

All victims of human rights violations have a right to an effective remedy and to reparations.[90] These are central to the promotion and protection of human rights and providing them is a key part of the state's responsibility to ensure human rights.[91] According to the UN Committee on Economic, Social and Cultural Rights, any victim of a violation of the right to health should have access to effective judicial or other appropriate remedies at both national and international levels.[92] The Committee has also stated that national ombudsmen, human rights commissions, consumer forums, patients' rights associations or similar institutions should address violations of the right to health.[93]

A remedy can be provided by a court or another institution that acts on complaints. To be effective, all remedies must be accessible, affordable and timely. Reparations should, as far as possible, correct the consequences of the violation and should include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.[94]

Monitoring and accountability in the context of sexual and reproductive health are seriously compromised by significant gaps in data, both at the

national and international levels. There are particular gaps in information around issues that are considered sensitive, or that carry social stigma, or that are treated as criminal offences, such as access to abortion information and services in countries where abortion is illegal. There is an urgent need to collect statistics and data not just on health interventions, but also on other sexual and reproductive health issues such as sexual violence, female genital mutilation/cutting and early marriage. Such information is crucial if governments are to assess accurately the extent to which rights are being denied and target interventions accordingly. Disaggregating data helps ensure that discrimination and exclusion are not masked in national statistics. It can also help:

- reveal the different needs and entitlements of specific groups – for instance, adolescents and young people – and assess whether these are met and what further legal and policy measures are needed to respect, protect and fulfil human rights;
- establish the need for specific temporary special measures on behalf of certain groups,[95] for instance those for whom historically the experience of state violence and coercion in relation to reproductive health care amounts to an obstacle to accessing health information and services;[96]
- increase accountability at the national level for the provision of services.

It is important to stress that data collection must respect confidentiality in order to ensure that it does not reinforce discrimination, for instance against lesbian, gay, bisexual and transgender people.

Global processes like ICPD+20 must lead to true accountability, including a framework for tracking progress on implementation. Such accountability must not be limited to a data-driven monitoring of indicators, but must include human rights accountability, including access to remedies for individuals whose sexual and reproductive rights are violated. Although progress has been made in understanding technical interventions, awareness of human rights aspects of the rights to sexual and reproductive health remains very limited. This undervalues the accountability and participation forums and mechanisms that should play a crucial role in addressing the reasons why women and girls do not have access to

information and services or are denied decision-making power and autonomy. Women and girls must be able to hold their governments to account for violations of human rights.

Girls in Managua, Nicaragua, demonstrate on the Day for Decriminalization of Abortion in Latin America and the Caribbean, 28 September 2011. Their banner says: "Motherhood: only if I am willing, only if I can".

4/HUMAN RIGHTS – A FRAMEWORK FOR PROGRESS

> "OUR VISION IS… THAT EVERY PERSON HAS THE RIGHT TO SEXUAL AND REPRODUCTIVE HEALTH, EVERY PREGNANCY IS WANTED, EVERY BIRTH IS SAFE, EVERY YOUNG PERSON HAS THE EDUCATION AND SERVICES TO GROW UP HEALTHY, EVERY GIRL IS TREATED WITH DIGNITY AND RESPECT, AND VIOLENCE AGAINST WOMEN SHOULD AND CAN END."
>
> Dr Babatunde Osotimehin, Executive Director of UNFPA

Sexual and reproductive health policies, programmes and strategies must be based on gender equality and human rights. They must ensure that everyone can exercise their rights to sexual and reproductive health, free from discrimination, violence and coercion. These rights must be protected by law and, in particular, national legislation should not infringe on these rights by imposing barriers to individuals' exercise of their sexual and reproductive rights.

The review and appraisal of the Programme of Action is an opportunity to assess past achievements, address continuing challenges and develop a credible framework for tracking future progress. Amnesty International calls on all governments to reaffirm their commitment to respect, protect and fulfil human rights as expressed in international human rights instruments. Governments and UN agencies should ensure that the country and regional level reviews provide a comprehensive picture of the extent to which these

obligations are fulfilled and concrete measures to address gaps in implementation.

Amnesty International urges all governments and other relevant actors to implement the following recommendations as a matter or urgency.

Include the excluded

- States should ensure that their efforts to implement the Programme of Action are inclusive, that they are aimed at ending discrimination and guaranteeing gender equality, and that they prioritize the most disadvantaged groups. This requires governments to:

- Adopt effective measures to end all forms of discrimination against women, including lesbian, bisexual and transgender women, and to promote the empowerment of women through implementation of clear programmes and policies aimed at addressing gender equality and removing stereotypes.

- Abolish all laws and policies that have the effect or purpose of impairing or nullifying women's equality before the law on the grounds of their gender, sexual orientation, gender identity, race, age, language, ethnicity, Indigenous identity, culture, religion, or disability. In particular, abolish all laws and policies that impair or nullify women's equality within the family or undermine the rights of women who experience gender-based violence.

- Collect data on the realization of sexual and reproductive rights that is disaggregated on the basis of gender and for other groups identified as facing discrimination. This data should inform the design and evaluation of all programmes related to the Programme of Action.

- Review the allocation of resources for sexual and reproductive health, including those available through international assistance, in order to ensure that they are consistent with prioritizing disadvantaged groups.

Ensure protection of sexual and reproductive rights as human rights

■ Governments should ensure full recognition and implementation, through policies and programmes, of existing and emerging legal standards. This requires the government to:

■ Take concrete legal, policy and other measures to ensure that women and girls are empowered to make free and informed decisions regarding their sexuality and reproductive lives.

■ Implement programmes to ensure all individuals, particularly women and girls, know their bodies and are able to exercise their sexual and reproductive rights especially through comprehensive sexuality education.

■ Review and amend laws, policies and guidelines that impose punitive sanctions for the exercise of sexual and reproductive rights.

■ Implement a national time-bound strategy to ensure universal access to quality, comprehensive and integrated sexual and reproductive health services, counselling, and information for women and adolescent girls in all their diversity, with respect for their human rights and an emphasis on equity.

■ Ensure that all government bodies, the legislature and the judiciary are aware of, and have an institutional commitment to comply with, international human rights standards on sexual and reproductive rights, including by providing training for members of the legislature and judiciary on sexual and reproductive rights.

■ Ensure that the ICPD+20 review includes an assessment of the implementation of recommendations by international human rights monitoring bodies in relation to governments obligations with regard to sexual and reproductive health and rights.

Redress the accountability deficit

■ Governments should ensure that people are able to use the law to enforce their sexual and reproductive rights and access remedies for all violations of these rights. This requires the government to:

■ Remove law, policy and other barriers that prevent women and girls accessing justice and effective remedies.

■ Mandate national human rights monitoring bodies as well as quasi-judicial regulatory bodies to monitor violations of sexual and reproductive rights and act on complaints, and ensure they have the capacity to do so effectively.

■ Increase monitoring and oversight by parliamentary bodies of efforts to implement the Programme of Action, in particular to ensure that they are consistent with sexual and reproductive health rights.

■ Commit to increased scrutiny of the implementation of sexual and reproductive rights by ratifying optional protocols of human rights treaties that provide access to complaint mechanisms, in particular those relating to the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination of All Forms of Discrimination against Women.

Ensure participation

■ Governments must provide opportunities for participation. Particular attention should be given to enabling women and girls to participate in priority setting, planning, implementation and monitoring in relation to programmes and policies connected to sexual and reproductive rights. This requires governments to:

■ Ensure that information on efforts to implement the Programme of Action, both existing and planned, is available in an accessible format.

- Provide opportunities for the equal and meaningful participation of all individuals affected by particular programmes, particularly women and girls, in priority setting, planning, implementation and monitoring.

- Provide opportunities for the meaningful participation of women and girls in the ICPD review processes at the country, regional and international level.

- Respect the rights to freedom of expression, information, assembly and association so that people are able to participate in efforts to implement the Programme of Action and hold governments accountable.

Launch of Amnesty International's campaign to stop maternal mortality in Sierra Leone, 23 September 2009.

ENDNOTES

1 Adrienne Germain and Rachel Kyte, *The Cairo Consensus: The Right Agenda for the Right Time*, International Women's Health Coalition, New York, 1995.

2 United Nations Population Division, Department of Economic and Social Affairs, Report of the International Conference on Population and Development, A/Conf.171/13, 18 October 1994, Annex, Programme of Action, Principle 8.

3 United Nations Population Division, Programme of Action, chapters III-XV.

4 Istanbul Statement of Commitment, *Keeping Promises – Measuring Results*, Istanbul, 2012, available at http://www.ipci2012.org/en/1/what-is-ipci?/ (accessed May 2012).

5 Gita Sen, *Status of the ICPD Agenda: the Present*, Fifth International Parliamentarians' Conference on the Implementation of the ICPD Programme of Action, Istanbul, May 2012.

6 For example: Amnesty International, *The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized* (Index: AMR 43/001/2009); Amnesty International, *Left without a choice: Barriers to reproductive health in Indonesia* (Index: ASA 21/013/2010).

7 Amnesty International, *Deadly inequalities: Maternal mortality in Peru* (Index: AMR 46/002/2009).

8 Jyoti Shankar Singh, *Creating a New Consensus on Population*, Earthscan, 2009, p.1.

9 See for example, UN Human Rights Council, Preventable Maternal Mortality and Morbidity and Human Rights, Res. 11/8, 2009; UN Committee on the Elimination of Discrimination against Women, General Recommendation No.24, 20th Session, 1999; and UN General Assembly, Report of the UN Special Rapporteur on the right to health, A/66/254.

10 Women for Women's Human Rights, Analysis of 56th Session of the UN Commission on Status of Women, New York, 2012; IWHC/DAWN/AI/RESURJ, Analysis of the 45th Session of the UN Commission on Population and Development, New York, 2012. See also, for example, UN Human Rights Council, Report of the UN Special Rapporteur on the right to health on Mission to Poland, A/HRC/14/20/Add.3; and Amnesty International, *Nicaragua: Not even when her life is at stake* (Index: AMR 43/004/2009).

11 UNFPA, Key Actions for the Further Implementation of the Programme of Action of the ICPD – ICPD +5, available at: http://www.unfpa.org/public/home/sitemap/icpd/International-Conference-on-Population-and-Development/ICPD5-key-actions (accessed May 2012).

12 UNFPA, Key Actions, paras 34 and 35(a).

13 UNFPA, Key Actions, paras 53 and 58.

14 UNFPA, Key Actions, para. 64.

15 UNFPA, Key Actions, para. 70.

16 Sonia Correa, *First Words*, available at http://www.dawnnet.org/resources-books.php?id=85 (accessed May 2012).

17 Sonia Correa, *First Words*, p.3

18 Sonia Correa, *First Words*, p.4.

19 UNFPA, *ICPD at 10: The World Affirms Cairo*, UNFPA, New York, 2004.

20 UNFPA, *ICPD at 10*, 2004. See also Canadian's for Choice, *Tenth Anniversary of the Cairo Agenda*, Fall 2004.

21 Canadian's for Choice, Tenth Anniversary of the Cairo Agenda, Fall 2004.

22 Angela Collet, *Advocating for Full Sexual and Reproductive Health and Rights: Still an Uphill Battle*, DAWN, October 2009.

23 UNFPA, *Looking Back and Moving Forward*, UNFPA, New York, 2009.

24 UN General Assembly Resolution 65/234, 2010.

25 UN Special Rapporteur on the right to health, Report to the Commission on Human Rights, UN Doc. E/CN.4/2006/48, p.13.

26 Gita Sen, *Status of the ICPD Agenda: the Present*, May 2012.

27 UN Office of the High Commissioner on Human Rights, Report on Preventable Maternal Mortality and Morbidity and Human Rights, A/HRC/14/39, 2010, para. 21.

28 UN Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979.

29 Amnesty International, *The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized* (Index: AMR 43/001/2009).

30 Amnesty International, *Left without a choice: Barriers to reproductive health in Indonesia* (Index: ASA 21/013/2010).

31 Committee on the Elimination of Violence against Women (CEDAW Committee), General Recommendation No. 25, supra note 12, para. 12. See also Committee on Economic Social and Cultural Rights (CESCR), General Comment 16, (34th Session, 2005), UN Doc E/C.12/2005/4, para. 3.

32 Amnesty International, *Deadly inequalities: Maternal mortality in Peru* (Index: AMR 46/002/2009).

33 World Health Organization (WHO), Trends in maternal mortality 1990-2010: estimates developed by WHO, UNICEF, UNFPA and the World Bank. Geneva, WHO, 2011.

34 United Nations Population Fund, 2008.

35 UNICEF, *A Report Card on Maternal Mortality*, 2008.

36 United Nations Population Division, Programme of Action, para. 8.26.

37 Amnesty International, *Out of reach – The cost of maternal health in Sierra Leone*, p. 10, (Index: AFR 51/005/2009).

38 Amnesty International, *The Death Penalty and Women under the Nigeria Penal Systems* (Index: AFR 44/001/2004).

39 For the full range of sexual and reproductive health services recognized under the Programme of Action, see United Nations Population Division, Programme of Action, para. 7.6.

40 Jyoti Shankar Singh, *Creating a New Consensus on Population*, Earthscan, 2009, p.73.

41 Amnesty International, *Out of reach: The cost of maternal health in Sierra Leone* (Index: AFR 51/005/2009); Amnesty International, *The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized* (Index: AMR 43/001/2009); Amnesty International, *Left without a choice: Barriers to reproductive health in Indonesia* (Index: ASA 21/013/2010); Amnesty International, *"I am at the lowest end of all": Rural women living with HIV face human rights abuses in South Africa* (Index: AFR 53/001/2008).

42 G. Schierhout, S. Fonn, "The integration of primary health care services: a systematic literature review", Durban: Health Systems Trust, May 1999.

43 Marge Berer, "Editorial: Integration of Sexual and Reproductive Health Services: A Health Sector Priority", *Reproductive Health Matters* 2003; 11(21): 6-15, p.7.

44 Marge Berer, "Editorial: Integration of Sexual and Reproductive Health Services: A Health Sector Priority", p.7.

45 *Observer*, "UK Aid Helps to Fund Forced Sterlisation of India's Poor", 16 April 2012, available at http://www.guardian.co.uk/world/2012/apr/15/uk-aid-forced-sterilisation-india?fb=native&CMP=FBCNETTXT9038 (accessed May 2012).

46 Amnesty International, *Left without a choice: Barriers to reproductive health in Indonesia* (Index: ASA 21/013/2010), p.23.

47 United Nations Population Division, Programme of Action, para. 7.20.

48 UN Secretary-General, Global Strategy on Women's and Children's Health, 2010, call to action, p.216.

49 Amnesty International, *Deadly inequalities: Maternal mortality in Peru* (Index: AMR 46/002/2009).

50 Amnesty International, *Giving life, risking death: Maternal mortality in Burkina Faso* (Index: AFR 60/001/2009).

51 Amnesty International, *Giving life, risking death: Maternal mortality in Burkina Faso* (Index: AFR 60/001/2009), p. 26.

52 Amnesty International, *Deadly Delivery: The Maternal Health Care Crisis in the USA* (Index: AMR 51/007/2010).

53 United Nations Population Division, Programme of Action, para. 7.6.

54 United Nations Population Division, Programme of Action, para. 8.25.

55 Beijing Declaration and Platform of Action, 1995, available at http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf (accessed May 2012).

56 UN Committee on Economic Social and Cultural Rights, Day of General Discussion on the Right to Sexual and Reproductive Health, 26 November 2010, comments by WHO, para. 55.

57 Amnesty International, *The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized* (Index: AMR 43/001/2009).

58 Report of the UN Special Rapporteur on the right to health, 2011, A/66/254, summary.

59 Report of the UN Special Rapporteur on the right to health, 2011, A/66/254, summary.

60 Millennium Development Goals, Goal 5.

61 Commission on Population and Development, Report of the Commission on its 43rd Session, E/CN.9/2010/9, para. 12.

62 Gita Sen, *Status of the ICPD Agenda: the Present*, May 2012.

63 Commission on Population and

Development, UN Secretary-General Report to the Commission on Population and Development, 2012, E/CN.9/2012/5.

64 Comprehensive sexuality education is defined as age-appropriate and medically accurate information about sexuality and reproductive health. It includes education and counselling for adolescents and young people on gender relations and equality, violence against adolescents, responsible sexual behaviour, responsible family planning practices, family life, reproductive health, sexually transmitted diseases, HIV infection and AIDS prevention (Programme of Action, para. 7.47). Comprehensive sexuality education must be rights-based, age appropriate, and medically accurate.

65 UNESCO, *International Technical Guidance on Sexuality Education: An evidence-informed approach for schools, teachers and health educators*, Paris, UNESCO, 2009; see also UNFPA, Comprehensive Sexuality Education: advancing human rights, gender equality and improved sexual and reproductive health, UNFPA, 2010.

66 UNESCO, *International Technical Guidance on Sexuality Education*, 2009, foreword.

67 UNESCO, *International Technical Guidance on Sexuality Education*, 2009, foreword.

68 Amnesty International, *Left without a choice: Barriers to reproductive health in Indonesia* (Index: ASA 21/013/2010), p.30.

69 Commission on Population and Development, Resolution on Adolescents and Youth, CPD 45th Session, April 2012, para. 26.

70 For example see: Naz Foundation v. Government of National Capita Territory of Delhi, 16 Delhi Law Times 277 (Delhi High Court 2009); African Union Commission, Plan of Action on Sexual and Reproductive Health and Rights, Maputo Plan of Action, 2006; Commission on Population and Development, Resolution on Adolescents and Youth, CPD 45th Session, April 2012,

71 For example see Women for Women's Human Rights, Analysis of 56th Session of the UN Commission on Status of Women, New York, 2012.

72 Amnesty International, *Left Without A Choice: Barriers to Reproductive Health in Indonesia*, (Index: ASA 21/013/2010), p.34.

73 Amnesty International, *Giving life, risking death: Maternal mortality in Burkina Faso* (Index: AFR 60/001/2009), p.33.

74 United Nations Population Division, Programme of Action, para. 7.35.

75 United Nations Population Division, Programme of Action, para. 7.2.

76 Pinar Ilkkaracan and Susie Jolly, *Gender and Sexuality: Overview Report*, IDS, 2007, p.15.

77 Rosalind Petchesky, *Global Prescription: Gendering Health and Human Rights*, Zed Books, 2003, p.38.

78 Rosalind Petchesky, *Global Prescription*, 2003, p.38.

79 Women for Women's Human Rights, Analysis of 56th Session of the UN Commission on Status of Women, New York, 2012; IWHC/DAWN/AI/RESURJ, Analysis of the 45th Session of the UN Commission on Population and Development, New York, 2012.

80 UN Office of the High Commissioner for Human Rights, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation

and gender identity, A/HRC/19/41, 2012, para. 54.

81 UN Office of the High Commissioner on Human Rights, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, A/HRC/19/41, 2012, para. 54.

82 Amnesty International, *Stonewalled : Police abuse and misconduct against lesbian, gay, bisexual and transgender people in the USA* (Index: AMR 51/122/2005).

83 http://www.amnestyusa.org/lgbt-human-rights/country-information/cameroon/page.do?id=1106557

84 UN Office of the High Commissioner on Human Rights, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, A/HRC/19/41, 2012, para 54.

85 United Nations Population Division, Programme of Action, 1994, Principle 4.

86 CESCR, General Comment 14, para. 17, HRI/GEN/1/Rev.9/(Vol I), 2008.

87 CEDAW Committee, General Recommendation 23: Political and Public Life, 16th Session 1997, para. 24.

88 CEDAW Committee, General Recommendation 23, para. 25.

89 Helen Potts, *Participation and the right to the highest attainable standard of health*, University of Essex, Human Rights Centre, 2008.

90 Article 2 (3) International Covenant on Civil and Political Rights (ICCPR); Article 13 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Article 6 International Convention on the Elimination of All Forms of Racial Descrimination (CERD); Article 8 Universal Declaration of Human Rights; Principles 4-7 of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; Article 27 of the Vienna Declaration and Programme of Action; Articles 13, 160-162, 165 of the Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance; Article 9 of the Declaration on Human Rights Defenders; Article 13 European Convention for the Protection of Human Rights (ECHR); Articles 7(1)(a) and 25 American Convention on Human Rights (ACHR); Article XVIII of the American Declaration of the Rights and Duties of Man; Article 7 (1) (a) African Charter of Human and Peoples' Rights (ACHPR); and Article 9 Arab Charter on Human Rights.

91 Article 2 ICCPR; Article 2 CERD; Article 2 CEDAW; Article 2 Convention on the Rights of the Child; Article 1 ACHR, Article 1 ECHR. See General Comment No 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 26 May 2004, CCPR/C/21/Re v.1/Add.13; para. 16. Inter-American Court of Human Rights: *Loayza Tamayo Case* (Reparations), Judgment of 27 November 1998, Series C No 42, para. 164; *Suárez Rosero Case* (Reparations), Judgment of 20 January 1999, Series C No 44, paras 97-99; European Court of Human Rights: *Case X and Y v the Netherlands*, Judgment of 26 March 1985; the African Commission on Human and People's Rights, *Case of The Social and Economic Rights Action Center and the Center for Economic and Social Rights v Nigeria*, Communication 155/96 (30th Ordinary Session, Oct 2001), paras 44-48.

92 UN Committee on Economic, Social and Cultural Rights (CESCR) General Comment 14, para. 59.

93 CESCR General Comment 14, para. 59.

94 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147 of 16 December 2005, para. 18.

95 CEDAW Committee, General Recommendation No. 25, A/59/38 Part I; CEDAW/C/2004/I/WP.1/Rev.1.

96 Amnesty International, *Fatal flaws: Barriers to maternal health in Peru* (Index: AMR 46/008/2009).

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REALIZING SEXUAL AND REPRODUCTIVE RIGHTS

A HUMAN RIGHTS FRAMEWORK

In 1994, the world's governments adopted a landmark Programme of Action on population and development. The International Conference on Population and Development (ICPD) in Cairo, Egypt, recognized reproductive rights as human rights and declared that the principles of gender equality, equity and women's empowerment were crucial to effective population and development strategies.

Since then, some important steps have been taken to realize the commitments made. However, as the 20-year review approaches, it is painfully clear that progress has been uneven and slow and that, in relation to sexual and reproductive health specifically, it has been, at best, mixed.

Drawing on Amnesty International's research, this briefing highlights the need to ensure that human rights standards form the backbone of the review and of future implementation plans. It ends with a series of recommendations to end exclusion, increase participation and accountability, and ensure sexual and reproductive rights as human rights. Respect for sexual and reproductive rights is essential for human dignity and for the enjoyment of physical, emotional, mental and social well-being. Amnesty International calls on governments to reaffirm their commitment to respect, protect and fulfil these human rights.

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