

REPRODUCTIVE AND SEXUAL HEALTH AND THE RIGHTS OF WOMEN IN NIGERIA: A COMPARATIVE ANALYSIS WITH SOME FOREIGN JURISDICTIONS*

Abstract

Good sexual and reproductive health is dependent on a state of physical, mental and social well-being of an individual's reproductive system. It implies that sexual partners are able to have a satisfying and safe sex life, the capability to reproduce, as well as the freedom to decide if, when, and how often to be engaged in sexual intercourse. For the women to maintain sound sexual and reproductive health, they need access to accurate information on their sexual lives, including safe sex, willful sex, recommendable contraceptives, and the rest which constitute their reproductive and sexual rights. Therefore, it was the aim of this paper to appraise the reproductive and sexual health, and the rights of women in Nigeria, and as well do a comparative analysis with some foreign jurisdictions. It also sought, among its objectives, to examine the various discriminating policies and laws, as well as obnoxious customary practices that infringe on women's reproductive and sexual health rights. The research methodology was doctrinal, using exposition and analysis. The main sources of data collection were various legal documents and other publicists which covered the primary and secondary sources, from the physical and e-library. The findings of this study, among others, were that Nigerian women are not in control of their reproductive and sexual health rights. Sequel to these, it was recommended among others that the government in conjunction with the civil society organizations should establish effective education for women, especially in the rural areas and the relevant legislation should be repealed or enacted accordingly.

Keywords: Reproductive right, sexual right, human right, contraceptive, abortion, infectious diseases.

1. Introduction

Reproductive rights protect the health and well-being of both men and women, reproductive rights are of fundamental importance to women. Only when armed with such rights can women effectively exercise the rest of the rights enshrined in the Constitution and become full and equal members of the society. Even under the narrowest of constructions, reproductive rights demand respect for women's bodily integrity and an environment for decision making free from fear of abuse, violence and intimidation. Viewed more broadly, reproductive rights require the provision of information about and access to voluntary and adequate reproductive and sexual health services and may even command the provision of such basic necessities as food, shelter, childcare and education. Many women do not know what their sexual and reproductive health rights are, that is why it is so important for men and women of every age and gender, to know their basic sexual healthcare rights. Sexual and reproductive health rights protect the rights of all people to make their own decisions regarding reproduction (having children), and gives them security in, and control over, their bodies. This means it is every person's own decision whether or not to have children. It recognizes that both women and men have the right to know about contraception, and to have access to safe, effective, affordable and acceptable methods of contraception of their choice. Protecting yourself against an unwanted pregnancy is your right, and you can decide what methods you want to use. Women have the right to access appropriate healthcare services that ensure safe pregnancy and childbirth. Furthermore, the Constitution recognises that the decision to have children is fundamental to a woman's physical, psychological and social health, and that complete access to reproductive healthcare services must include family planning and contraception advice (guidance in protecting yourself against unwanted pregnancy), termination of pregnancy (legal abortion), and sexual education and counseling programmes and services. The State should be responsible for providing reproductive healthcare to all citizens, and that the State must also provide safe conditions under which people can exercise their reproductive health rights without fear or harm.

2. Conceptual Analysis

Reproductive Health

World Health Organization defined health as a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity, reproductive health, addresses the reproductive processes, functions and system at all stages of life¹ Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capacity to reproduce and the freedom to decide if, when and how often to do so.² The interpretation of this implies that men and women ought to be informed of and to have access to safe, effective, affordable and acceptable methods of birth control and also access to health care services of sexual, reproductive medicine and implementation of health education programs to stress the importance of women to go safely through pregnancy and child birth which will provide couples with the best chance of having a healthy infant. It also includes

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¹ WHO, 'Reproductive Health' Online Database <http://who.int/topics/reproductive_health/en> accessed on 12th March, 2022.

² J Mertuset al, *Local Action: Global Change* (UNIFEM Publishers, 1999) 62.

everything that affects reproduction, such as safe motherhood, preventing and treating sexually transmitted diseases, avoiding unwanted pregnancies and promoting responsible social behaviours particularly during adolescence, family planning, prevention of harmful practices such as female genital mutilation (FGM), early and forced marriage and violence related to sexuality and reproduction.³

Reproductive Rights

Reproductive rights are legal rights and freedoms relating to reproduction and reproductive health.⁴ The World Health Organization defines Reproductive rights as 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 right to attain the highest standard of sexual and reproductive health. They also include the right of all to make decisions concerning reproduction free of discrimination, coercion and violence.⁵ Women's reproductive rights may include some or all of the following: abortion-rights movements; birth control; freedom from coerced sterilization and contraception; the right to access good-quality reproductive healthcare; and the right to education and access in order to make free and informed reproductive choices. Reproductive rights may also include the right to receive education about sexually transmitted infections and other aspects of sexuality, right to menstrual health and protection from practices such as female genital mutilation (FGM).⁶ As defined in the Beijing Platform for Action (BPFA) and the International Conference on Population and Development (ICPD), reproductive rights are certain human rights recognized in national and international legal and human rights documents and other consensus documents including the basic rights of all couples and individuals to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so, the right to attain the highest standard of sexual and reproductive health; the right to make decision concerning reproduction free from discrimination, coercion and violence.⁷ The current international understandings of reproductive rights include:

- (a) Right to reproductive health as a component of over-all life – long health
- (b) Right to information on all matters relating to reproductive health
- (c) Right to reproductive decision making including, choice of marriage partners, family formation and determination of the number, timing and spacing of children and the means to exercise those choices.
- (d) Right to equality and equity for women and men to make free and informed choices in all spheres of life, free from all forms of discrimination and violence.
- (e) Right to reproductive security, including freedom from sexual violence and coercion and the right to privacy.⁸

Sexual Health

The World Health Organization⁹ defines sexual health as a state of physical, mental and social well-being in relation to sexuality. It requires a positive and respectful and respectful approach to sexuality and sexual relationships as well as the possibility of having pleasurable and safe sexual experiences, free from coercion, discrimination and violence.

Sexual Rights

Unlike the other aspects of reproductive and sexual health rights, the struggle for sexual rights includes and focuses on sexual pleasure and emotional sexual expression. The Platform for Action from the 1995 Beijing Conference on Women established that human rights include the right of women freely and without coercion, violence or discrimination, to have control and make decisions concerning their own sexuality, including their own sexual and reproductive health.¹⁰

3. Reproductive and Sexual Rights of Women

The term reproductive and sexual rights can be grouped into five parts under the broad concept of women's rights. These are:

- (a) The right to be reproductive and sexual health as a component of over-all life-long health
- (b) The right to information on all matters relating to reproductive health

³JN Ezeilo, 'Law, Reproductive Health and Human Rights' (Women's Aid Collective, 2013) 23.

⁴R J Cook and others, 'Advancing Reproductive Rights beyond Cairo and Beijing'. *Journal of International Family Planning Perspective* (22) (3) 115-121.

⁵ 'Gender and Reproductive Rights' *Online Database* <<http://who.int/reproductive-health/gender/indexhtml>> accessed on 31st March, 2021.

⁶*Ibid.*

⁷ UN Women, Fourth World Conference on Women' *Online Database* <http://ww.un.org/women_watch/daw/beijing/platform> accessed on 31st March, 2022.

⁸ J Ezeilo, 'Rape and Recovery' In *A Cry for Justice* (Women's Aid Collective Publishers, 2003) 24.

⁹*Ibid.*

¹⁰*Beijing Platform for Action*, Paragraphs 92, 93 and 96.

- (c) The right to sexual and reproductive decision making including, choice of marriage partners, family formation and determination of the number, timing and spacing of children and the means to exercise those choices.
- (d) The right to equality and equity for women and men to make free and informed choices in all spheres of life, free from all forms of discrimination and violence.
- (e) The right to sexual and reproductive security, including freedom from sexual violence and coercion and the right to privacy.¹¹

Reproductive and sexual rights include all international recognized and protected rights of women relating to her procreative activities, specially the cluster of civil liberties relating to pregnancy, abortion and sterilization, especially the personal bodily rights of a woman in her decision whether to become pregnant or bear a child. The phrase includes the idea of being able to make reproductive decisions free from discrimination, coercion or violence.¹²

Components of Reproductive and sexual Health

The following ideals have been enumerated as component of reproductive and sexual health.

- (a) Safe motherhood which comprises pre- natal care, safe delivery, essential obstetric care, prenatal and neonatal care and breast feeding.
- (b) Access to family planning information and services.
- (c) Provisions of safe abortion services where the law permits.
- (d) Prevention and management of reproductive tract infection especially sexually transmitted infections (STIs) including Acquired Immune Deficiency Syndrome (AIDS).
- (e) Adolescence reproductive health and sexuality, responsible and safe sex throughout the life time and gender equality.
- (f) Elimination of traditional practices harmful to women such as Female Genital Mutilation (FGM), Early/ Forced Marriage, Domestic and Sexual Violence against women.
- (g) Management of non-infection condition of the reproductive system such as genital fistula, cervical cancer and reproductive health problems associated with menopause.¹³

Legal Framework: Marriage Act and Matrimonial Causes Act

Marriage Act and Matrimonial Causes Act regulate matters related to heterosexual marriages and conducts in the family relationship. However, both statutes failed to specifically provide the minimum age of marriage. The age of marriage has critical relevance to a person's enjoyment of reproductive and sexual health. Section 18 of the Marriage Act¹⁴ permits any person male or female who is 21 years or more to contract a valid marriage without requiring a parental consent, but where any party to a marriage is under the age of 21, there is requirement of parental consent to be produced by such party. Thus, a parent can, technically speaking, give parental consent to the marriage of a nine years old girl. The Matrimonial Causes Act¹⁵ did not stipulate the age of marriage but rather use the phrase 'marriageable age' Section 3(1) (1) (e) of the Act provides that a marriage shall be void if any one of the parties is not of a marriageable age. There is indeed lacuna in the above laws.

Marital Rape in Nigeria and the Nature of the Nigerian Legal System

This encapsulates a husband's sexual intercourse with his wife by force or without her consent. This situation may be likened to rape as defined in the Criminal Code Act but it is surprising to note that unlawful carnal knowledge does not exist between husband and wife and as a result, forced sexual intercourse is not recognized in marriage due to the mutual matrimonial consent and contract. Marital rape was not a crime at common law but many countries of the world have criminalized marital rape and yet marital rape is still not a crime in Nigerian. In *Rex v Clark*¹⁶ it was held that a man can never be guilty of raping his wife. In *Alawusa v Odusote*¹⁷ The court held that if a husband uses force or violence to obtain intercourse, he may be guilty of assault of wounding though the full force of law will not be meted to him. Whereas in *Popkin v Popkin*,¹⁸ it was held that a man was entitled to the person of his wife at all times except when she is in danger. Thus this little exception brought a ray of hope to women plight. In prosecution for rape, the prosecution must prove that there was unlawful carnal knowledge as carnal connection

¹¹Ezeilo (n8) 24.

¹² C Arinze-Umobi and F AAnyoagu, 'Reproductive Rights of Women in Nigeria: Fundamental or Illusory' (2011) 8(7) *UNIZIK Law Journal*, 129.

¹³ N Aniebue, *Reproductive Health Rights of Nigeria Women* (Institute for Development Studies, 2008) 1.

¹⁴*Marriage Act*, Cap, M6, LFN, 2004.

¹⁵*Matrimonial Causes Act*, Cap, M7, LFN, 2004.

¹⁶*Rex v Clark* (1994) 2 AA ER 488.

¹⁷*Alawusa v Odusote* (1941) WACA 140.

¹⁸*Popkin v Popkin* (1954) 2WB 285, 16.

which takes place otherwise than between husband and wife. The general import of Section 6¹⁹ of the code is that a man cannot be guilty of rape against his wife. This is the position of the common law that still subsists in the Nigeria law, the perception of the woman as the property of the man have been relegated to obscurity. Law, societal norms and attitude towards women change for the better and law moved from instrument of subjugation of women to a tool of empowerment of women.²⁰ It was in line with this that the House of Lords in England declared in *R v Larger*²¹ per Lord C J. said that the idea that wife by marriage consents in advance to husband having sexual intercourse with her whatever her state of health or however proper her obligations, is no longer accepted, it can never have been other than a fiction and fiction is a poor basis for the criminal law. Marital rape should be viewed seriously as causing physical, sexual as well as psychological harm and it violates sexual and reproductive rights of women.

4. Comparison of Reproductive and Sexual Health Rights of Women in Selected Foreign Jurisdictions

The following jurisdiction were selected for consideration to wit; Britain, United States of America, South Africa, Ghana and Philippines, to find out whether they are operating at the same pace with our country Nigeria. This is because of their various ties with Nigeria and some of challenging innovations they had made. Britain is Nigeria's colonial master and the sources of most of our laws. Presently Nigeria is practicing the presidential system of government which was copied from the United States of America, consequently the USA is being considered. Ghana was selected as a fellow West African country. South Africa was considered because it is rapidly becoming a pacesetter among Africans due to its various developmental strides. Finally Philippines, a third world nation like Nigeria have developed a comprehensive reproductive health programme that addresses the needs of women.

United Kingdom

United Kingdom National Policies on Reproductive Health and Rights of Women

The United Kingdom (UK) is currently re-orientating its aid programme to put women at the heart of its development efforts and is focusing vigorously on results, including a review of all bilateral and multilateral aid programme to maximize input on mother and babies.²² The UK's new business plan for Reproductive Maternal and New Born Health, will set out how the UK will increase effort to double the number of maternal, new born and children's lives saved. It is anticipated that UK aid programme will save the lives of at least 50,000 women in pregnancy and child birth, a quarter of a million new born babies and enable 10 million couples to access modern methods of family planning over the next five years.²³

UK Network for Sexual and Reproductive Health and Rights of Women

The UK Network for Sexual and Reproductive Health and Rights are promoting the centrality of Sexual and Reproductive rights in development policies and programmes, particularly within the UK government and its related decision making bodies.²⁴ The Network undertakes to promote and improve access to Sexual and Reproductive Health and Rights for all people particularly for women and young people.

United Kingdom Position on Marital Rape and other Sexual Offences

In England earlier as a general rule, a man could not have been held to be guilty as a principal of rape upon his wife, for the wife in general unable to retract the consent to sexual intercourse which is part of the contract of marriage. However, the marital rape exemption was abolished in its entirety in 1991.²⁵ The House of Lords held in the case of *R v R*²⁶ that the rule that a husband should not be guilty of raping his wife if he forced her to have sexual intercourse against her consent was anachronistic and offensive Common law fiction, which no longer represented the position of a law in present day society, and that it should no longer be applied. Corresponding amendments to the statutory law was made through section 147 of the Criminal Justice and Public Order Act, 1994.

¹⁹Criminal Code Act, Cap C 18, *Laws of the Federation of Nigeria*, 2004, s 6.

²⁰AAnyoagu, *Access to Justice in Nigeria: A Gender Perspective* (Ebenezer Productions Ltd, 2009) 93.

²¹*R v Larger* (1981) Crim LR 577.

²²'Ensuring Universal Access to Reproductive Health' *Online Database*<<http://www.everywomaneverychild.org/310-ensuringuniversalaccess>> Accessed on 18th April, 2022.

²³*Ibid.*

²⁴The UN Network for Sexual and Reproductive Health and Rights' *Online Database*<<http://wikipedia.org/uk>> Accessed on 18th April, 2022.

²⁵Law Teacher, 'Marital Rape' *Online Database*<<http://www.lawteacher.net/family-law/essays/maritalrape.php>> accessed on 18th April, 2022.

²⁶*R v R* (1991) 3 WLR 767.

Age of Marriage in United Kingdom

In 1929, in response to a campaign by the National Union of Societies for Equal Citizenship, Parliament raised the age limit to 16 for both sexes in the ages of Marriage Act. This is still the Legal minimum age to enter into marriage in England; a marriage for couples below the age of 16 years is void.²⁷

United States of America (USA)

United State Equal Employment Opportunity Commission (EEOC)

The United State Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, colour, religion, sex (including pregnancy), national origin, age, disability or genetic information.

Equal Pay Act 1963

The Equal Pay Act is a United States federal law amending the fair Labour Standards Act, aimed at abolishing the wage disparity based on sex. The Act requires that men and women be giving equal pay for equal work in the same establishment. The Congress stated that sex discrimination depresses wages and living standards for employees necessary for their health and efficiency. The law provides (in part) that: No employer having employees on the ... shall discriminate within any establishment in which such employees are employed, between employees on the basis of sex by paying wages on employees at a rate less than the rate at which he pays employees of the opposite sex in such establishment for equal works on jobs, the performance of which requires equal skill, effort and which are performed under similar working conditions.²⁸

Assault on Pregnant Women

Three States enacted laws regarding assault on pregnant women and fetal homicide. The state of Arkansas adopted a measure allowing a fetus to be considered a victim of homicide at any point in gestation. Colorado amended its statute criminalizing assault on a pregnant woman to include penalties for causing a pregnant woman to miscarry.²⁹

Sexual Offenses Laws in United States of America

Till recently the general rule was that a husband could not be convicted of the offence of raping his wife as he is entitled to have sexual intercourse with his wife, which is implied under the contract of Marriage. In 1993, marital rape became a crime in all fifty states in the USA, under at least one section of the sexual offenses codes. However, it is remarkable that only a minority of the states has abolished the marital rape exemption its entirety, and that it remains in some proportion or other in all the rest.

United States of America Sexual Discrimination and Harassment Laws

Sexual discrimination law was created during congressional debate over the Civil Right Act of 1964 (Known as Title Viii) which placed a ban on racial discrimination in employment. A conservative US Representative named Howard Smith attached an amendment to it. His amendment added a ban on gender discrimination. Therefore on the passage of the Civil Rights Act and the amendment to it, discrimination based on race and gender became illegal in the United States of America. By 1980 the Equal Employment Opportunity Commission (EEOC), the government agency created to enforce the Civil Rights Act, issued the first federal guidelines on gender discrimination. Sexual harassment was defined in the EEOC guidelines, as unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature. The case of *Harris v Fork Lift System Inc.*³⁰ marked a turning point in sexual harassment law. Theresa Harris had been the rental manager at Fork Lift Systems in Nashville, Tennessee. The company president (Hardy) had made several sexually suggestive and demeaning remarks to her over the course of nearly two years (example, asking her in public whether she had sex with clients to get their accounts). For a while, she simply tried to ignore his comment, she resigned. Harris then sued Forklift, claiming that Hardy's conduct had created an abusive work environment for her because of her gender. The United States District Court for the Middle District of Tennessee held that Hardy's conduct did not create an abusive environment. The court found that some of Hardy's comments offended Harris and would offend 'the reasonable woman' but that they were not so severe as to be expected seriously effect Harris psychological wellbeing. She appealed her case all the way to the USA Supreme Court. In a unanimous decision, the Supreme Court ruled in favour of Theresa Harris. The decision written by Justice O'Connor, held that it was not necessary to demonstrate psychological injury and that a reasonable person's standard should be applied.

²⁷Halbury's Laws of England (4thedn, Reissue vol. 29(3)) 41.

²⁸ 'Equal Pay and Compensation Discrimination' *Online Database* <<http://www.eeoc.gov/laws/types/equalcompensation.cfm>> accessed on 20th April, 2022.

²⁹ N Elizabeth *et al*, 'Laws Affecting Reproductive Health and Rights: 3013 State Policy Review' *Online Database* <<http://www.guttmacher.org/statecenter/updates/2013/statetrends>> accessed on 20th April, 2022.

³⁰*Harris v Fork Lift System Inc* (1993) 510 US 17.

South Africa

Constitutional Provisions Relating to Reproductive and Sexual Health Rights of Women

South Africa has included provisions on reproductive rights in its constitution which was signed by the then President Nelson Mandela on 10 December 1996.³¹ Unlike most constitutions which include reproductive rights in the form of general rights, equality, freedom, security, dignity, privacy, freedom of conscience and right of life, the South African constitution outlaws discrimination on the grounds of gender, sex, pregnancy and so on. Section 12 states that everyone has the right to be free from all forms of violence from both public and private sources. This section also covers reproductive rights as it grants security and control over the body and to not be subjected to medical or scientific experiment without informed consent. The constitution provides additional rights that improve conditions for women such as; the right to education, the right to health care, the right to housing and the right to food and water. Although these are not specifically designated for women, they do greatly improve the right that South African women possess.³²

The South African Laws on Sexual Offences

The legal definition of rape in South Africa is unlawful intentional sexual intercourse with a woman without her consent. Having intercourse with a girl less than 12 years of age is considered statutory rape.³³ A husband obtaining sex by force from his wife or vice versa is considered rape since there is no spousal immunity against rape. Section 2 (6) of the Criminal Law (Sexual Offences) Amendment Act of South Africa³⁴ provides that no marriage or other relationship shall be a defense against a charge of rape. Thus, a husband can be convicted of rape on the wife or vice versa. The law under sexual violation and genital sexual violation takes care of acts of sodomy on a woman.³⁵

Age of Marriage in South Africa

Both persons to the marriage must give consent to get married and must be older than 18 years of age. A person younger than 18 years of age needs the permission of his or her parent/s or guardian/s to get married. No person younger than 18 years of age can enter into a civil union.³⁶ A person under the age of majority, which was reduced from 21 to 18 by the Children's Act, 2005 of South Africa, cannot marry without the consent of his or her parents or legal guardian. If there are no parent or guardian or for some reason they cannot give consent, a magistrate (acting as a commissioner of child welfare) may grant consent. If the parent, guardian or magistrate refuses consent, a judge of the High Court may grant it in the interest of the minor. Further to the requirement for parental consent, no boy under 18 or girl under 15 can marry without the special consent of the Minister of Home Affairs (or an official authorized to act on behalf of the Minister).³⁷

Ghana

Constitutional Protection of Reproductive and Sexual Rights of Women

The Constitution of Ghana is an important tool for the protection and promotion of the Reproductive and Sexual Health Rights of women. It enables Ghana to translate international agreements into domestic law and obliges all branches of government to respect and ensure the rights it enunciates. This empowers individuals in making reproductive health decisions and helps create the economic and social conditions conducive to good sexual and reproductive health. The Constitution specifies that this list is not exhaustive (Art. 33.5).³⁸ What this entails is that even if other reproductive and sexual rights protected under international law are not listed in the constitution, advocates may use this provision as an argument that those rights uphold policy initiatives improving sexual and reproductive health of women.

³¹ South Africa Women Rights' *Online Database* <<http://www.ehow.com/cultureandsociety/cashed>> accessed on 20th April, 2022.

³² *Ibid.*

³³ 'Legislation of Interpol Member States on Sexual Offences against Children' South African-Afrique-du sud-sur Africa (Pictoria, 2006) 1.

³⁴ *Criminal Law (Sexual Offences) Amendment Act of South Africa*, No 32 of 2007, section 3.

³⁵ *Ibid.*, section 4.

³⁶ 'Marriage Law of South Africa' *Online Database* <<https://www.legalwise.co.za/help-yourself/quicklaw-guides/marriage>> accessed on 20th April, 2022.

³⁷ 'Marriage Age' *Online Database* <[en.wikipedia.org/wiki/marriage-act-1961\(southafrica\)](en.wikipedia.org/wiki/marriage-act-1961(southafrica))> accessed on 20th April, 2022.

³⁸ 'The Ghanaian Constitution' *Online Database* <<http://www.ghanareview.com/gconst.html>> accessed on 20th April, 2022.

Reproductive Health Policies

Ghana has increased its funding for Reproductive health to at least 15% of the national budget by 2014.³⁹ Ghana has also strengthened its free maternal and child health care policy, to ensure that 95% of pregnant women are reached with comprehensive maternal and child health (MCH) services and ensure security for family planning commodities. Ghana will further improve child health by increasing the proportion of fully immunized children to 85% and the proportion of children under-five and pregnant women sleeping under insecticides – treated nets to 85%. Family planning centers have also been set up in all health centers to counsel people on birth control and prevention of sexual transmitted (STIs).⁴⁰

Marital Rape and Domestic Violence

Until 2007, Section 42 (g) of the Ghanaian Criminal Code, 1960 explicitly exempted husbands from prosecution for marital rape by providing that married women could not revoke their consent to sex, which was implied upon marriage. This spousal exemption was declared unconstitutional and removed from the Code during a statute review process in 2007. The Revised Laws of Ghana Project headed by Justice Crabbe removed Section 42 (g) from the Criminal Offences Act. Furthermore, the Ghanaian Domestic Violence Act, 2007 criminalizes domestic violence.⁴¹

Philippines

Philippines Constitutional Provisions Declaration on Reproductive and Sexual Health

Pursuant to the declaration of state policies under section 12, Article 11 of the 1987 Philippines Constitution, it is the duty of the state to protect and strengthen the family as a basic autonomous social institution and equally protect the life of the mother and the life of the unborn child from conception. The state shall protect and promote the right to health of women especially mothers in particular and of the people in general and instill health consciousness among them. The state also recognizes and guarantees the promotion and equal protection of the welfare and rights of children, the youth and the unborn. Moreover, the state recognizes and guarantees the promotion of gender equality, gender equity, women empowerment and dignity as a health and human rights concern and as a social responsibility. The advancement and protection of women's human rights shall be central to the efforts of the state to address reproductive health care. The state likewise guarantees universal access to medically safe, non-abortifacient,⁴² effective, legal, affordable and quality reproductive health care services, methods, devices and supplies. The state shall eradicate discriminatory practices, laws and policies that infringe on a person's exercise of reproductive health rights. The state shall also promote openness to life, provided that parents bring forth to the world only those children whom they can raise in a truly humane way.⁴³

The Philippines Reproductive Health Law

A new law that went into force on January 16, 2013 in the Philippines,⁴⁴ An Act providing for a National Policy on Responsible Parenthood and Reproductive Health was enacted by the senate and House of Representatives of the Philippines on Monday, the twenty-third day of July, 2012.⁴⁵

5. Conclusion and Recommendations

Jurisdiction cutting across the globe, both in the first world and in the third world, have taken developmental strides. Some have made challenging innovations in their laws which advocates had hailed as breakthrough for reproductive and sexual health and rights of women. It is hoped that Nigeria would borrow a leaf from these jurisdictions. Promoting reproductive health and rights of women is indispensable not only for the wellbeing of women but for economic growth and poverty reduction in the society. The legal system should be fortified with appropriate laws to safeguard women's capacity to make independent choices about their sexualities and reproductive activities. There is need for comprehensive reformation of all anachronistic and archaic laws relating SRHR and update them to internationally accepted benchmarks on rights issues. There is need for urgent

³⁹Ghana Reproductive Health Policies' *Online Database*<<http://www.policyproject.com/matrix2.cfm?country.ghanacashed>> accessed on 21st April, 2022.

⁴⁰*Ibid.*

⁴¹ 'Rape, Marriage and Rights' *Online Database*<<http://www.opendemocracy.net/5050/sasha-hart/rape>> accessed 21st April, 2022.

⁴²Abortifacient refers to any drug or device that induces abortion or the destruction of a fetus inside the mother's womb or the prevention of the fertilized ovum to reach and implanted in the mother's womb.

⁴³ The Reproductive Health Law, Republic of Philippines, Republic Act

⁴⁴UNFPA, 'Towards Universal Access for Reproductive Health in Philippines' *Online Database*<<http://www.unfpa.org/pulic/cache/home/news/pid>> accessed on 21st April, 2022.

⁴⁵Inquirer News, 'The Philippines Reproductive Health Law' *Online Database*<[http://www.newsinfo/inquirer .net/33/639](http://www.newsinfo.inquirer .net/33/639)> accessed on 21st April, 2022.

constitutional review to upgrade Chapter 11 of the Constitution providing for economic, social and cultural rights which contain certain rights relating to sexual and reproductive health as fundamental human rights under Chapter 1V of the Constitution. Nigerian legislatures should amend Section 12 (1) of the Constitution to the effect that all treaties and international instruments ratified by Nigeria automatically becomes part of the domestic law. Our courts should comply with the 1988 Bangole principles. It should resort to international norms where there is lacuna or gap in the local laws or where the local provisions were inconsistent with the state's obligations under the international law, covenant, conventions and treaties, the later prevails over the domestic or municipal laws. It is further recommended that every level of government should establish effective education of women, especially in the rural areas and the relevant legislation should be repealed or enacted accordingly. Also, the civil society organizations should organize education and information campaign to address some of the problems working against women's reproductive and sexual health, and create enlightenment programs for law enforcement agents, religious institutions, and other state holders to respond to the campaign for the promotion and protection of the sexual and reproductive health of women.