

HIGH MATERNAL MORTALITY RATES IN SUB-SAHARAN AFRICA AS A HUMAN RIGHTS VIOLATION: THE CASE OF THE DEMOCRATIC REPUBLIC OF CONGO

Mini-dissertation submitted in partial fulfilment of the requirements for the
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DECLARATION

I, LONGO YAYALE GRACE, declare that the work presented in this dissertation is original. It has not been presented at any other university or institution. Where other people's works have been used, references have been provided and in some cases, quotations made. It is in this regard that I declare this dissertation my own original work. It is hereby presented in partial fulfilment of the requirements for the award of LLM degree in Multidisciplinary Human Rights.

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This dissertation is submitted for examination with my approval as University Supervisor

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SUPERVISOR

EPIGRAPH

‘Human Rights are not just about prisoners of conscience, they are also about prisoners of poverty. Human Rights are not just about torture, they are also avoidable deaths from preventable health conditions’

**Paul Hunt, former UN Special
Rapporteur on the Right to Health**

DEDICATION

This mini dissertation is dedicated to my Lord and Saviour Jesus Christ the son of God and to all women, victims of gross and systematic violations of their human rights in the world and specifically in the Democratic Republic of Congo.

ACKNOWLEDGEMENTS

I would like to thank the Almighty God, Who granted me the favour and grace to accomplish my academic purpose despite the difficulties I passed through during my studies.

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And finally to my Pastor, choir members and all the members of my church, I would like to thank them for their support, prayers and friendship.

ABSTRACT

In this study, I look at maternal mortality in Sub-Saharan Africa and with particular focus on the Democratic Republic of Congo I illustrate how the problem constitutes as a human rights violation. Many international human rights instruments make provision for the protection of women's rights, especially the rights to life and reproductive health. The UN Human Rights Council Resolution on Preventable Maternal Mortality and Morbidity and Human Rights recognises that the unacceptably high rate of preventable maternal mortality is a health, development and human rights concern. Maternal mortality is not just a public health issue but it is as well a grave violation of some of the most fundamental human rights such as the right to life, the right to the highest attainable standard of health, the right to equality and non-discrimination.

The right to life, for instance, is guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The Convention on the Elimination of all forms of Discrimination Against Women, in its General Recommendation No 24, article 12 makes it an obligation for states to prevent maternal mortality. Therefore, state parties are obliged to ensure women's rights to safe motherhood and also that emergency obstetric services are provided to them.

Most recently, maternal mortality has been recognised by the international community as a human rights issue and therefore, has received global attention. Thus in this study I establish that the Democratic Republic of Congo has the responsibility to fulfil its obligations in respect of all the international human rights instruments that it has ratified to protect women's rights and to prevent maternal mortality. In relation to this commitment I point out that it is imperative for the government of the Democratic Republic of Congo to ensure that all women in the country enjoy their reproductive health rights and have safe motherhood.

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CHAPTER ONE

Introduction

1. Problem statement

During pregnancy women face several risks including death as a consequence of the pregnancy. Maternal death however is not always caused by natural congenital complications but may also be caused by problems or conditions that occur or exist in the environment where they live. The World Health Organisation (WHO) defines maternal mortality as the death of woman while pregnant or within 42 days of termination of pregnancy, irrespective of the duration and the site of the pregnancy, from any cause related to and/or aggravated by the pregnancy, or its management, but not from accidental or incidental causes.¹ International Human Rights Treaties and the Millennium Development Goals (MDG) have clearly stipulated that all states have the obligation to undertake adequate measures to prevent maternal mortality, in order to avoid the violations of human rights.² It has been proved that women who live in least developed countries, such as the Democratic Republic of Congo (DRC) are most exposed to the risks of maternal mortality. The baseline of risks in pregnancy is explained by socio-political causes of inequality in society and lack of access to adequate health services for all.³ For instance in the Eastern part of the DRC, there are no adequate health care services and those that are available do not provide the minimum standards of quality care especially for reproductive health.⁴

This research project focuses generally on the Sub Saharan Africa region which has the highest rate of maternal mortality in the world (60 per cent of the global maternal deaths) and specifically on the DRC as one of those countries with extremely high maternal mortality

¹ WHO 'Maternal health' available at: http://www.who.int/topics/maternal_health/en/ (accessed: 17 June 2012).

² CRR 'Submission to the United Nations Office of the High Commissioner for human rights for the preparation of the thematic study on maternal mortality, morbidity and human rights' *Centre for Reproductive Rights* pg 2.

³ 'Maternal mortality and morbidity background paper: Inaugural Conference on Global Health, Gender and Human Rights' (2012) *American University Washington College of Law/ Pan American Health Organisation* pg 1.

⁴ 'Taux de mortalité élevé en RDC des suites de la grossesse ou de l'accouchement' (2009) available at: <http://www.digitalcongo.net> (accessed: 04 September 2012).

rates within this region.⁵ The purpose of the research is to examine the reason why maternal mortality is not only persistent but increasing in the DRC in the last few decades as well as the responsibility of the government with regards to the measures it has taken. Because pregnancy is not a disease condition, maternal mortalities are absolutely preventable. The DRC is one of the largest countries in Sub-Saharan Africa and strategically one of the most important in Africa, with an estimated population of about 70 million in 2010.⁶ The health system of the DRC has been destroyed after several years of internal political unrest and armed conflicts since 1994, especially in the eastern part of the country. The social instability resulting from this period of political unrest and armed conflicts remains the main reason for the lack of health infrastructures, equipment and medication for treating patients and the lack of qualified and trained medical personnel.⁷ As a consequence, women and children have lost their lives because of this catastrophic and inhumane situation, particularly in the eastern part of the DRC.

2. Assumptions

The study has been carried out on the basis of the following assumptions:

1. The high maternal mortality rate is considered to be a human rights violation according to the international law and the Millennium Development Goals.
2. Obstetrical complications during pregnancy are not the only causes in maternal death.
3. Women who live in poor countries are most exposed to maternal mortality.
4. In accordance with international human rights treaties, especially concerning the rights of women, the DRC has the obligation to guarantee the right to reproductive health. And lastly,
5. The Congolese government has the obligation to implement strategies for improving the health, socio-economic and information sectors.

1. Research questions

⁵ UNFPA *et al* 'Trends in Maternal Mortality: 1990-2010' (2012) *World Health Organisation* pg 9.

⁶ Country research: the DRC available at: www.akinamamawaafrika.org/index.php?option=com...0 (accessed: 13 July 2012).

⁷ Research and Training Institute 'Assessment of reproductive health in the DRC' (2002) *JSI Research and Training Institute* pg 5.

1. What is the international and national legal frameworks regulating maternal mortality in the DRC?
2. What are the factors that contribute to maternal mortality in the DRC?
3. What is the responsibility of the government of the DRC in accordance with international law and the Millennium Development Goals, to ensure and enhance the right to reproductive health for all women and the strategies needed to guarantee and implement this right?

This study will attempt to find answers to those questions and based on the findings will make some necessary recommendations that could help in improving the implementation of the right to reproductive health in order to prevent maternal mortality in the DRC.

2. Motivation

1.4.1 Background

The Democratic Republic of Congo formerly known as Zaire is the second largest country in Africa after Algeria (2.381.741 square kilometres). The DRC covers a land area of 2,344, 858 square kilometres and its population is estimated to be 72 million.⁸ The DRC is bordered to the South by Angola and Zambia, to the East by Rwanda, Uganda, Burundi and Tanzania and to the North-West by the Republic of Congo and Sudan.⁹ However, the country remains one of the poorest countries in the Sub-Saharan Africa region, challenged by high levels and wide range of infectious diseases, and relies on a physical and human health structure that has been destroyed by more than fourteen years of conflicts and economic recession. Consequently, infant and maternal mortality rates in the DRC are among the highest in Africa.¹⁰

⁸ Maps of the world available at: <http://www.mapsofworld.com/africa/thematic/largest-countries.html> (accessed: 16 April 2013).

⁹ UNHCR 'Background paper on refugees and asylum seekers from the DRC' (2000) *UNHCR Centre for Documentation and Research* pg 1.

¹⁰ N Mock & E de Buhr *Public Health Training in the DRC* (2006) John Hopkins Bloomberg School of Public Health pg 4.

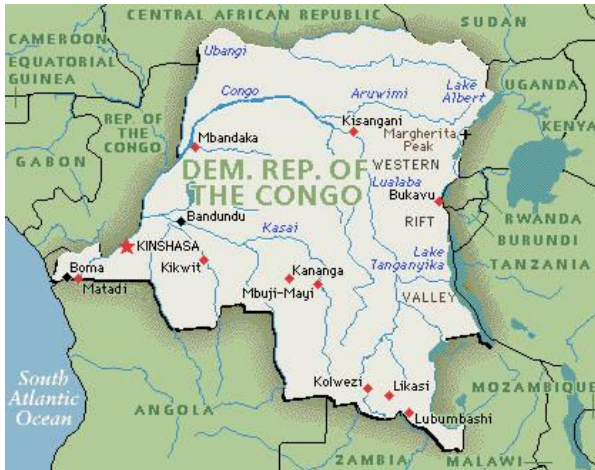


Figure 1: Map of the Democratic Republic of Congo showing neighbouring countries (Source: Kimbilio Congo)

Since August 1998, the DRC has experienced increased destruction of its internal structures such as the health system, economic sector, security and education, especially in the eastern provinces. The country has for several years been host to numerous rebel groups, the intervention of at least seven foreign powers that take advantage of on-going armed conflict to scramble over the country's minerals and other natural resources.¹¹ Many cases of human rights violations have been reported in the eastern parts of DRC, especially during these periods of armed conflict. Women, adolescents and children who live in these areas are the primary victims of several human rights violations such as sexual violence, abduction and exploitation.¹²

The level of sexual violence committed against women and girls in the DRC is of particular concern. South Kivu in the eastern province, for instance, is one of the places that are seriously affected by this violence. Rape occurs in the region on a daily basis. Women who survive the sexual violence suffer devastating damage on their reproductive organs, which result in multiple complications at the time they get pregnant. The insecurity caused by these armed conflicts in the East of the DRC has consequences such as lack of access to emergency obstetric care services. The areas affected by armed conflicts have the highest maternal mortality rates estimated at 549 per 100,000 live births in 2007.¹³

¹¹ S Roberts 'Mortality in eastern Democratic Republic of Congo' (2001) *International Rescue Committee* pg 3.

¹² UNFPA 'Democratic Republic of Congo humanitarian action plan' (2010) *UNFPA* pg 12.

¹³ UNFPA (n 12 above) pg 12.

There has been growing acceptance at the international and regional levels that reducing maternal mortality is not only a problem of development but also a human rights issue.¹⁴ The highest maternal mortality rate has been observed in Sub-Saharan Africa. The low use of modern contraceptive methods explains this high fertility rate. Only one out of every 25 women is involved in modern contraceptive methods for spacing or limiting births while the rest of women are not even using the natural family planning methods.¹⁵ This shows how women in the DRC, especially those who live in the eastern provinces are not educated or informed of their rights such as the right to reproductive health which is one of their basic human rights.

International human rights bodies such as the International Covenant on Economic, Social and Cultural rights, aim to ensure the protection of economic, social and cultural rights including the right to non-discrimination based on sex, colour, race, language, political opinion, social origin or poverty.¹⁶ Men and women must have equal enjoyment of their rights.¹⁷ The right to health does not mean the right to be healthy, but rather it takes into account the individual's biological and socio-economic preconditions and a state's available resources.

1. Research aim and limitation of the study

It is required of states to implement their obligations to protect their citizens, especially women and children who are among the category of vulnerable people protected by international human rights treaties against any human rights violation. This study therefore seeks to establish the responsibility of the DRC to protect women's rights such as the right to maternal health. The high maternal mortality rate has been observed to be not only caused by natural incidents but also by the economic situation, the difficult access to health care services and the lack of information on reproductive health where those women live. This study will examine how maternal mortality becomes a human rights violation and will do a

¹⁴ Human Rights Council 'Preventable maternal mortality and morbidity and human rights' (2010) *Eleventh Session Resolution 11/8* pg 28.

¹⁵ PNUD 'Améliorer la santé maternelle' (2012) available at: <http://www.cd.undp.org> (accessed: 04 September 2012).

¹⁶ Article 2 of the International Covenant on Economic, Social and Cultural Rights 1966.

¹⁷ Human Rights Council (n 14 above) pg 10.

critical analysis of the level of maternal mortality in the DRC especially in the Eastern Provinces.

The tasks of the government with regards to maternal mortality must be established in order to protect women and to avoid such situation in the future and provide an evidence-based assessment of the potential of rights based approaches for accelerating reduction in maternal mortality. In particular also to identify how a rights perspective can increase the focus on equity and thus improve health outcomes for poor women. One limitation obviously would be that this work will be done in Pretoria in South Africa by desk research only. There will be no field visits to the country to provide empirical facts of the current situation on the ground.

2. Literature review

There are several scholarly and other works which are relevant to maternal mortality, maternal health and the responsibility of the state to ensure women's rights such as reproductive health and access to the health care services without discrimination of any kind. The preliminary literature review is as follows: The book *Disease and Mortality in Sub-Saharan Africa*¹⁸ is particularly important because it does not just give statistics about the appalling health situation but gives a comprehensive overview on how to improve health, especially maternal health amongst the populations of Sub-Saharan Africa. However, good policy decisions and effective implementation of strategies elaborated by the government and other entities must be fulfilled. Among its objectives, the Millennium Development Goals have directed attention towards improving maternal and reproductive health to be achieved by the year 2015. Although, African states must ensure that many factors contributing to the high maternal mortality rate in Sub-Saharan Africa are eradicated.

In the same way, Marjorie Koblinsky¹⁹ explains how the use of medical recommendation is considered as an indispensable element of safe motherhood programs. However, the information approving its practice and execution can be hard to find. Based on the above books and more from Seth,²⁰ this study establishes the legal standards and appropriate measures which must be applicable in the DRC with the aim to reduce maternal mortality

¹⁸ T Dean *et al Disease and mortality in Sub-Saharan Africa* (2006) The World Bank.

¹⁹ A M Koblinsky *Reducing Maternal Mortality* (2003) The World Bank.

²⁰ P Seth *Infant Mortality and Maternal Mortality Socio-Economic Causes and Determinants* (2009) Gyan Pub House.

especially in the eastern part of the country and also in order to establish whether the DRC has effectively respected its commitment to fulfilling the objectives of the Millennium Development Goals that aims to protect children and women against mortality.

Moreover, the study also draws some inspiration from Frans Viljoen's work²¹ based on the broad and critical outline of international human rights law in Africa. The book looks at the institutions, norms and approaches for human rights implementation provided under the United Nations system and examines their connection with the national legal systems of Africa. It further examines most of the essential human rights instruments in Africa which is the African Charter on Peoples' Rights, entered into force on 21 October 1986 and the national application and execution of international human rights law and the role of the human rights in the suppression of maternal mortality.

After establishing the high maternal mortality rate in the Democratic Republic of Congo which is not only a medical problem, this study will also draw some information from books, such as Gillam *et al*²² on the actual impact of medical care to a good quality of life. The book looks at how, public health is currently considered as involving three sectors, which include health improvement, health protection and lastly the quality of health and social care.²³ This is the reason why public health has been defined as 'the science and art of preventing disease, prolonging life and promoting health through the organised efforts of society'.²⁴ In order to remedy this high maternal mortality rate in the eastern regions of the DRC, this study relies on knowledge and information from Corinne Packer.²⁵ The author explains how a human rights approach through human rights standards can help to change traditional practices and some bad social behaviour which place the health of women at risk in Sub-Saharan Africa. In the same book, the author tries to establish the strong point and softness of the human rights approach especially in the context of Sub-Saharan Africa with regard to women as a case study and the reproductive health as an issue.

²¹ F Viljoen *International Human Rights Law in Africa* (2012) 2nd edition Oxford University Press.

²² S Gillam *et al Essential Public Health Theory and Practice* (2007) Cambridge University Press.

²³ S Preston 'The changing relation between mortality and economic development' (1975) 29:2 Population Investigation Committee pg 231-248.

²⁴ Preston (n 23 above) pg 232.

²⁵ C Packer *Using Human Rights to Change Traditions* (2002) Intersentia.

Moreover, the Human Rights Council in its fourteenth session explains and it identifies the human rights dimensions of avoidable maternal mortality. The report identifies this preventable maternal mortality in the current international legal structure. It also includes an outline of creativities and actions within the United Nations system to discourse matters of maternal mortality and it identifies how the council can augment values to present initiatives through a human rights examination.²⁶ The study will further rely on knowledge and information from other books, articles, reports and debates.

2. Research Methodology

In order to identify adequate answers to the research questions, the study focused mainly on literature review of books, journal articles and reports and desktop internet research to access relevant information available online on important websites such those belonging to WHO, UNFPA, SMI and World Bank. A multi-disciplinary approach, such as socio-politics and education were used to identify other issues relating to maternal mortality problems in the DRC. Some figures and images will also be provided in order to illustrate some of the facts presented.

3. Outline of the study

This study will be divided in five main chapters as follows: chapter one deals with the general introduction and the structure of the study. Chapter two deals with the legal framework relating to maternal mortality in the DRC, comprising of international human rights laws as well as national laws. Chapter three talks about the factors determining maternal mortality in the DRC, which include the direct and indirect factors contributing to maternal mortality as well as the non-health factors contributing to maternal mortality. Chapter four looks at the state's responsibility with regards to maternal mortality, which has to do with the obligation to reduce maternal mortality and putting in place of mechanisms to reduce maternal mortality. Chapter five outlines the general conclusion of the study and some recommendations.

²⁶ 'Report of the Office of the United Nations Higher Commissioner for Human Rights on preventable maternal mortality and morbidity and human rights' (2010) *Human Rights Council*.

CHAPTER TWO

Legal and Programmatic Framework on Maternal Mortality in the DRC

1. Introduction

Maternal mortality is one of the most leading causes of death in Sub-Saharan Africa, especially in the DRC. This issue which is not only a health concern but also a human rights matter has to be resolved as well as prevented. Therefore, legal mechanisms have to be put in place to protect women and their new born babies at an international and national level. This chapter examines the international and national legal frameworks put in place by the DRC to protect women and to regulate maternal mortality and how those mechanisms are implemented on the ground.

The chapter sets up in section one an overview of the international treaties on reproductive health ratified by the DRC to prevent maternal mortality and to ensure the highest attainable standard of health for all women. In the same way, the chapter illustrates in section two the domestic legal framework, mechanisms, laws and policies of the DRC on reproductive health to protect and prevent women against maternal mortality.

2.2 International treaties

In recent years, there has been an extended theoretical acceptance of maternal mortality as a human rights issue. Maternal mortality is linked to many other human rights, such as the right to life, the right to the highest attainable standard of health, the right to non-discrimination, the right to decide number and spacing of children, the right to be free from inhumane and degrading treatment and the right to privacy.²⁷ The right to the highest attainable health for women is one of the most important human rights relating to maternal mortality and is legally protected by international human rights treaties such as the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and the International Covenant on

²⁷ P Hunt *et al* 'Reducing maternal mortality' (2007) *UNFPA* pg 3.

Economic, Social and Cultural Rights (ICESCR). The UN Millennium Development Goals has set resolute aims for women's health, including maternal and child mortality. In its fifth goal, the MDG has set as target to improve maternal health by reducing maternal mortality ratio by three quarters between 1990 and 2015.²⁸

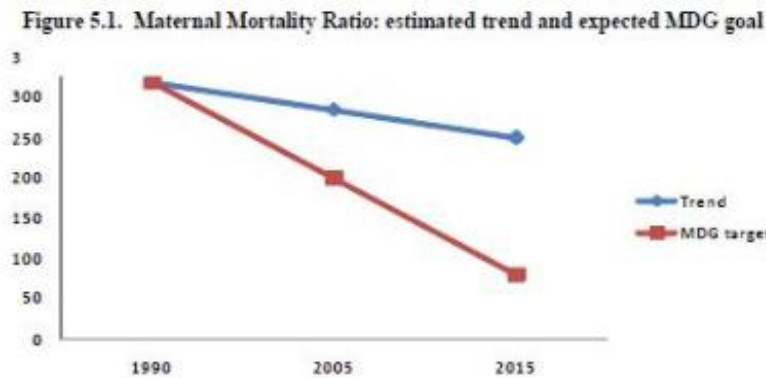


Figure2: This figure shows the estimated reduction of maternal mortality by 2015 (Source: MGDs Indicator)

Improving the universal health situation of people especially women, has been one of the most important and hard challenges for the world community.²⁹ However, the fact is that great disparities in health conditions still exist between developed countries and the least developed countries such as the DRC.³⁰ Among the international treaties on sexual and reproductive health rights, the DRC has ratified CEDAW but not the Optional Protocol, the African Charter on Human and Peoples' Rights (ACHPR), the Maputo Protocol and the Solemn Declaration on gender equality in Africa.³¹

2.2.1 Convention on the Elimination of All forms of Discrimination against Women

The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) is generally acknowledged as the international bill of rights for all women. It is also described as an instrument for establishing and informing women's rights protection. In the same way,

²⁹ WHO 'World report on violence and health' (2002) Geneva: World Health Organisation pg 2.

³⁰ UNICEF *Progress on Drinking Water and Sanitation* (2012) World Health Organisation pg 4.

³¹ 'The Democratic Republic of Congo' available at: http://www.map-srhr.org/download/EN-dr_congo (accessed: 01 February 2013).

the convention expresses what constitutes discrimination against women and establishes legal responsibilities on state parties to succeed in their international, regional and national obligations in relation to gender equality.³² Therefore, the fact that it is an international instrument, the Convention imposes obligations on governments or states parties to apply its provisions at a domestic level. Before going any further in this section, it is important to have a brief historical background of the CEDAW. The convention was adopted on the 18th of December 1979 by the UN General Assembly and entered into force on the 3rd of September 1981. Its dominant objective is that of excluding all forms of discrimination against women, which is determined as:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.³³

The Convention stipulates in article 12 that:

- 1) States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
- 2) Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.³⁴

The Committee on the Elimination of Discrimination against Women (the CEDAW Committee) came into force on August 2011. It is the principal UN human rights mechanism on matters of women's rights, including maternal mortality and is in charge of controlling states parties 'implementation of their obligations under the CEDAW. *Alyne da Silva Pimentel V. Brazil*³⁵ for instance, is one of the cases that have highlighted that states have a human rights responsibility to guarantee women of all racial and economic backgrounds,

³² A Nkolika 'The CEDAW and the status of implementation on the right to health in Nigeria' (2006) *World Health Organisation* pg 1.

³³ Nkolika (n 32 above).

³⁴ CEDAW (n above) art 12.

³⁵ *Alyne da Sylva Pimentel v Brazil* (2008) UN Doc. CEDAW/C/49/D/17/2008.

non-discriminatory access to suitable maternal health services.³⁶ The above mentioned case concerned Alyne da Silva Pimentel, a Brazilian woman of African origin who passed away at the age of 28 due to pregnancy-related causes after her resident health centre misdiagnosed her symptoms and delayed to arrange emergency obstetric precaution for her. After that, her mother, via the Centre for Reproductive Rights and *Advocacia Cidadã Pelos Direitos Humanos*, took the case to the Committee, arguing that the government did not make any effort to institute professional responsibility and that she had not been able to acquire justice in Brazil. Alyne's death illustrates circumstances that are similar universally, that preventable maternal deaths mostly occur among marginalised groups of women and often go unnoticed and without any form of accountability.³⁷ The CEDAW Committee concluded that the case was acceptable due to 'an unreasonably prolonged delay' as a result of the fact that the domestic jurisdiction did not pronounce a definitive decision even after 8 years. The CEDAW Committee found Brazil in violation of article 12 (2) of the CEDAW Convention and referred to General Recommendation No. 28 (2010), which stipulates that '[t]he policies of the State party must be action-and result-oriented as well as adequately funded' and that according to their General Recommendation 24, maximum available resources must be mobilised to ensure women's right to safe motherhood and emergency obstetric services.

Therefore, the Committee found that the State violated the Convention in spite of its claims that it had made '[q]ualified obstetric care' a priority in its National Plan for Women's Policies. The Committee also affirmed that 'the state is directly responsible for the action of private institutions when it out-sources its medical services, and that furthermore, the state always maintains the duty to regulate and monitor private health-care institutions'.³⁸

The Committee in its thirty-sixth session made some concluding comments on the DRC. Despite efforts made by the state to achieve women's health as well as reproductive health, the Committee has expressed concerns about the extremely negative impact of the prolonged period of war on maternal mortality rates, which has had as consequences the lack of access to obstetric care, unfurnished clinics and non-utilisation of existing services during pregnancy

³⁶ J Bueno de Mesquita 'Maternal mortality and human rights: Landmark decision by UN human rights body' available at: <http://www.who.int/bulletin/volumes/90/2/11-101410/en/index.html> (accessed: 05 February 2013).

³⁷ J Bueno de Mesquita (n 36 above).

³⁸ *Alyne da Silva* (n 35 above).

and childbirth, the low levels of education and restricted access to adequate sexual and reproductive health services for women, particularly those living in rural areas.³⁹



Figure 3: A nurse listening to the baby's heart bit using an out-dated equipment (Source: International Medical Corps).

The Committee requires that the DRC increases its efforts to take measures to develop women's access to an ample variety of health care services, particularly to emergency obstetric care and health-related services. It also requires the DRC to facilitate access to information in accordance with article 12 of the Convention and the Committee's general recommendation 24 on women and health with the aim to reduce maternal mortality rate.⁴⁰

2.2.2 The African Charter on Human and Peoples' Rights

Current United Nations documents confirm the importance that exists to address women's health as well as maternal mortality as a human rights issue. The ground-breaking 2009 UN Human Rights Council resolution on preventable maternal mortality and morbidity and human rights for instance, recognised that 'the unacceptably high global rate of maternal mortality is a health, development and human rights challenge'.⁴¹ The Human Rights Council thus, invited states to renew their political commitment to eliminate preventable maternal

³⁹ UN 'Concluding comments of the Committee on the Elimination of Discrimination against Women: DRC' (2006) CEDAW pg 2.

⁴⁰ UN (n 39 above) pg 6.

⁴¹ Human Rights Council (n 14 above).

mortality at local, national, regional and international levels and also to increase their efforts to guarantee the full and effective implementation of their human rights obligations.⁴²

The African Charter on Human and Peoples' Rights was adopted by the Organisation of African Unity (currently the African Union) in 1981. From the time the Charter was adopted until present day, the Charter has become a legal instrument for individuals to use in claiming their rights on the international scene⁴³ Article 30 of the Charter provides for the establishment of an African Commission on Human and Peoples' Rights within the African Union. In more than 25 years of its existence the African Commission has portrayed itself definitely as the principal human rights body in Africa. Over its progressive explanation of the Charter the Commission has given direction to states about the content of their obligations under the Charter and its provisions have motivated national legislation. In most of the countries in Africa the Charter is part of domestic law by virtue of the constitutional system in force. Nigeria for instance, is one of the countries that have explicitly incorporated the African Charter as part of domestic law through domesticating legislation.⁴⁴

The African Commission on Human and Peoples' Rights at its 44th Ordinary Session held in Abuja drew the attention of states to the fact that women's rights and the principle of non-discrimination are recognised and guaranteed in all international human rights instruments. This includes the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination against Women and its Optional Protocol, and all other regional conventions such as the African Charter on Human and Peoples' Rights concerning women's rights.⁴⁵ Awareness is created on the fact that most African states are not making progress in reducing maternal mortality rates in their countries, in spite of the fact that maternal mortality destroys the base of the African family. According to article 18 of the African Charter on Human and Peoples' Rights the family is

⁴² S Fried *et al* 'Integrating interventions on maternal mortality and morbidity and HIV: A human rights-based framework approach' (2012) *Health and Human Rights Journal* pg 21.

⁴³ Centre for Human Rights and African Commission on Human and Peoples' Rights *Celebrating the African Charter at 30: A Guide to the African Human Rights System* (2011) Pretoria: PULP pg 10.

⁴⁴ Article 30 of the African Charter on Human and Peoples' Rights (1981).

⁴⁵ ACHPR 'Resolution on maternal mortality in Africa' (2008) *African Commission on Human and Peoples' Rights*.

the ‘natural unit and basis of society’ and ‘the custodian of morals and traditional values recognised by the community’.⁴⁶

The African Union has declared 2010-2020 as the decade of African women’s rights. Therefore, state parties must prioritise the advancement of women’s rights. States’ obligations relative to the rights of women in Africa are supervised and regulated by the African Commission on Human and Peoples’ rights to make sure that the rights of women are promoted, realised and protected to allow women the absolute enjoyment of all their human rights as defined by the Charter and the Protocol on the rights of women in Africa. Improvement of women’s rights in Africa is dependent on the ratification and domestication of the African Charter.⁴⁷

2.2.3 The Maputo Protocol

The Maputo Protocol is the Protocol to the African Charter on Human and People Rights on the Rights of Women in Africa. The Protocol was adopted in accordance with article 66 of the African Charter which declares that: ‘Special protocols or agreements may, if necessary, supplement the provisions of the present Charter’.⁴⁸ The Maputo Protocol was adopted on July 2003 the 11th by the African Union (AU) during the second summit in Maputo. However, The Protocol only entered into force on 25 November 2005.

This instrument emphasises concerns not completely covered in other mechanisms but which have specific significance to African women such as HIV and AIDS. The Protocol sets out the reproductive right of women to medical abortion particularly when pregnancy is the result of rape or the relation between members of the same family or when the continuation of pregnancy exposes the health or life of the mother.⁴⁹ The Protocol clearly requisitions the legal prohibition of feminine genital mutilation, and proscribes the exploitation of women.⁵⁰

⁴⁶ Art 18 of the African Charter on Human and Peoples’ Rights (1981).

⁴⁷ ACDHRS ‘Summary report of the NGOs forum preceding the 50th ordinary session of the African Commission on Human and People’s Rights and 24th African Human Rights book fair’ (2011) *African Centre for Democracy and Human Rights Studies*.

⁴⁸ African Charter on Human and Peoples’ Rights of 1981.

⁴⁹ M D Almeida ‘African women organizing for the ratification and implementation of the Maputo Protocol’ (2011) available at: <http://awid.org/News-Analysis/Friday-Files/African-Women-s-Organizing-for-the-Ratification-and-Implementation-of-the-Maputo-Protocol> (accessed: 18 February 2013).

⁵⁰ The Maputo Protocol of 2003.

Despite the fact that most of the state parties have ratified the African Charter on Human and Peoples' Rights and other international human rights instruments and have expressed their fervent commitment to eradicate all forms of discrimination and unsafe practices against women, those practices and discrimination against women still continue in Africa. Article 2 of the Protocol declares that:

1. States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall:
 - a) Include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application;
 - b) Enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women;
 - c) Integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life;
 - d) Take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;
 - e) Support the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.
2. States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices 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 women and men.⁵¹

Article 14 of the Protocol stipulates that all states parties ensure that the right to health of women, including sexual and reproductive health is respected and promoted.⁵² By respecting and promoting the right to health of women also include other rights such as the right to control their fertility, the right to decide whether to have children, the number of children and spacing of children, the right to choose any method of contraceptive, the right to self-protection and the right to be protected against sexually transmitted infections, including HIV/AIDS in accordance with internationally recognised standards and best practices.⁵³

⁵¹ Art 2 of the Maputo Protocol (2003).

⁵² Art 14 of the Maputo Protocol (2003).

⁵³ Human Rights Council (n 14 above).

2.2.4 Solemn Declaration on Gender Equality in Africa

By common understanding we know that sex speaks of the biological differences existing between men and women and is naturally determined. However, gender refers to how the society differentiates men from women by means of social roles, approaches, performances and values. Gender can be cultivated over time through culture and consequently can change. It is acknowledged that sex is a universal phenomenon while gender is a socially defined classification that has the possibility to change. The notion of gender as applied to social studies is important because it shows how men's domination is socially fashioned against women.⁵⁴ This implies that the subordination can be changed or ended. It is not biologically predetermined nor is it fixed forever.

Gender equality signifies women must have equal access to social, economic, political and cultural opportunities as men do. This does not mean that there are similarities between men and women, but rather their similarities and differences are accepted and equally esteemed.⁵⁵ The Solemn Declaration of Gender Equality in Africa was adopted during the Third Ordinary Session by the Heads of State and Government of the African Union meeting in assembly in Addis Ababa from 6-8 July 2004. The aim of that assembly was to reaffirm their commitment to the principle of gender equality as enshrined in article 4(1) of the Constitutive Act of the African Union as well other existing commitments and principles in international instruments on human and women's rights such as the CEDAW and the Maputo Protocol.⁵⁶ Some of the objectives were to accelerate the implementation of gender specific economic, social and legal actions aimed at combating the HIV/AIDS pandemic. It also ensures the full and effective participation and representation of women in all spheres of power and to activate promotion and protection of all human rights for women and girls.

2.3 Programmatic Framework – Millennium Development Goals

⁵⁴ A Jannah 'The sixth African development forum on gender equality, women's empowerment and ending violence against women in Africa' (2008) *Addis Ababa: United Nations Conference Centre*.

⁵⁵ Women's Commission for Refugee Women and Children 'Masculinities: Males roles and involvement in the promotion of gender equality' (2005) Women's Commission for Refugee Women and Children pg 5.

⁵⁶ Solemn Declaration on Gender Equality in Africa 2004.

Nowadays, to reduce maternal mortality has become a state as well as a national priority. This significance is reflected in the national policy and government's national health policy.⁵⁷ In September 2000, The Millennium Development Goals were officially established, resulting from the Millennium Summit of the United Nations where all 189 members of the United Nations and at least 23 international organisations adopted the United Nations Millennium Declaration.⁵⁸ The Millennium Development Goals are eight international goals and each of the goals has precise indicated targets and dates to achieve those targets. All 189 states members of the United Nations have agreed to achieve those goals by the year 2015.⁵⁹

The aim of the Millennium Development Goals is to help and encourage development by improving economic and social situations in the world mostly for the poorest countries.⁶⁰ The individual goals are: to eradicate extreme poverty and hunger, to achieve universal primary education, to promote gender equality and empower women, to reduce child mortality, to improve maternal health, to combat HIV/AIDS, malaria and other diseases, to ensure environmental sustainability and finally to develop a global partnership for development.⁶¹

Maternal mortality is related to goal 5 of the Millennium Development Goals, which aims to improve maternal health. This goal deals with two targets which are:

5. Target A: to reduce by three quarters between 1990 and 2015 the maternal mortality ratio, with maternal mortality ratio and the proportion of births attended by skilled personnel as indicators.
6. Target B: to achieve by 2015, universal access to reproductive health which includes the contraceptive prevalence, the adolescent birth rate, the antenatal care coverage and the unmet need for family planning as indicators.⁶²

⁵⁷ World Bank 'The Millennium Development Goals: Data' available at: <http://data.worldbank.org/about/millennium-development-goals> (accessed: 01 April 2013).

⁵⁸ World Bank (n 57 above).

⁵⁹ World Bank (n 57 above).

⁶⁰ International Monetary Fund 'The IMF and the Millennium Development Goals' (2013) *International Monetary Fund*.

⁶¹ Glossary of Statistical Terms 'Millennium Development Goals' available at: <http://stats.oecd.org/glossary/detail.asp?ID=7329> (accessed: 02 April 2013).

⁶² International Monetary Fund (n 60 above).

The maternal mortality ratio is the number of women who die from any cause connected or provoked by pregnancy or its supervisions during the period of pregnancy and childbirth or within 42 days of termination of pregnancy, irrespective of the duration and site of the pregnancy per 100, 000 live births.⁶³ The proportion of births attended by skilled personnel simply means the percentage deliveries attended by personnel qualified to give the necessary management, care and advice to women during pregnancy, labor and the post-partum period. Skilled personnel are the ones who have appropriate utensils and drugs.⁶⁴

All Sub-Saharan African countries, including the DRC are commended to make a regional effort to address the issue of maternal mortality. However, the Campaign on Accelerated Reduction of Maternal Mortality in Africa (CARMMA) is one of the remarkable initiatives on this matter and was efficaciously launched by the African Union in partnership with UNFPA in 2009.⁶⁵ The campaign has started to be implemented at a domestic level in 26 countries over the period of 2010 and 2011 under the watchword ‘Africa cares: no women should die while giving life’.⁶⁶

2.4 National laws

Currently the Democratic Republic of Congo is governed by the February Constitution which not only provides for gender equality but also has some provisions protecting women’s rights. Article 14 of the Constitution stipules that:

The public authorities see to the elimination of all forms of discrimination against women and ensure the protection and promotion of their rights. They take in all areas, and most notably in the civil, political, economic, social and cultural areas, all appropriate measures in order to ensure the full realization of the potential of women and their full participation in the development of the nation. They take measures in order to fight all forms of violence against women in their public and private life. Women are entitled to equitable representation in national, provincial and local institutions. The State

⁶³ United Nations *Indicator for Monitoring the Millennium Development Goals: Definitions, Rational, Concepts and Sources* (2003) United Nations Publication pg 36.

⁶⁴ United Nations (n 63 above) pg 38.

⁶⁵ UNDP *et al Assessing Progress in Africa towards the Millennium Development Goals: Emerging Perspectives from Africa Development Agenda* (2011) MDG Report 2012 pg 50.

⁶⁶ UNDP *et al* (n 65 above) pg 50.

guarantees the achievement of parity between men and women in said institutions. The law determines the conditions for the application of these rights.⁶⁷

Similarly, article 15 emphasises that: ‘The public authorities are responsible for the elimination of sexual violence used as an instrument in the destabilization and displacement of families...’⁶⁸

Nevertheless, discriminatory laws still remain included in the Family Code of the DRC. Articles 444 and 450 of the Code clearly show discrimination at the family level by giving all the recognition to the man and impose marital subjugation. Article 444 stipules that ‘[t]he husband is the head of the household. He must provide protection to his wife; the wife owes obedience to her husband’ and article 450 stipules that ‘except for the exceptions listed below and those laid down by the matrimonial property regime, the woman cannot litigate in civil matters, acquire or dispose or property without the permission of her husband. If the husband refuses permission to the wife, the Court can order such permission. The husband’s permission may be general but he always retains the right to revoke’.⁶⁹

The Labour Code and the Penal Code are also among the national laws with discriminatory characteristics against women in the DRC. However, in July 2006 two laws on sexual violence (No. 06/018 and No. 06/019) were adopted. In spite of that the situation of women has not improved as a result of the laws.⁷⁰ Nevertheless, there has been a recent progressive move by the Government of the DRC, which launched the Campaign for the Accelerated Reduction of Maternal Mortality (CARMMA). This campaign was launched in 2009 by the Ministers of Health of the African Union together with the UNFPA and other international organisations. The main objective of the campaign is to protect and to save the lives of mothers and babies in Africa who die during childbirth.⁷¹

2.5 Conclusion:

⁶⁷ Article 14 of the DRC Constitution.

⁶⁸ Article 15 of the DRC Constitution.

⁶⁹ Art 444 and 450 of the DRC Family Code of 1987.

⁷⁰ ‘A wide-angle view of the DRC conflict’ available at: <http://saferworld.wordpress.com/2010/03/13/drc-law-on-sexual-violence-july-2006/> (accessed: 2 April 2013).

⁷¹ A F Layos *et al* ‘Key issues for political advocacy in sexual and reproductive rights in Africa’ (2011) *African-Spanish Women’s Network for a Better World*.

In this chapter, I investigated the different international and national legal frameworks on reproductive health in the DRC that are intended to prevent women against maternal mortality. However, I found that despite all the legal mechanisms the situation on the ground has not effectively improved for women. The government of the DRC needs to respect the obligations it has undertaken towards national legislation and the international human rights instruments it has ratified on reproductive health to prevent women against maternal mortality in the DRC and take adequate measures to implement all their provisions in order to avoid human rights violations, particularly against women.

CHAPTER THREE

Factors and Causes of Maternal Mortality in the DRC

3.1 Introduction

Over the past decade there has been a dramatic increase in maternal mortality rate in the DRC. Questions have been raised about the major factors and causes of this problem. In this chapter I illustrate that natural congenital complications are not the only causes of maternal mortality in the DRC. I further point out that maternal mortality in the DRC is a health issue as well as a development and human rights concern. Thus, the chapter deals with the factors and causes that contributes to maternal mortality in the DRC especially in the eastern part of the country. The first section draws on the direct and indirect causes of maternal mortality in the DRC and the second section on the non-health related causes.

The reduction of maternal mortality is one of the most important challenges for the international community, principally in view of the increased consideration about Millennium Development Goal 5, which aims at reducing the maternal mortality rate by three quarters between 1990 and 2015.⁷² The concept of maternal mortality rate is clearly defined as ‘the annual number of female deaths from any cause related to or aggravated by pregnancy or its management (excluding accidental or incidental causes) during pregnancy and childbirth or between 42 days of termination of pregnancy, irrespective of the duration and site of the pregnancy for a specified year (expressed per 100,000 live births)’.⁷³

⁷² UNFPA (n 5 above) pg 3.

⁷³ UNFPA (n 5 above) pg 61.

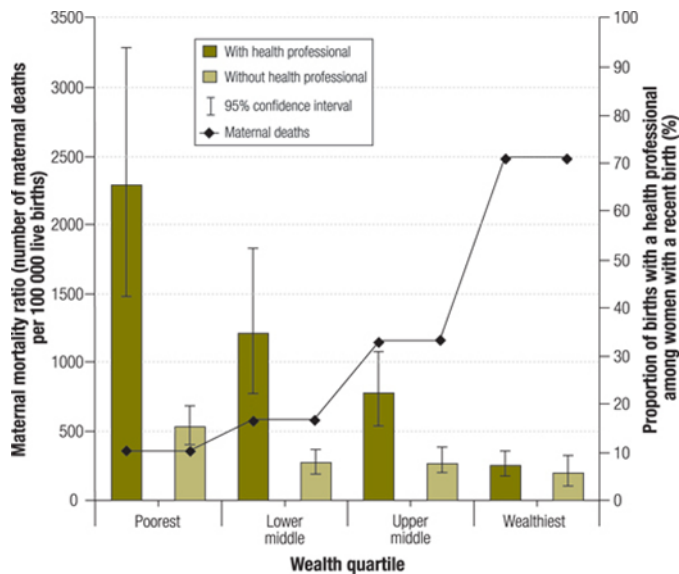


Figure 4: Maternal mortality rate for selected global regions, per 100,000 live births (Source: WHO, UNICEF, UNFPA and World Bank 2010)

Maternal mortality results from the risks associated to pregnancy and childbirth as well as from the under-resourced health care services in the country.⁷⁴ According to the WHO, maternal health refers to the health of women when they are pregnant, when they give birth and during the postpartum period.⁷⁵

3.2 Direct factors and causes of maternal mortality in the DRC

As I have mentioned previously, different interactive factors contribute to maternal mortality. There are many that can be cited such as, the compartments of families and communities, social status, education, alimentary status, age, equality between men and women to enjoy their rights, and availability of health services. It is important to note that non-health sector activities can also influence maternal outcomes.⁷⁶

This section will deal with the direct factors and causes contributing to maternal mortality in Sub-Saharan Africa particularly in the DRC. Traditionally, the causes of maternal mortality have only been determined as pathogenic which means purely medical and therefore best

⁷⁴ S K Khan *et al* 'WHO analysis of causes of maternal death: A systematic review' (2006) 367 UNDP/UNFPA pg 1066-1077.

⁷⁵ 'Maternal mortality rate' available at: <http://www.naphsis.org> (accessed: 16 June 2012).

⁷⁶ T D Jamison *et al* *Disease and Mortality in Sub-Saharan Africa* (2006) 2nd edition The World Bank pg 43.

determined by health professionals.⁷⁷ It is important to specify that direct causes of maternal mortality are those complications that occur because of the pregnancy situation. Therefore, the main direct causes of maternal mortality in Sub-Saharan Africa and in the DRC in particular are postpartum haemorrhage, maternal sepsis and hypertension during pregnancy, caesarean section, obstructed labour and ruptured uterus and most of the time complications of unsafe abortion.⁷⁸

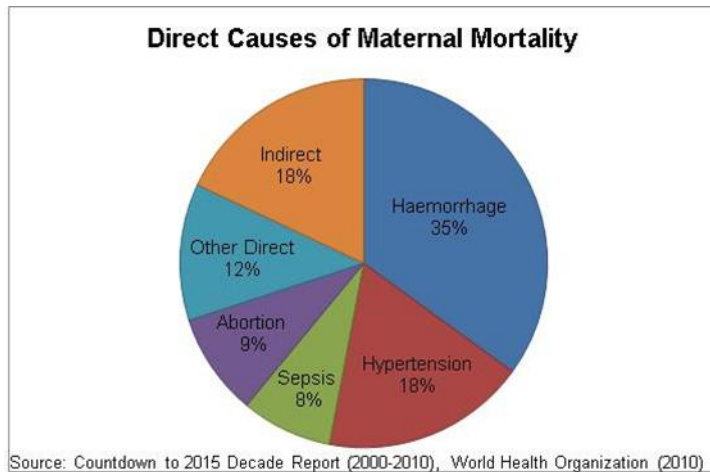


Figure 5: Classification of the highest direct causes of maternal mortality in Sub-Saharan Africa (Source: WHO Report 2010).

3.2.1 Postpartum haemorrhage (PPH)

Postpartum haemorrhage (PPH) in Sub-Saharan Africa, especially in the DRC is one of the major causes of maternal mortality.⁷⁹ The estimation of deaths related to PPH is about 140,000 annually worldwide.⁸⁰ Postpartum haemorrhage is defined as blood loss higher than 500ml for a vaginal delivery and higher than 100 for caesarean delivery.⁸¹ However, most of the cases of PPH can be prevented through what is called the routine application of ‘active management of the third stage’.⁸² This method consists of the mother to receive the

⁷⁷ M Goldman *et al* *Women and Health* (2013) 2nd edition British library cataloguing-in- publication pg.334.

⁷⁸ S K Khan *et al* (n 74 above).

⁷⁹ Goldman *et al* (n 77 above) pg 335.

⁸⁰ Goldman *et al* (n 77 above) pg 335.

⁸¹ SJ McDonald & P Middleton *Effect of timing of umbilical cord clamping off term infants on maternal and neonatal outcomes book review* (2009) J Wiley & Sons publisher pg 5.

⁸² T Judith *et al* ‘AMTS of labour saves facility costs in Guatemala and Zambia’ (2006) *J Health Popul Nur* 540-551.

administration of prophylactic uterotonic (a drug that stimulates uterine contractions)⁸³ agents immediately after delivery of the baby, and to proceed to the early clamping and cutting of the umbilical cord and also controlled traction to deliver the placenta.⁸⁴

3.2.2 Maternal sepsis

Maternal sepsis, also called puerperal sepsis, is one of the direct causes of maternal mortality frequent in the DRC.⁸⁵ Maternal sepsis is defined by the WHO as:

Infection of the genital tract occurring at any time between the onset of rupture of membranes or labour and the 42nd day postpartum, in which fever and one or more of the following are present: pelvic pain, abnormal vaginal discharge, abnormal smell/foul odour of discharge and delay in the rate of reduction of the size of the uterus.⁸⁶

Maternal sepsis is very common in Africa causing at least 75,000 deaths in the absence of treatment.⁸⁷ The fact is that several infections are only noticeable after the mother has been discharged from hospital. There may be an under-reporting of maternal mortality in areas where there is a lack of postpartum follow-up which is the case in the DRC, especially in the eastern provinces.⁸⁸

3.2.3 Hypertension

Women are often victims of hypertensive disorders during pregnancy.⁸⁹ This hypertensive disorder also represents a variety of diseases extending from chronic and gestational hypertension to eclampsia.⁹⁰ They are associated with increased risk of death both for the

⁸³ Pathfinder *Prevention, Recognition and Management of Post-Partum Haemorrhage: Participant's Guide* (2010) Watertown: Pathfinder International pg 2.

⁸⁴ Goldman *et al* (n 77 above) pg 335.

⁸⁵ R Jensen 'Maternal mortality in developing countries the case of Malawi' (2008) *Unpublished mini dissertation, University of Oslo* pg 16.

⁸⁶ J Henry Kaiser Family Foundation 'Global health intervention: A review of the evidence' available at <http://globalhealth.kff.org/GHIR/Conditions/Maternal-Sepsis.aspx> (accessed: 2 April 2013).

⁸⁷ E Parry *et al Principles of Medicine in Africa* (2004) 3rd edition Cambridge press pg 1177.

⁸⁸ 'A wide-angle view of the DRC conflict' (n 70 above)

⁸⁹ N Tharpe *et al Clinical Practice Guidelines for Midwifery and Women's Health* (2012) Kevin Sullivan Publisher pg 106.

⁹⁰ M Edward *et al Modern Nutrition in Health and Diseases* (2006) 10th edition Lippincott Williams & Wilkins pg 781.

mother and the baby.⁹¹ Generally, treatment is provided to women for moderate or severe hypertension by giving them appropriate drugs.⁹² Hypertension in pregnancy remains in the DRC one of the leading direct causes of maternal mortality.⁹³

One of the highest final causes of hypertensive deaths is cerebral hemorrhage and possibly suggests that doctors are indisposed to treat sustained high blood pressure effectively during pregnancy.⁹⁴ Maternal mortality from hypertensive disorders in pregnancy can certainly be reduced evidently by encouraging ante-natal care and establishing a recall system for absentees; inaugurating regional centers and regional obstetricians to give advice on, or care for women with severe pre-eclampsia; educating health professionals through permanent professional education and the use of clinical guidelines of management; and alerting the general public on complications related with the eclampsia syndrome.⁹⁵

3.2.4 Unsafe abortion

According to the WHO, unsafe abortion rate was estimated in Central Africa in 2008 to be about 36 per 1,000 women aged between 15 and 44 years old.⁹⁶ Abortion is prohibited by law in the DRC.⁹⁷ Two articles of the Congolese Penal Code order a penalty of five to ten years of imprisonment for having an abortion and five to fifteen years for partaking in the act.⁹⁸ Abortion is tolerated only in the case where the life of the mother is in danger.⁹⁹ Nowadays,

⁹¹ M Edward *et al* (n 90 above) pg 781.

⁹² Australian prescriber 'Hypertensive disorders of pregnancy' available at <http://www.australianprescriber.com/magazine/35/2/47/50> (accessed: 2 April 2013).

⁹³ Goldman *et al* (n 77 above) pg 336.

⁹⁴ J Roberts *et al Chelsey's Hypertensive Disorders in Pregnancy* (2009) 3rd edition Lindheimer Roberts Cunningham pg 240.

⁹⁵ J Moodley 'Maternal mortality due to hypertensive disorders in pregnancy' (2008) 22:3 *University of KwaZulu Natal* pg 559-567.

⁹⁶ WHO *Global and Regional Estimates of the Incidence of Unsafe Abortion and Associated Mortality in 2008* (2008) 6th edition World Health Organisation pg 19.

⁹⁷ Article 165 and 166 of the Congolese Penal Code.

⁹⁸ Global Voices 'Democratic Republic of Congo: Clandestine abortions on the rise in Goma' (2012) available at: <http://globalvoicesonline.org/2012/05/08/democratic-republic-of-congo-illegal-abortion-on-the-rise-in-goma/> (accessed: 2 April 2013).

⁹⁹ Women's Network for a Better World 'DRC: Sexual and reproductive health' available at: <http://www.map-srhr.org/chapters/ch-3-overview-of-sexual-and-reproductive-health-and-rights-in-africa/dr-congo> (accessed: 2 April 2013).

most women in the DRC as in all regions of the world at times may decide to terminate unwanted pregnancies through abortion.¹⁰⁰ They take this decision even if it is just few months or weeks before they give birth or even when they are aware that an unsafe abortion might be a risk to take for their lives. In the eastern part of the DRC women usually choose abortion when they have been rejected by their husbands and families after being raped by soldiers or other members of armed groups.¹⁰¹

3.3 Indirect factors relating to maternal mortality in the DRC

Indirect causes of obstetric complications are underlying conditions that become aggravated such as malaria, anaemia and HIV. Long periods of conflict and a lack of government investment have made it very difficult for people, especially women in the DRC to access basic health care services. Therefore, epidemics have spread without control and treatment of deadly diseases has been neglected malaria and HIV/AIDS are two of the factors related to direct causes of maternal mortality in Sub-Saharan Africa and particularly in the DRC. The situation in the eastern regions of the DRC is still unstable, marked by conflicts between armed groups, volatility, insecurity and violence. The regular assaults against civilians and aid organisations are rising, making both the population and humanitarian aid workers generally defenceless.¹⁰²

Malaria and HIV are major sources of maternal anaemia, which constitutes a risk factor for maternal mortality in Sub-Saharan Africa and in the DRC.¹⁰³ Inadequate health care infrastructure and the lack of a preventive vaccine have made it very difficult to control emerging malaria and HIV in the eastern part of the DRC.¹⁰⁴ In fact, mothers and infants born are infected by these diseases. HIV/AIDS can affect maternal mortality in many ways. Women who live with HIV/AIDS can be more subject to direct causes of maternal mortality

¹⁰⁰ S Tautz 'Unsafe abortion: A review and discussion' (2004) *GTZ Sector Project Reproductive Health/evaplangmbh*.

¹⁰¹ M Pratt *et al* 'Sexual terrorism: Rape as a weapon of war in Eastern Democratic Republic of Congo' (2004) *USAID*.

¹⁰² Doctors without Borders 'DRC: Conditions still critical' available at: <http://www.doctorswithoutborders.org/news/article.cfm?id=5619&cat=field-news> (accessed: 2 April 2013).

¹⁰³ R Skolnik *Global Health 101* (2012) 2nd edition World Health Organisation pg 191.

¹⁰⁴ Berkley Center for Religion, Peace and World Affairs *Reducing Maternal Mortality: Actual and Potential Roles for Faith-linked Institutions and Communities* (2011) Georgetown University pg 25.

such as postpartum haemorrhage, puerperal sepsis and complications of caesarean section.¹⁰⁵ AIDS-related deaths can be incidental to pregnancy or can really be indirect causes of maternal mortality where the infection itself such as tuberculosis develops so fast in pregnancy.¹⁰⁶

3.4 Non-health related causes of maternal mortality in the DRC

In the previous section I have mentioned that maternal mortality is generally due to obstetrical complications such as, haemorrhage, sepsis, unsafe abortion and so on. However, almost all cases of maternal mortality are preventable. In the DRC for instance, 74 per cent of maternal deaths could be prevented if only all women had access to intervention for preventing and caring for their pregnancies. The Democratic Republic of Congo is one of those countries in Sub-Saharan Africa which has a high maternal mortality rate. Therefore, there is a special need for the country to increase provisions of appropriate quality services. There are many non-health factors that increase the incidence of maternal mortality in this country, which includes poverty, gender, lack of education and information, cultural barriers such as early marriages and female genital mutilation as well as weak health system and lack of political commitment just to cite a few.¹⁰⁷

3.4.1 Poverty and maternal mortality in the DRC

With a population of about 72 million people, the Democratic Republic of Congo is the third largest country in Africa after Nigeria and Egypt in terms of population.¹⁰⁸ It is also known to be the richest country in the region because of its natural resources, which includes minerals and forest. However, its population is among the poorest; living in extreme poverty and hunger. In 2006 GDP per capita was 120 USD and over 75% of the population is believed to live on less than 1 USD a day.¹⁰⁹ The socio-economic status in the DRC is so bad that health care infrastructures are almost nonexistent, especially in the Eastern part of the country.

¹⁰⁵ Berkley Center for Religion, Peace and World Affairs (as n 104 above) pg 25.

¹⁰⁶ L Ujab *et al* 'Factors contributing to maternal mortality in North-Central Nigeria: A seventeen-year review' (2005) 9 *African Journal of Reproductive Health*.

¹⁰⁷ B Moreno-Dodson *et al* *Public Finance for Poverty Reduction* (2008) The World Bank pg 44.

¹⁰⁸ 'Geography of the countries of Africa' (2010) available at: <http://geography.about.com/od/africamaps/a/countriesofafrica.htm> (accessed: 03 April 2013).

¹⁰⁹ DFID 'Democratic Republic of Congo country plan' (2008) *Department for International Development* pg 7.

Pregnant women are obliged to walk for kilometers before they can find access to health care services. Unfortunately, where the services are available some of them are not able to afford the high costs and are therefore abandoned to themselves even after giving birth to their babies.¹¹⁰

The country has been through years of conflict and instability, which still continues in the Eastern provinces. Regardless of a nationwide push to improve maternal and infant mortality, the DRC remains one of the worst countries for a woman to be pregnant. The lifetime risk of maternal death is 1 in 24 women¹¹¹ but this still amounts to unsatisfactory progress according to MDG 5.¹¹² The socio-economic situation of the country is getting worse despite efforts made by the international community to help the country in terms of development assistance.¹¹³



Figure 6: Women and kids in a wide kitchen with non-consistent food because of poverty in eastern DRC (Source: The Guardian).

The Democratic Republic of the Congo is one of those countries in the world that needs continuous emergency assistance. The country struggles under the weight of endemic poverty and serious humanitarian crises; the effects of the persistent armed conflicts and insecurity continue to plunge the region into severe emergencies; long periods of inattention of

¹¹⁰ K Gueye 'Report for VOA from Kaziba, in the mountains of Kivu in the DRC on a way of fighting maternal mortality' available at: <http://www.youtube.com/watch?v=3UWnawvtz6s> (accessed: 3 April 2013).

¹¹¹ Life for African Mothers 'Making birth safer in Sub-Saharan Africa' available at: <http://lifeforafricanmothers.org/where-we-work/central-africa/> (accessed: 3 April 2013).

¹¹² The World Bank 'Reproductive health at a glance: Democratic Republic of Congo' (2011) *The World Bank* pg 1.

¹¹³ M Pratt *et al* (n 101 above).

elementary services and structural collapse.¹¹⁴ The DRC does not only necessitate the mobilization of considerable emergency help to save lives and put an end to human suffering in the eastern region but both humanitarian and longer-term actions to resolve the indicators and causes of the continuing emergencies which render the entire country a humanitarian crisis.¹¹⁵

Persistent and extensive armed conflicts in DRC abated during the first half of 2008 and humanitarian needs have increased throughout all sectors. The augmented access facilitated humanitarian actors to identify and estimate humanitarian conditions in areas previously not reachable.¹¹⁶ Local conflict, insecurity, serious malnutrition, viruses and other diseases continue to threaten the living conditions of hundreds of thousands of women and their families. Violence against women has not stopped in eastern DRC and forced enrolment of young people, forced labour, sexual violence and illegal taxation, spoliation of homes and land, and pillaging continues to be reported throughout the region.¹¹⁷

3.4.2 Gender equality and maternal mortality in the DRC

To improve reproductive health within a country, gender equality and women's empowerment are imperative. Advanced reproductive health is also the result of higher levels of women's autonomy, education; wages, and labor market participation¹¹⁸ In the DRC, women with a minimum of education from the age 15 and above are only 56 percent. Not many girls are registered in secondary schools compared to boys with a 55 percent ratio of female to male secondary school enrolment. Practically three-fifths of grown-up women constitute the labor force that is generally involved in farm work. Gender inequality is widespread in the DRC.¹¹⁹

¹¹⁴ O Greene *et al* 'Conflict prevention, management and reduction in Africa' (2006) *Helsinki: Hakapaino Oy* pg 78.

¹¹⁵ UNICEF 'WCARO DR Congo: Emergency summary' (2009) *Humanitarian Action Report* available at: http://www.unicef.org/har09/index_drcongo.php (accessed: 3 April 2013).

¹¹⁶ UNICEF (n 115 above).

¹¹⁷ UNICEF (n 115 above).

¹¹⁸ United Nations *the Millennium Development Goals: A Latin and a Caribbean perspective* (2005) United Nations pg 107.

¹¹⁹ The World Bank (n 112 above) pg 1.



Figure 7: Congolese women returning from the farm which is their principal activity (Source: Wikipedia).

Increase wealth for women will not convert into greater reproductive choice if women are not able to have access to reproductive health services. Therefore, it is imperative to guarantee that health systems provide an elementary package of reproductive health services, as well as family planning.¹²⁰ Gender inequalities are an important dimension of wider inequalities in health and health care as well as important determinants of health.¹²¹ Gender roles are more about society and culture. They determine and also influence the different manners, characters, responsibilities and expectations of men and women.¹²² They even influence access to incomes and information, in addition to the power to make decisions, both at an individual and communities levels.¹²³ With regards to the health aspect, this influences nutrition, educational opportunities, employment and income, which are all significant factors for good health. It also indicates the needs that are often given priority to between men and women. Within health systems this can mean that the needs of women and girls are not addressed.¹²⁴

¹²⁰ S Jabbour *et al Public Health in the Arab World* (2012) Cambridge University Press pg 261.

¹²¹ G Sen & P Ostlin *Gender Equity in Health: the Shifting Frontiers of Evidence and Action* (2010) New York: Routledge pg 1.

¹²² J Parr *A Diversity of Women: Ontario 1995-1980* (1995) University of Toronto Press Incorporated pg 244.

¹²³ S Kessler *The EU as Global Actor and its Influence on the Global Gender Regime* (2009) Grin Publisher pg 28.

¹²⁴ USAID 'Engaging for gender equality and improved reproductive health' (1995) *USAID*.

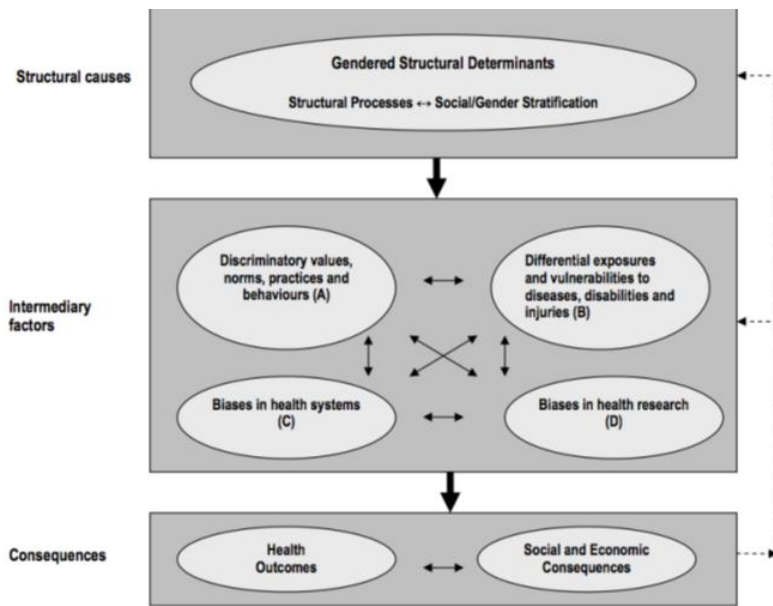


Figure 8: Health and socio-economic consequences of gender inequality and discriminatory values (Source: SocSci Med 1999)

According to the former UN Secretary General, Kofi Annan:

Men, through their roles in the home, the community and at the national level, have the potential to bring about change in attitudes, roles, relationships and access to resources and decision-making which are critical for equality between women and men.... Men should therefore be actively involved in developing and implementing legislation and policies to foster gender equality, and in providing role models to promote gender equality in the family, the workplace and in society at large.¹²⁵

Addressing gender equality in health is dealing with the role of gender power relations in the production of, and vulnerability to health or impartiality within the health system.¹²⁶ To achieve success in gender equality in health suggests eliminating unnecessary, stoppable and unjust health discriminations that happen as a consequence of the social construction of gender. It simply means that men as well as women should have the same opportunities to enjoy conditions of life and services that allow them to be in good health, without becoming, disabled or dying by reasons that are unfair and avoidable.¹²⁷ Gender inequality is among the

¹²⁵ USAID (n 124 above).

¹²⁶ M Bianco ‘Maternal mortality: An indicator of intersecting inequalities’ (2012) *Global Thematic Consultation* pg 1.

¹²⁷ E Marcpherson *et al* ‘Dimensions of gender equity in health in East and Southern Africa’ (2012) *Liverpool School of Tropical Medicine*.

most influential of the social and cultural determinants of reproductive health in Sub-Saharan Africa particularly in the DRC.¹²⁸

3.4.3 Cultural barriers and maternal mortality in the DRC

Women in the DRC endure avoidable or remediable complications associated to pregnancy however, over half a million will die unnecessarily.¹²⁹ It is important to notice that most of these deaths could be avoided at little cost, even in areas where resources are not available. In order to develop and implement changes to maternal health care to be able to save mothers and new-born babies, they must be a change in cultural attitudes, political motivation and increase in the provision of social and health care services.¹³⁰ As a matter of fact, women with no access to maternal health care were defined or seen as those who did not seek a consultation when needed or obtained no treatment or incomplete treatment after consultation.¹³¹

Early marriage is one of the cultural factors that also contribute to maternal mortality in Sub-Saharan Africa, as well as in the DRC. For over several years now this practice has become a strategy for economic maintenance as a result of poverty, which is one of the main factors for sustaining early marriages.¹³² Where poverty is evident, any young girl may be viewed as an economic burden to the family and therefore, the family would not hesitate to marry her off even to someone much older than her age.¹³³ The wife's family may obtain cattle from the groom or his family as the bride price for their daughter. Usually, the young girl is victim of pressure from her own family and does not have anything to say in most of the cases.¹³⁴ In the DRC for instance, 16 years is the average age of marriage and the situation is aggravated

¹²⁸ C Kramarae & D Spender *Routledge International Encyclopaedia of Women: Global Women's Issues and Knowledge* (2000) New York: Routledge pg 321.

¹²⁹ WHO 'The world health report 2003: Shaping the future' (2003) *World Health Organisation*.

¹³⁰ House of Commons International Development Committee *Maternal Health: Fifth Report of Session 2007–08* (2008) 1 London: House of Commons.

¹³¹ P Nieburg *Improving Maternal Mortality and Other Aspects of Women's Health: The United States Global Role* (2012) Washington: Center for Strategic and International Studies pg 13.

¹³² J Bayisenge 'Early marriage as a barrier to girl's education: A development challenge in Africa' *Department of Social Sciences National University of Rwanda* pg 2.

¹³³ J Bayisenge (n 132 above) pg 4.

¹³⁴ Innocenti Digest 'Early marriage child spouses' (2001) *United Nations Children's Fund Innocenti Research Centre*.

by the fact that birth registration is not regular and therefore the age at which young girls are forced into marriage is usually not known. Another problem stems from the fact that many marriages are not registered and as such if any problem happens in the marriage, the wife ends up with no earnings or legal reparation.¹³⁵ The consequences is that early marriage violates the young girl's rights of childhood and adolescence, limitation of personal freedom and the lack of opportunity to develop a complete sense of selfhood in addition to the denial of psychosocial and emotional well-being, reproductive health and educational opportunities.¹³⁶



Figure 9: Young girl holding her baby after giving birth (Source: Doctors Without Borders).

Female genital mutilation is also one the cultural barriers contributing to maternal mortality. War and humanitarian disaster still remains in the eastern part of the DRC and women are victim of high levels of sexual violence.¹³⁷ Almost about 1 150 women are raped every day in the eastern part of the DRC or some 420 000 a year, contributing to the high mortality rate in the country.¹³⁸ And lastly, traditional health care contributes at some level to maternal mortality. In rural areas of the DRC women do not have access to proper health care facilities in situations of obstetrical emergency, relying mostly on traditional birth practices which are most often not safe for the life of the mother or the unborn child.¹³⁹

¹³⁵ Innocenti Digest (n 134 above).

¹³⁶ Innocenti Digest (n 134 above).

¹³⁷ Viljoen (n 21 above) pg 123.

¹³⁸ Viljoen (n 21 above) pg 123.

¹³⁹ J T Kelly *et al* 'Experience of female survivors of sexual violence in Eastern Democratic Republic of Congo: A mixed-methods study' (2011) *Conflict and Health*.

3.4.4 Education, information and maternal mortality in the DRC

Years of proper education are considered as a good indicator of social position and have been habitually used in international surveys to determine social inequalities.¹⁴⁰ These surveys show that people with a more advanced levels of education have better health and longer lives compare to those without any form of education.¹⁴¹ However, it has been debated that women's education should not be treated simply as an alternative for the social factors of health but as an important force in its own right.¹⁴² The level of women's education compared to those of men has been found to be in relation with maternal death.¹⁴³

There is a positive link between levels of maternal education and health service use, even in opposing family or socio-economic situations. Furthermore, lack of education is associated with limited wealth and decisions-making, thus subjecting women and increasing their vulnerability and also increasing the probability of negative consequences during pregnancy or child birth.¹⁴⁴ It is believed that considerable disadvantage in health care related to low levels of maternal education can be resolved through universal access to superior health services.¹⁴⁵

¹⁴⁰ R Levitas *et al* 'The multi-dimensional analysis of social exclusion' (2007) University of Bristol pg 34.

¹⁴¹ J Mirowsky & C Ross *Education, Social Status and Health* (2003) New York: Walter de Gruyler Inc pg 124.

¹⁴² The Canadian Encyclopaedia 'Women's movement' available at: <http://www.thecanadianencyclopedia.com/articles/womens-movement> (accessed: 21 April 2013).

¹⁴³ S Karlsen *et al* 'The relationship between maternal education and mortality among women giving birth in health care institutions: Analysis of the cross sectional WHO global survey on maternal and perinatal health' (2011) *BMC Public Health*.

¹⁴⁴ V Moghadam 'The feminization of poverty and women's human rights' (2005) Paris: UNESCO pg 8.

¹⁴⁵ UNDP 'Discussion paper a social determinants approach to maternal health: Role for development actors' (2011) *United Nations Development Programme*.

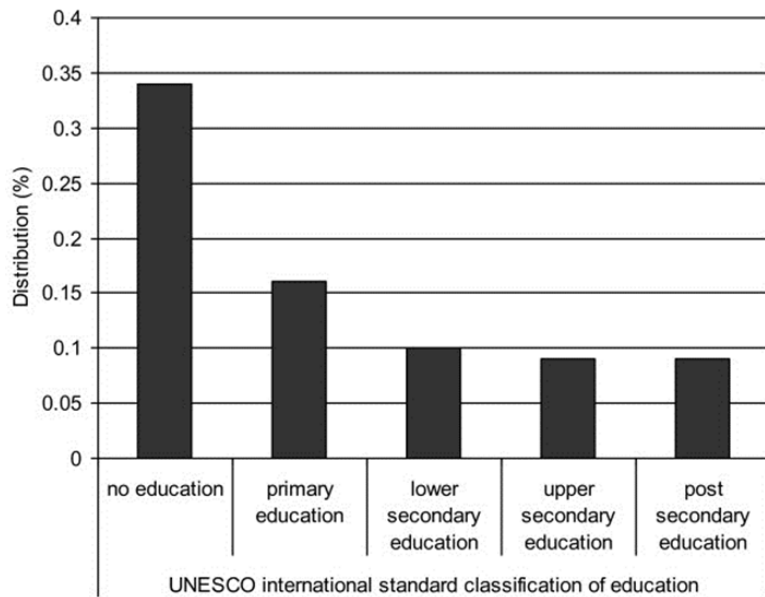


Figure 10: Education as indicator of social inequalities and maternal health (Source: UNESCO)

Nowadays in the DRC, one of the fundamental factors contributing to the high rate of maternal mortality is generally poor education due to the socio-economic standing of women which keeps them unaware about their reproductive rights and health facilities.¹⁴⁶

3.4.5 Health and maternal mortality in the DRC

The health status of the Congolese people is identified among the most appalling in sub-Saharan Africa after periods of political instability and violent conflicts, the interruption of infrastructure and long periods of economic deterioration. Populations are facing many challenges to access to health care either because health care systems have collapsed or do not longer exist. Vulnerable groups such as women, children and older persons are usually the first victims of this tragedy. Increases in deaths have been occasioned by malnutrition, communicable diseases and other factors aggravated by the violent conflict.¹⁴⁷

It is estimated that as much as 70 per cent of the population has little or no access to health care. The humanitarian crisis is compelling and the need for health services throughout the country is enormous.¹⁴⁸

¹⁴⁶ African Development Bank *African Economic Outlook* (2006) OECD Publishing pg 226.

¹⁴⁷ N Mock *et al Public Training in the Democratic Republic of Congo: A Case Study of the Kinshasa School of Public Health* (2006) John Bloomberg School of Public Health.

¹⁴⁸ N Mock *et al* (n 147 above).

High fees paid by health care users, including insufficient quality and availability of services, are the reasons why health care largely became inaccessible for the poor. Diseases such as malaria, measles, acute respiratory infections and diarrheal which are usually preventable and easily treatable continue to claim a shockingly high number of lives.¹⁴⁹ Notwithstanding the fact that the health sector has been assisted by external funding over the last three years, health services in the DRC continue to be inaccessible for the majority of Congolese.¹⁵⁰ Most of the women who live both in urban or rural areas do not often have access to health care facilities, more so because most of the facilities are not furnished with equipment and medication and often do not have qualified personnel.

3.5 Conclusion

Returning to one of the research questions posed at the beginning of this study it is now possible to state that maternal mortality is not only a health issue in the DRC but it is also a development and human rights concern. I have also found in this chapter that the direct and indirect causes which are; postpartum haemorrhage, maternal sepsis, hypertension, unsafe abortion, malaria and HIV/AIDS are responsible for maternal mortality in the DRC as well as the non-health related causes such as poverty, gender equality, cultural barriers and lack of education and information. The government needs to improve all sectors to enable women to live in a suitable environment and enjoy their rights to reproductive health in the DRC.

¹⁴⁹ International Rescue Committee ‘Access to health care and user fees: Experience with fully subsidized health care for targeted groups in the Democratic Republic of Congo’ (2012) *International Rescue Committee* pg 5.

¹⁵⁰ DFID (n 109 above) pg 21.

CHAPTER FOUR

State Responsibility Relating to Maternal Mortality and Reproductive Rights

'...a deprivation of human dignity so profound that it really is death of a different order' Lynn Freedman.¹⁵¹

4.1 Introduction

Most studies in maternal mortality have been carried in the only area of health. However, as I have mentioned in the previous chapters, maternal mortality is also connected to most of the human rights such as the right to life, the right to health care including sexual and reproductive health, the right to non-discrimination, the right to decide number and spacing of children, the right to be free from inhumane and degrading treatment and the right to privacy. Therefore, the DRC has some responsibilities in achieving the Millennium Development Goals and the rights contained in all the international human rights instruments that it has ratified.

The objective of this chapter is to establish the responsibility of the DRC as a state with regards to the violation of women's rights such as reproductive and other rights, which contributes to the high maternal mortality rate in the country. Furthermore, responsibility for the violation of women's rights is not only a matter for the DRC as a state but also non-state actors such as rebel groups; the M23 for instance, is one of the rebel groups that are committing atrocities in the eastern part of the DRC. This chapter also illustrates the fact that maternal mortality can really be preventable and the conditions of women can be ameliorated especially in the rural areas and conflict zones such as the eastern provinces.

¹⁵¹ L Cabal & M Stoffregen 'Calling a spade a spade: Maternal mortality as a human rights violation' available at: www.learningace.com (accessed: 15 May 2013).

Violations of human rights suffered by the simple fact of being women have become increasingly common in international understanding. Women alone constitute about half of the entire humanity whose rights international human rights treaties are envisioned to protect.¹⁵² However, violations of women's human rights are often unrecognised, and when recognised, they are most of the time unpunished and not remedied.¹⁵³ Generally, such violations are justified as an important element of the culture or of religion, or simply seen as an aspect of human nature. The challenges which still remain in international human rights law are to recognise that practices that subordinate women are violations, and to make remedies available.¹⁵⁴

According to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, all state parties have the obligation to respect, protect and fulfil human rights of all persons without discrimination of any kind, including on the basis of age, gender or sex, ethnic origin, birth or status.¹⁵⁵ Women's rights are also considered to be human rights and must be respected, protected and fulfilled as any other human rights. In the ICCPR and the ICESCR all state parties undertake to respect and to ensure to all individuals, including men and women within their territories and subject to their jurisdictions all the rights recognised in those covenants without distinction of any kind.¹⁵⁶

4.2 The responsibility of the DRC on maternal mortality and reproductive rights

Complications of pregnancy which often result in death as a result occur mostly in developing countries than in the developed ones, causing about 500,000 deaths at childbirth every year. Women's rights such as the right to life, the right to health, and the right to non-

¹⁵² J Donnelly *Universal Human Rights in Theory and Practice* (2003) 2nd edition New York: Cornell University Press pg 10.

¹⁵³ N Reilly *Women's Human Rights* (2009) Cambridge: Polity Press pg 12.

¹⁵⁴ J R Cook 'State responsibility for violation of women human rights' (1994) 7 *Harvard Human Rights Journal* 127.

¹⁵⁵ Art 2 of the ICCPR.

¹⁵⁶ UNHCR 'Frequently asked questions on a human rights-based approach to development cooperation' (2006) *United Nations High Commissioner for Human Rights* pg 2.

discrimination allows them the right to access the facilities and precautionary measures they may need to survive during the time of the pregnancy and childbirth. Therefore, the Congolese's government has the obligation to fulfill its obligations to ensure that women's access to suitable quality of life, proper reproductive health care, non-discriminatory laws and social practices prejudicial to women's health are guaranteed and that women are granted the freedom to make autonomous decisions concerning their reproductive lives.¹⁵⁷

The DRC as I mentioned in the previous part of this work, has ratified several international treaties which protect women's rights relating to maternal mortality. Therefore, in accordance with the provisions of these international instruments the DRC has the obligation to respect, to protect and to fulfill all human rights and in this case all women's rights for the interest of its population. This is actually the fundamental principle set in international law on state responsibility which provides that any state which violates its international responsibilities must be held accountable of its acts. In other words, any state that does not respect international obligations is responsible and must directly end its actions and make reparations to the damaged.¹⁵⁸

The understanding of the obligation to respect requires that every measure taken by the state must result in preventing all human rights as well as women's rights to prevent them from maternal mortality. The DRC must not interfere with any of the rights of women by adopting discriminatory laws or policies, for example.¹⁵⁹ The state also has the responsibility to make sure that non-state actors, such as the militia and rebel groups in the eastern provinces, do not infringe the enjoyment of any of the rights of women. Finally, the obligation to fulfill includes the obligation to facilitate the provision of all requirements needed by women to enjoy their sexual and reproductive rights without discrimination. The government of the DRC must adopt appropriate legislative, administrative, budgetary, judicial, promotional and other

¹⁵⁷ Centre for Reproductive Rights 'Preventing maternal mortality and ensure safe pregnancy' (2008) *Centre for Reproductive Rights Briefing paper*.

¹⁵⁸ Diakonia 'What are the responsibilities of a state under international law?' available at: www.diakonia.se/sa/node.asp?node=1857 (accessed: 15 May 2013).

¹⁵⁹ R Cook 'The promotion and protection of women's health through International Human Rights Law' (1999) *University of Toronto* pg 21.

measures to fully realise women's sexual and reproductive health rights in order to prevent all women from maternal mortality.¹⁶⁰

In case of violation the state has the responsibility to ensure full reparation for the wrong caused, including both physical and moral reparations.¹⁶¹ To emphasise this, article 1 of all the Geneva Conventions, which highlights the key responsibilities of the state under international law provides that states are responsible to respect and ensure respect of the Conventions in all circumstances.¹⁶² The CEDAW Committee in its General Recommendation 24 strengthens state parties' obligations in order to protect women's rights relating to health, as well as their obligation to refrain from obstructing realisation undertaken by women in pursuit of their health objectives. The CEDAW Committee recommends government action to guarantee access to all aspects of health care for women and young girls, as well as access to contraception, family planning services and information.¹⁶³ The Committee has repeatedly communicated its concern about high rates of maternal mortality and has outlined the matter of maternal mortality as a violation of women's right to life and has also associated the high rates of maternal mortality to lack of access to and inadequate availability of comprehensive reproductive health services.¹⁶⁴

According to the Universal Declaration of Human Rights, human rights are universal indivisible and interdependent, inherent and inalienable.¹⁶⁵ The key human rights relating to maternal mortality are the right to life, the right to health care including sexual and reproductive health, the right to non-discrimination, the right to decide number and spacing of children, the right to be free from inhumane and degrading treatment and the right to privacy. These rights are contained in other international instruments such as, the International Covenant for Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the African Charter on Human and People's Rights, the Protocol to the African Charter on Human and People's Rights and the Convention on the Elimination of all forms of Discrimination against Women.

¹⁶⁰ United Nations Higher Commissioner for Human Rights 'The right to health: Fact sheet No 31' *The World Health Organisation*.

¹⁶¹ United Nations Higher Commissioner for Human Rights (n 160 above).

¹⁶² Diakonia (n 158 above).

¹⁶³ J R Cook (n 159 above).

¹⁶⁴ Diakonia (n 158 above).

¹⁶⁵ Art 1 of the UDHR of 1948.

4.2.1 The right to life and maternal mortality in the DRC

The International Covenant on Civil and Political Rights provides in article 6 that ‘[e]very human being has the inherent right to life’ and that no one shall be indiscriminately deprived of his or her life.¹⁶⁶ Protecting this right suggests that the Congolese government must not only prevent arbitrary assassinations but also adopt positive processes to guarantee the right to life, as well as taking steps to prevent unnecessary maternal mortality. The CEDAW Committee is one of the two treaty bodies that have outlined maternal mortality as a violation of women’s rights to life. According to the Human Rights Committee the DRC must take some positive measures to ensure this right in the DRC, especially for women:

The DRC must strengthen its efforts in ensuring the accessibility of health services, including emergency obstetric care, ensure that its health workers have received adequate training to help women avoid undesirable pregnancies, including by strengthening its family planning and sexual education programs.¹⁶⁷

4.2.2 The right to health and maternal mortality

The right to health is guaranteed by the International Covenant on Economic, Social and Cultural Rights in article 12, which states that state parties to the Covenant recognise the right to everyone to enjoy the highest attainable standard of physical and mental health. Nowadays, women’s reproductive health has been attached to this right by international human rights instruments. The UN Commission on Human Rights indicated in 2004 that ‘[s]exual and reproductive health is integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health’.¹⁶⁸ The former Special Rapporteur on the Right to Health, Paul Hunt together with the Committee on Economic, Social and Cultural Rights have qualified preventable maternal death as a violation of the right to health.¹⁶⁹ Their analyses have also been important in enabling the institution of government obligations relating to the right.¹⁷⁰

¹⁶⁶ Art 6 of the ICCPR.

¹⁶⁷ L Cabal *et al* ‘Calling a spade a spade: Maternal mortality as a human right violation’ (2009) *Center for Human Rights and Humanitarian Law* pg 2.

¹⁶⁸ Cabal *et al* (n 167 above) pg 3.

¹⁶⁹ Cabal *et al* (n 167 above) pg 3.

¹⁷⁰ Cabal *et al* (n 167 above) pg 3.

4.2.3 The right to non-discrimination and maternal mortality

A commentary made by the World Health Organisation says that maternal mortality is an indicator of inequality and disparity between men and women and shows women's place within the society as well as their access to all the sectors in the society such as health, economic opportunities and societal services. Therefore, the greatness of maternal mortality expresses more than the state of women's health.¹⁷¹ The right to non-discrimination requires that we treat same issues without discrimination such as by providing the same kind of access to health care services for men and women.

4.2.4 The right to decide number and spacing of children and maternal mortality

This right is clearly outlined in article 16 of the CEDAW Convention which states that 'States Parties shall... ensure, on a basis of equality of men and women...the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.'¹⁷² Women in the DRC, especially those who live in the rural areas are not aware that they have this right and can use it to denounce any discrimination they may experience in their families.

4.2.5 The right to be free from inhumane and degrading treatment and maternal mortality

Internal conflicts still occur in the DRC mainly in the east and continue to considerably affect the human rights situation, which is challenged by the government's limited ability to effectively control its territory as was the case in North and South Kivu Provinces.¹⁷³ State security forces, rebels and militia groups continue to act with impunity by committing several abuses and human rights violations. Women and children are usually the first victims of these atrocities. Every day women who live in this part of the DRC face rape, torture, female genital mutilations and unlawful killings.¹⁷⁴ Women are not able to undertake any legal action

¹⁷¹ Cabal *et al* (n 167 above) pg 3.

¹⁷² Art 16 of the CEDAW of 1979.

¹⁷³ Selected works 'The Arms Trade Treaty: Zimbabwe, the Democratic Republic of Congo, and the prospects for arms embargoes on human rights violators' (2010) available at: http://0-works.bepress.com/innopac.up.ac.za/cgi/viewcontent.cgi?article=1010&context=david_kopel (accessed: 15 May 2013).

¹⁷⁴ US Department of States '2010 human rights report: The DRC' available at: www.state.gov/j/drl/rls/hrrpt/2010/af/154340.htm (accessed: 15 May 2013).

against their offenders because of the lack of independent and effective judiciary.¹⁷⁵ They are abandoned to themselves and often rejected by their families.

4.3 Reparation of women's rights violations - a multidisciplinary approach

The first part of this section explains what is expected of the government of the DRC in terms of reparation of all the women's rights violations that I have mentioned in the previous chapters, which is directly linked to maternal deaths. In the second part, I look at the nature of reparations from a multi-disciplinary perspective in order to identify answers to the maternal mortality issue in the DRC.

4.3.1 Reparations of women's rights violations

Generally, the word reparation is used to refer to material damages. It also refers to the diversity of remedies available for the non-respect of an international obligation by a state.¹⁷⁶ The reparation of violation of international obligations might anticipate restoration, for example, the restitution of the women's rights that have been violated, compensation for damages suffered in the past and for the ones they still suffer, like in armed conflicts and assurance against future breach of international obligations.¹⁷⁷ Reparation in other words, brings up the numerous means by which a state must repair the breach of international law for which it is responsible and that reparation may cover both individual physical and psychology damages resulting from human rights violations.¹⁷⁸

However, in human rights treaties the term reparation means that it is expected of the state to provide effective remedies for the violation of these rights. Thus, these remedies can be practical by the fact that they are the procedures by which all prerogatives of human rights violations are acknowledged and decided by the courts, administrative authorities or other competent bodies. This may constitute the fact that the result of the procedure succeeded.¹⁷⁹

¹⁷⁵ A Mcbeth 'Crushed by an anvil: A case study on responsibility for Human Rights in the extractive sector' (2008) *Yale Hum. Rts. & Dev. L J* pg 128.

¹⁷⁶ D Shelton *Remedies in International Human Rights law* (1999) Oxford pg 44.

¹⁷⁷ Shelton (n 176 above) pg 93.

¹⁷⁸ Shelton (n 176 above) pg 51.

¹⁷⁹ Shelton (n 176 above) pg 51.

The need for ameliorating the law on the protection and the promotion of human rights was the outcome of the atrocities that happened during the Second World War. That commitment was established in the United Nations Charter in which the preamble stipulates that all member states to the charter ‘reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small’.¹⁸⁰

Indeed, to achieve international consensus by promoting as well as encouraging the respect of human rights and basic freedoms is one of the major objectives of the United Nations. To succeed in this endeavour, the UN requires from all member states some obligations which must be respected.¹⁸¹ Nonetheless, in cases of severe violations approved internationally, the domestic law of the state responsibility is relevant because such an act suggests that the state did not succeed to respect an international obligation.¹⁸² Consequently, the domestic law of state responsibility requires a state to make reparations when it has failed to fulfil its obligations concerning the rights of its population through an action or negligence.¹⁸³

4.3.2 A multidisciplinary approach

States have obligations under international human rights law to respect, protect and fulfil human rights through the rights outlined in the treaties. The DRC has practically failed in its obligation to reduce maternal mortality rates.¹⁸⁴ In order to respond to the question formulated in the beginning of this work, I illustrate how the DRC has failed in its obligations by using a multi-disciplinary approach that focuses on socio-politics and education. One of the socio-political factors in the DRC that contributes to maternal mortality in different ways is poverty. The high rates payable for health services is one of the causes that discourage poor women from accessing reproductive health services, while those who can afford usually face the challenge that most of the health care services are not well equipped and lack trained health care workers. Some women in the DRC, particularly in the eastern provinces face violations of their rights at discriminatory health facilities simply by the fact of their

¹⁸⁰ As above.

¹⁸¹ As above.

¹⁸² n 99 above 93.

¹⁸³ Skolnik (n 103 above).

¹⁸⁴ Donnelly (n 151) pg 2.

economic status or ethnic group.¹⁸⁵ The Congolese Secretary General of Public Health has declared that only five per cent of the country's budget has been set for health care in 2011. However, according to the 2011 Abuja Declaration, African governments are required to allocate fifteen per cent of the country's budget to health care as compared to the twenty per cent adopted by developed countries.¹⁸⁶

Secondly, the DRC has not been effective in the implementation of its policies on the ground. A lot of barriers to maternal health care still persist. There is no good governance and the Congolese government is not supporting the health sector fully. Meanwhile, the health sector is supposed to be one of the priorities for the Congolese government. Unfortunately, the health care system in the DRC has been damaged by instability and the on-going armed conflicts in the eastern provinces. People, especially women and children are not even able to have access to basic health care services.¹⁸⁷

From the perspective of education, which can be defined as the process of being educated, education has a huge impact in the realisation of human rights in the sense that it enables people with knowledge. For instance, in the society where people are educated on their human rights they become aware of them and will respect others' rights as well. That is why Chongo Chitupila has reiterated that:

Human rights empower individuals and communities to seek the transformation of society towards the full realization of all human rights. Consequently, every person needs not only to have human rights knowledge, but to understand human rights and their consequences.¹⁸⁸

It is very important that the teaching of human rights should not only be taught at the university but should start at the level of the pre-school. For instance, Sweden is still the best example in matters of human rights education. This country made good national programmes

¹⁸⁵ CRC 'Submission to the UN OHCHR for the preparation of the thematic study on maternal mortality, morbidity and human rights' available at: <http://www.ohchr.org> (accessed: 18 May 2013).

¹⁸⁶ Guardian Development Network 'Congo's maternal mortality exacerbated by poverty and ignorance' available at: www.guardian.co.uk/global-development/2012/may/11/congo-maternal-mortality-rate-poverty (accessed: 18 May 2013).

¹⁸⁷ UNFPA (n 12 above) pg 12.

¹⁸⁸ C Chitupila 'The right to education as a basis for human rights education: An interface between human rights and education' in F Viljoen *Beyond the Law Multidisciplinary Perspectives on Human Rights* (2012) p 165.

and policies by instituting human rights education for its entire population without discrimination of age, sex, qualification or culture. Of course, the country has been recognised as the best record of human rights promotion and protection that conforms to international human rights standards.¹⁸⁹ The Universal Declaration of Human Rights is the best example. Article 26 states that '[e]veryone has the right to education. Education shall be free, at least in the elementary stages. Everyone is entitled to have not only knowledge but also to understand human rights'.¹⁹⁰ The DRC is still experiencing violations of human rights at a very high level and therefore should follow the example of Sweden by putting in place national programmes, organise for and with NGOs, mobilise and teach human rights in society regardless of sex, qualification or culture.

4.4 Conclusion

My aim in this chapter has been to establish the responsibility of the DRC concerning the violation of women's rights that contribute to maternal mortality. According to the international human rights instruments on maternal health and reproductive rights that the DRC has ratified, it has the obligation to respect, to protect and to fulfil the provisions in all circumstances. According to international law, if the state fails in its responsibility to protect citizens and to ensure that they enjoy their human rights, it is supposed to take proper measures to guarantee that reparation is made.

However, non-state actors such as group rebels in the eastern part of the DRC have also committed several human rights violations. For instance, currently the rebel group called M23 continues to commit atrocities towards women in the eastern provinces of the DRC. It is the responsibility of the state to put an end to this situation to ensure peace for everyone in the country.

¹⁸⁹ C Chitupila (n 188 above) pg 164.

¹⁹⁰ Art 26 of the UDHR 1948.

Chapter Five

Conclusion and General Recommendations

'Safe motherhood is a human rights issue...The death of a woman during pregnancy or childbirth is not only a health issue but also a use of social injustice'.¹⁹¹

5.1. Concluding remarks

The principal aim of this research has been to examine the reasons why maternal mortality is not only persistent but increasing in the DRC and to establish the responsibility of the DRC concerning the violation of women's rights as a result of their vulnerable nature, as well as the responsibility of the government with regards to the measures it has taken. The responsibility to protect human rights is a key element to end the succession of impunity and it is indispensable for the on-going violations committed against women in the DRC, especially in the eastern region.

I have established that maternal mortality in the DRC has remained high and the trend keeps rising. I identified that the main direct causes of maternal mortality are haemorrhage, sepsis, eclampsia, hypertension, unsafe abortion, while the indirect causes are malaria and HIV/AIDS. This study has also illustrated that maternal mortality is not just a health issue in the DRC but most importantly a development and human rights concern affecting all sectors of the country. However, the problem continues to be exacerbated by the continuing political instability and armed conflicts in the eastern parts of the country.

I also observed that maternal mortality is not only related to the right to health but it is also closely linked to the other human rights examined in this study. The violation of any one of the women's rights has a serious impact on all of them by reason of the inter-relation that exists between human rights. I also found that almost all cases of maternal mortality are absolutely preventable.

¹⁹¹ WHO *Reduction of Maternal Mortality: A Joint WHO/UNFPA/UNICEF/World Bank Statement* (1999) World Health Organisation pg 6.

This research has found that maternal mortality rate remains high in the DRC despite all the relevant international human rights instruments ratified by the government as well as the national laws that have been put in place. Currently in the DRC, the implementation of women's rights related to maternal mortality such as the right to life, the right to health care including the sexual and reproductive health, the right to non-discrimination, the right to decide number and spacing of children, the right to be free from inhumane and degrading treatment and the right to privacy are not effectively respected, protected or fulfilled by the government. Therefore, the DRC can be said to have failed to fulfil its obligations under international human rights law relating to maternal mortality.

The study has also identified how the high rate of maternal mortality in the DRC can be attributed to multiple determinants such as socio-political, health, economic and cultural factors. Although different measures and strategies have been used to address maternal mortality in the DRC, the number of women who die during childbirth, particularly in the eastern provinces continues to increase. Most of the pregnant women are not able to readily access or afford the health care they actually need. The subordinate status of women in society, geographical and financial constraints and poor conditions in many health services as well as lack of adequate trained staff and materials, equipment and medication; negative attitudes and corrupt practices perpetuated by some medical workers, are some of the difficulties faced by pregnant women in the DRC. Women who live in rural areas are generally marginalised and frequently exposed to maternal mortality. They find it difficult to have access to family planning services and most of them are not even aware of the availability of such services.

5.2. General recommendations

In the light of the analysis I have made in this study I propose the following recommendations as short term solutions in addressing the problem of maternal mortality in the DRC.

The Congolese government must ensure that it meets all of its national and international obligations to respect, protect and fulfil all of the women's rights relating to maternal mortality in the DRC. The state has the obligation to guarantee an equitable distribution of health facilities and to eliminate political, economic, cultural and physical barriers that

prohibit women from the full enjoyment of their rights. Access to information on sexual and reproductive rights must also be guaranteed by the state. The Congolese government has the obligation to take appropriate actions to stop discrimination against women in all its forms, as well as to ensure the elimination of traditional practices that are harmful to women, or which are based on categorised roles for men and women or those which enhance the subordination of women. The government should review its national legislation in order to ensure that all discriminatory customary practices such as early marriages and other harmful customary practices are prohibited. The government must increase access to family planning and contraceptive methods which form part of the dynamic strategies to reduce maternal mortality. There is also need for the government to undertake information and education campaigns for men and women to provide correct and complete information on preventable methods of maternal mortality. The state must finance a spreading out of family planning services for all women including young girls particularly in the rural areas.

The health sector, including sexual and maternal health must be made a priority concern for the Congolese government. The state must make sure that at least fifteen per cent of the country's budget is allocated to the health sector. In the DRC, most of the health institutions cannot deal with complications relating to pregnancy, especially in the rural and conflict zones. The state must take the initiative to furnish hospitals with modern equipment and also increase the recruitment of qualified health workers, ensure that they receive adequate training and support. The state must establish and reinforce links between health facilities and the population by providing better communication channels and transport equipment. It is the role of the Ministry of Health to ensure that discriminatory and corrupt practices are eliminated in all health facilities.

The Ministry of Health should monitor and strengthen rules and procedures designed to ensure that health care facilities are convivial and respectful to all categories of women and young girls. The Congolese government has the obligation to protect its population by ensuring peace and security in the entire Congolese territory. Women who live in the armed conflict zones are not only most vulnerable but also deprived of access to formal and appropriate health facilities and therefore it remains the responsibility of the government to find solutions to lasting peace in the country in order for women's rights to be realised and the problem of maternal mortality addressed.

BIBLIOGRAPHY

Books and chapters in the books

African Development Bank (2006) *African Economic Outlook* OECD Publishing.

Berkley Center (2011) *Reducing Maternal Mortality: Actual and Potential Roles for Faith-Linked Institutions and Communities* Berkley Centre for Religion, Peace & World Affairs, Georgetown University.

Centre for Human Rights and African Commission on Human and Peoples' Rights (2011) *Celebrating the African Charter at 30: A Guide to African Human Rights System* Pretoria: Pretoria University Law Press.

Chitupila, C (2012) 'The right to education as a basis for human rights education: An interface between human rights and education' in Frans Viljeon (ed) *Beyond the Law Multidisciplinary Perspectives on Human Rights* Pretoria: Pretoria University Law Press.

Dean, T *et al* (2006) *Disease and Mortality in Sub-Saharan Africa* The World Bank.

Donnelly, J (2003) *Universal Human Rights in Theory and Practice* 2nd edition New York: Cornell University Press.

Edward, M *et al* (2006) *Modern Nutrition in Health and Diseases* 10th edition Lippincott Williams & Wilkins.

Gillam, S *et al* (2007) *Essential Public Health Theory and Practice*: Cambridge University Press.

Goldman, M *et al* (2013) *Women and Health* 2nd edition British library cataloguing-in-publication data.

Greene, O *et al* (2006) *Conflict Prevention, Management and Reduction in Africa* Helsinki: Hakapaino Oy.

House of Commons International Development Committee (2008) *Maternal Health: Fifth Report of Session 2007–08* vol 1 London: House of Commons.

Jabbour, S *et al* (2012) *Public Health in the Arab World* Cambridge University Press.

Jamison, T D *et al* (2006) *Disease and mortality in Sub-Saharan Africa* 2nd edition The World Bank.

Kessler, S (2009) *The EU as Global Actor and its Influence on the Global Gender Regime* Grin Publisher.

Koblinsky, M (2003) *Reducing maternal mortality learning from Bolivia, China, Egypt, Honduras, Indonesia, Jamaica, and Zimbabwe* The World Bank.

Kramarae, C & Spender, D (2000) *International Encyclopaedia of Women: Global Women's Issues and Knowledge* New York: Routledge.

Mirowsky, J & Ross, C (2003) *Education, Social Status, and Health* New York: Walter de Gruyter Inc.

Mock, N *et al* (2006) *Public Training in the Democratic Republic of Congo: A Case Study of the Kinshasa School of Public Health* John Hopkins Bloomberg School of Public Health.

Moreno-Dodson, B *et al* (2008) *Public Finance for Poverty Reduction* The World Bank.

Nieburg, P (2012) *Improving Maternal Mortality and Other Aspects of Women's Health: The United States Global Role* Washington: Centre for Strategic and International Studies.

Tharpe, N *et al* (2012) *Clinical Practice Guidelines for Midwifery and Women's Health* Kevin Sullivan Publisher.

Packer, C (2002) *Using Human Rights to Change Traditions* Intersentia.

Parr, J A (1995) *Diversity of Women: Ontario 1995-1980*: University of Toronto Press Incorporated.

Parry, E et al. (2004) *Principles of Medicine in Africa* 3rd Edition Cambridge Press.

Pathfinder International (2010) *Prevention, Recognition and Management of Post-Partum Haemorrhage: Participant's Guide* Watertown: Pathfinder International.

Reilly, N (2009) *Women's Human Rights* Cambridge: Polity Press.

Roberts J et al (2009) *Chelsey's Hypertensive Disorders in Pregnancy* 3rd edition Lindheimer Roberts Cunningham.

Sen, G & Ostlin P (2010) *Gender Equity in Health: The Shifting Frontiers of Evidence and Action* New York: Routledge.

Seth, P (2009) *Infant Mortality and Maternal Mortality Socio-Economic Causes and Determinants* New Delhi: Gyan Publishing House.

Shelton, D (1999) *Remedies in International Human Rights law* Oxford: Oxford University.

Skolnik, R (2012) *Global Health 101 2nd Edition* World Health Organisation.

Tharpe, Net al (2012) *Clinical Practice Guidelines for Midwifery and Women's Health* Kevin Sullivan publisher.

United Nations (2003) *Indicator for Monitoring the Millennium Development Goals: Definitions, Rational, Concepts and Sources* United Nations Publication.

United Nations (2005) *the Millennium Development Goals: A Latin and a Caribbean Perspective* United Nations.

UNDP *et al* (2011) *Assessing Progress in Africa towards the Millennium Development Goals: Emerging Perspectives from Africa on the Post-2015 Development Agenda* MDG Report 2012.

UNICEF (2012) *Progress on Drinking Water and Sanitation* World Health Organisation.

Viljoen F (2012) *International Human Rights Law in Africa* 2nd edition Oxford University Press.

World Health Organisation (2008) *Global and Regional Estimates of the Incidence of Unsafe Abortion and Associated Mortality in 2008* 6th edition WHO Library cataloguing-in-Publication data.

World Health Organisation (2003) *The World Health Report 2003: Shaping the Future* World Health Organisation.

Journal Articles, Dissertation, Conference Papers and Reports

ACDHRS ‘Summary report of the NGOs forum preceding the 50th ordinary session of the African Commission on Human and People’s Rights and 24th African Human Rights book fair’ (2011) *African Centre for Democracy and Human Rights Studies*.

ACHPR ‘Resolution on maternal mortality in Africa’ (2008) *African Commission on Human and People’s Rights* 1-20.

Bayisenge, J ‘Early marriage as a barrier to girl’s education: A development challenge in Africa’ *Department of Social Sciences National University of Rwanda* 1-15.

Bianco, M & Moore, S ‘Maternal mortality: An indicator of intersecting inequalities’ (2012) *Fundación para Estudio e Investigación de la Mujer –FEIM* 1-19.

Cabal, L *et al* ‘Calling a spade a spade: Maternal mortality as a human right violation’ (2009) *Center for Human Rights and Humanitarian Law* 2-6.

Center for Reproductive Rights ‘Preventing maternal mortality and ensure safe pregnancy’ (2008) *Center for Reproductive Rights* 1-35.

Center for Reproductive Rights ‘Submission to the United Nations Office of the High Commissioner for Human Rights for the preparation of the thematic study on maternal mortality, morbidity and human rights’ *Center for Reproductive Rights* 1-18.

Cook, J R ‘State responsibility for violation of women human rights’ (1994) 7 *Harvard Human Rights Journal* 127-75.

Cook, R ‘Women's health and human rights: The promotion and protection of women's health through International Human Rights Law’ (1999) *Faculty of Law University of Toronto* 19-43.

Department for International Development ‘Democratic Republic of Congo: Country plan’ (2008) *Department for International Development* 1-40.

Fried, S *et al* ‘Integrating interventions on maternal mortality and morbidity and HIV: A human rights-based framework approach’ (2012) *Health and Human Rights Journal* 21-33

Human Rights Council ‘Preventable maternal mortality and morbidity and human rights’ (2010) *Eleventh Session Resolution 11/8* 1-3

Hunt, P *et al* ‘Reducing maternal mortality’ (2007) *UNFPA* 1-16.

Innocenti Digest ‘Early marriage child spouses’ (2001): *Innocenti Digest – United Nations Children's Fund Innocenti Research Centre* 1-29.

International Monetary Fund ‘The IMF and the Millennium Development Goals’ (2013) *International Monetary Fund* 1-3.

International Rescue Committee ‘Access to health care and user fees: Experience with fully subsidized health care for targeted groups in the Democratic Republic of Congo’ (2012) *International Rescue Committee* 1-9.

Janneh A 'The sixth African development forum on gender equality, women's empowerment and ending violence against women in Africa' (2008) *Addis Ababa: United Nations Conference Centre* 1-4.

Judith, T *et al* 'AMTS of labour saves facility costs in Guatemala and Zambia' (2006) *Journal of Health Population Nursing* 540-551.

Karlsen, S *et al* 'The relationship between maternal education and mortality among women giving birth in health care institutions: Analysis of the cross sectional WHO Global Survey on Maternal and Perinatal Health' (2011) *BMC Public Health* 1-10.

Kelly, J T *et al* 'Experience of female survivors of sexual violence in Eastern Democratic Republic of Congo: A mixed-methods study' (2011) *Conflict and Health* 1-8.

Khan, S K *et al* 'WHO analysis of causes of maternal death: A systematic review' (2006) *UNDP/UNFPA* 1066-1077.

Kopel, D 'The Arms Trade Treaty: Zimbabwe, the Democratic Republic of Congo, and the prospects for arms embargoes on human rights violators' (2010) 114:3 *Penn State Law Review* 101-163.

Layos, A F *et al* 'Key issues for political advocacy in sexual and reproductive rights in Africa' (2011) *African-Spanish Women's network for a better world* 1-25.

Levitas, R *et al* 'The multi-dimensional analysis of social exclusion' (2007) University of Bristol 1-246.

Marcpherson, E *et al* 'Dimensions of gender equity in health in East and Southern Africa' (2012) *Liverpool School of Tropical Medicine* 1-50.

Mcbeth, A 'Crushed by an anvil: A case study on responsibility for Human Rights in the extractive sector' (2008) *Yale Human Rights & Development Law Journal* 127-166.

McDonald, S J & Middleton, P (2009) 'Effect of timing of umbilical cord clamping off term infants on maternal and neonatal outcomes Book review' *J Wiley & Sons publisher*.

Moghadam, V 'The feminization of poverty and women's human rights' (2005) *Paris: UNESCO* 1-40.

Moodley, J 'Maternal mortality due to hypertensive disorders in pregnancy' (2008) 22:3 *University of KwaZulu Natal, best practice and research clinical obstetrics and gynecology* 559-567.

Nkolika, A 'The CEDAW and the status of implementation on the right to health in Nigeria' (2006) *World Health Organisation* 1-6.

Pan American Health Organisation 'Maternal mortality and morbidity background paper: Inaugural Conference on Global Health, Gender and Human Rights' (2012) *American University Washington College of Law/ Pan American Health Organization* 1-20.

Pratt, M *et al* 'Sexual terrorism: Rape as a weapon of war in Eastern Democratic Republic of Congo' (2004) *USAID* 1-30.

Preston, S 'The changing relation between mortality and economic development' (1975) 29:2 *Population Investigation Committee* 231-248.

R Jensen 'Maternal mortality in developing countries the case of Malawi' (2008) *Unpublished mini dissertation, University of Oslo* 1-45.

Rebecka, J 'Maternal mortality in developing countries the case of Malawi' (2008) *unpublished Msc. Mini Dissertation University of Oslo*.

Research and Training Institute 'Assessment of reproductive health in the DRC' (2002) *JSI Research and Training Institute* 1-25.

Roberts, S 'Mortality in eastern Democratic Republic of Congo' (2001) *International Rescue Committee* 1-24.

Tautz, S 'Unsafe abortion: A review and discussion paper' (2004) *GTZ Sector project Reproductive Health/evaplangmbh* 1-33.

The World Bank 'Reproductive health at a glance: Democratic Republic of Congo' (2011) *The World Bank* 1-5.

Ujab, L *et al* 'Factors contributing to maternal mortality in North-Central Nigeria: A seventeen-year review' (2005) *African journal of Reproductive Health, Women's Health and Action Research Centre* 27-40.

UNDP 'Discussion paper a social determinants approach to maternal health: Role for development actors' (2011) *United Nations Development Programme* 1-38.

UNFPA 'Democratic Republic of Congo humanitarian action plan' (2010) *United Nations Fund for Population Activities* 1-53.

UNFPA *et al* 'Trends in Maternal Mortality: 1990-2010' (2012) *World Health Organisation* 1-72.

UNHCR 'Background paper on refugees and asylum seekers from the DRC' (2000) *United Nations High Commission for Refugees Centre for Documentation and Research* 1-16.

UNHCR 'Frequently asked questions on a human rights-based approach to development cooperation' (2006) *United Nations High Commissioner for Human Rights* 1-50.

United Nations 'Concluding comments of the Committee on the Elimination of Discrimination against Women: DRC' (2006) *CEDAW* 1-8.

United Nations High Commissioner for Human Rights 'The right to health: Fact sheet No. 31' *World Health Organisation* 1-52.

USAID 'Engaging men for gender equality and improved reproductive health' (1995) *United States Agency for International Development* 1-6.

Women's Commission for Refugee Women and Children 'Masculinities: Males roles and involvement in the promotion of gender equality' (2005) *Women's Commission for Refugee Women and Children* 1-44.

World Health Organisation 'Reduction of Maternal Mortality: A Joint WHO/UNFPA/UNICEF/World Bank Statement' (1999) *World Health Organisation* 1-44.

World Health Organisation 'World report on violence and health' (2002) *Geneva: World Health Organisation* 1-12.

Statutes, Conventions and Official Documents

African Charter of Human and Peoples' Rights (1981) African Union.

Code Larcier de la RDC (2003) (The Family Code of DRC).

Constitution of the Democratic Republic of Congo (2006).

Convention on the Elimination of all forms of Discrimination against Women (1989).

Geneva Convention IV 1949 Relating to the Protection of Civilian Persons in Time of War.

International Covenant on Civil and Political Rights (1966).

International Covenant on Economic, Social and Cultural Rights (1966).

Law No. 06/018, 20 July 2006, on Sexual Violence in the DRC.

Law No. 06/019, 20 July 2006, on Sexual Violence in the DRC.

Loi 87-010 portant Code de la Famille (Journal Officiel Zairois No Spécial 1er Aout 1987).

Solemn Declaration on Gender Equality in Africa (2004).

The Maputo Protocol (2003).

Universal Declaration of Human Rights (1948).

Cases

Alyne da Silva Pimentel Brazil (2008) UN Doc. CEDAW/C/49/D/17/2008.

Internet Sources

Almeida, M D ‘African women organizing for the ratification and implementation of the Maputo Protocol’ (2011) available at: <http://awid.org/News-Analysis/Friday-Files> (accessed: 18 February 2013).

‘A wide-angle view of the DRC conflict’ available at: <http://saferworld.wordpress.com/2010/03/13/drc-law-on-sexual-violence-july-2006/> (accessed: 2 April 2013).

Australian prescriber ‘Hypertensive disorders of pregnancy’ available at: <http://www.australianprescriber.com/magazine/35/2/47/50> (accessed: 2 April 2013).

Bueno de Mesquita, J ‘Maternal mortality and human rights: Landmark decision by UN human rights body’ available at: <http://www.who.int/bulletin/volumes/90/2/11-101410/en/index.html> (accessed: 05 February 2013).

Country research: the DRC available at: www.akinamamawaafrika.org/index.php?option=com...0 (accessed: 05 February 2013).

Diakonia ‘IHL: State responsibility’ available at: www.diakonia.se/sa/node.asp?node=1858 (accessed: 15 May 2013).

Diakonia ‘What are the responsibilities of a state under international law?’ available at: www.diakonia.se/sa/node.asp?node=1857 (accessed: 15 May 2013).

Doctors without Borders ‘DRC: Conditions still critical’ available at: <http://www.doctorswithoutborders.org/news/article.cfm?id=5619&cat=field-news> (accessed: 2 April 2013).

Global Voices ‘Democratic Republic of Congo: Clandestine abortions on the rise in Goma’ (2012) available at: <http://globalvoicesonline.org/2012/05/08/democratic-republic-of-congo-illegal-abortion-on-the-rise-in-goma/> (accessed: 2 April 2013).

Glossary of statistical terms ‘Millennium Development Goals’ available at: <http://stats.oecd.org/glossary/detail.asp?ID=7329> (accessed: 02 April 2013).

Guardian Development Network ‘Congo’s maternal mortality exacerbated by poverty and ignorance’ available at: www.guardian.co.uk/global-development/2012/may/11/congo-maternal-mortality-rate-poverty (accessed: 18 May 2013).

‘Geography of the countries of Africa’ (2010) available at: <http://geography.about.com/od/africamaps/a/countriesofafrica.htm> (accessed: 03 April 2013)

Gueye, K ‘Report for VOA from Kaziba, in the mountains of Kivu in the DRC on a way of fighting maternal mortality’ available at: <http://www.youtube.com/watch?v=3UWnawvtz6s> (accessed: 3 April 2013).

Henry J Kaiser Family Foundation ‘Global health intervention: A review of the evidence’ available at <http://globalhealth.kff.org/GHIR/Conditions/Maternal-Sepsis.aspx> (accessed: 2 April 2013).

Life for African Mothers ‘Making birth safer in Sub-Saharan Africa’ available at: <http://lifeforafricanmothers.org/where-we-work/central-africa/> (accessed: 3 April 2013).

Maps of the world available at: <http://www.mapsofworld.com/africa/thematic/largest-countries.html> (accessed: 16 April 2013).

‘Maternal mortality rate’ available at: <http://www.naphsis.org> (accessed: 16 June 2012).

PNUD ‘Améliorer la santé maternelle’ (2012) available at: <http://www.cd.undp.org> (accessed: 04 September 2012).

‘Taux de mortalité élevé en RDC des suites de la grossesse ou de l’accouchement’ (2009) available at: <http://www.digitalcongo.net> (accessed: 04 Septembre 2012).

The Canadian Encyclopaedia ‘Women’s movement’ available at: <http://www.thecanadianencyclopedia.com/articles/womens-movement> (accessed: 21 April 2013).

‘The Democratic Republic of Congo’ available at: http://www.map-srhr.org/download/EN-dr_congo (accessed: 01 February 2013).

UNICEF ‘WCARO DR Congo: Emergency Summary’ (2009) Humanitarian Action Report available at: http://www.unicef.org/har09/index_drcongo.php (accessed: 3 April 2013).

US Department of States ‘2010 human rights report: The DRC’ available at: www.state.gov/j/drl/rls/hrrpt/2010/af/154340.htm (accessed: 15 May 2013).

WHO ‘Maternal health’ available at: http://www.who.int/topics/maternal_health/en/ (accessed: 17 June 2012).

Women’s Network for a Better World ‘DRC: Sexual and reproductive health’ available at: <http://www.map-srhr.org/chapters/ch-3-overview-of-sexual-and-reproductive-health-and-rights-in-africa/dr-congo> (accessed: 2 April 2013).

World Bank ‘The Millennium Development Goals: Data’ available at <http://data.worldbank.org/about/millennium-development-goals> (accessed: 01 April 2013).