

RESPECTFUL MATERNITY CARE



THE UNIVERSAL RIGHTS OF WOMEN & NEWBORNS

Created from established international & regional laws. Grounded in human rights.

Introduction

1. The Distinctive Importance of Pregnancy

Around the world, pregnancy and childbirth are momentous events, with deep personal and social significance in the lives of women, families and communities. For the well-being of women and newborns, women need to be supported throughout pregnancy and childbirth.

The well-being of a woman and of her newborn are interconnected, and both can be marginalized in the process of childbirth and the ensuing months. Focusing on preventing maternal and newborn morbidity and mortality is not enough. Care during this period needs to encompass basic human rights, including the rights to respect, dignity, confidentiality, information and informed consent, the right to the highest attainable standard of health, and freedom from discrimination and from all forms of ill-treatment. A woman's autonomy should be recognized and respected, as should her emotional well-being, choices and preferences—including the right to have a companion of choice during labor and childbirth. Respect and recognition of the woman can benefit the newborn, who also has rights and requires respect and recognition. Together, the woman with her partner and family should be supported to care for and make the best decisions for their newborn.

A woman's relationship with maternity care providers and the maternity care system during pregnancy, childbirth and the postpartum period is vitally important. Women's experiences with caregivers can empower and comfort them, or conversely, inflict lasting damage and emotional trauma, detracting from women's confidence and self-esteem. Newborns' experiences with caregivers can also have significant and lasting impact—newborn babies feel pain and discomfort, and can experience emotional distress, particularly when separated from their families in the first hours of life.¹ We know that good early care, including attachment and breastfeeding, has a lasting positive impact on the health and well-being of newborns throughout

their lives. Women's memories of their childbirth experiences and the treatment of their newborns stay with them for a lifetime and are often shared with other women, contributing to a climate of confidence or doubt around the healthcare system.

2. Established Evidence of Disrespect and Abuse

The journey toward respectful maternity care began in the late 1940s with the Universal Declaration of Human Rights. In the 1990's, the United Nations issued the "Declaration on the Elimination of Violence against Women" and a movement gained force in Latin America which was termed "humanization" of childbirth. Some of the first reports on violations of women's rights in childbirth came from the human rights community.² From an initial focus on reducing maternal and infant mortality, the global focus shifted to developing human rights standards on maternal and child mortality and morbidity reduction.³ More recently, this has led to a focus on addressing disrespect and abuse as manifestations of the systemic failure to uphold human rights standards.

With the conclusion of the Millennium Development Goals (MDGs) in 2015, and with only a few countries achieving MDGs #4 and #5 related to reducing child mortality and improving maternal health, global policy makers and advocates more earnestly evaluated the obstacles to maternal and newborn survival and well-being. This included the need to understand the comprehensive socio-cultural and gender-based influences in clinical settings, health systems and ultimately, on health outcomes. During the MDG era, much of the public health and development communities' focus had been on clinical expertise and capacity building in targeted interventions to reduce mortality. But growing awareness of often unaddressed issues of emotional, physical and psychological harm to women during facility-based childbirth required greater consideration.

In the last decade, the global public health sector's growing interest in understanding and addressing these harms experienced by women during facility-based childbirth has led to copious research and publications. The 2010 TRAction Land-

1. Roofthoof, D.W., et al. (2014). Eight Years Later, Are We Still Hurting Newborn Infants? *Neonatology*, 105(3), 218–226.

2. Zampas, C., et al. (2003) "Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia." 2003. New York: *Center for Reproductive Rights*; Center for Reproductive Rights & International Federation of Women Lawyers- Kenya Chapter. (2007) *Failure to Deliver: Violations of Women's Human Rights in Kenyan Health Facilities*. New York: *Center for Reproductive Rights* & Nairobi, Kenya: *Federation of Women Lawyers-Kenya*; Strauss, Nan & International USA, Amnesty. (2010). *Deadly Delivery: The Maternal Health Care Crisis in the USA*. New York: *Amnesty International Publications*.

3. Office of the United Nations High Commissioner for Human Rights and the Secretary-General (2012). *Technical Guidance on the Application of a Human Rights-Based Approach to the Implementation of Policies and Programmes to Reduce Preventable Maternal Morbidity and Mortality*. United Nations; World Health Organization & Office of the United Nations High Commissioner for Human Rights (2014). *Human Rights-Based Approach to Reduce and Eliminate Preventable Mortality and Morbidity of Children Under 5 Years of Age*. Switzerland: United Nations

scape Analysis: Exploring Evidence for Disrespect & Abuse in Facility Childbirth⁴ presented the first systematic exploration of this issue. In that same year, the USAID TRAction Project funded two implementation research projects, Staha in Tanzania and Heshima in Kenya, to continue building the evidence of the prevalence and types of mistreatment, and potential context-based responses. In 2011, White Ribbon Alliance published the Respectful Maternity Care Charter: The Universal Rights of Childbearing Women, a document utilized in many countries as an advocacy and program tool. The World Health Organization released a statement in 2014 reasserting the fundamental human rights of women in childbirth.⁵ The field of respectful care has continued to grow with increased focus.

3. Assertion of the Fundamental Rights of Women and Newborns

Human rights are rights inherent to all people, without discrimination, regardless of age, nationality, place of residence, sex, national or ethnic origin, color, religion, language or any other status. Universal human rights are often expressed and guaranteed by legal instruments, such as international treaties. International human rights law determines obligations of States to act in certain ways or to refrain from certain acts in order to respect, protect and fulfil human rights and fundamental freedoms of individuals or groups.

The charter articulates the rights of two entities, the woman and the newborn, within the vision and provision of a framework for ethical, high-quality respectful maternity care that supports and upholds the dignity of both. Both human beings, the newborn and the woman, have rights that must be respected and guaranteed independently. Women should be given the information and support they need to make decisions for themselves and their newborns freely. The newborn baby, as an individual human being, has autonomous rights and every decision the mother, or another caregiver makes, needs to be made with the best interest of the child in mind. Health systems must ensure the health, safety and dignity of both woman and newborn, taking care that this most fundamental dyad of human life be fully protected.

The charter is based on widely accepted human rights instruments including the Convention on the Rights of the Child, the Convention on Elimination of all forms of Discrimination

against Women, the International Covenants on Civil and Political Rights, Economic, Social and Cultural Rights. It is also supported by regional human rights instruments including the African Charter on Human and People's Rights, The African Charter on the Rights and Welfare of the Child, the American Convention on Human Rights, and the European Convention on Human Rights and Biomedicine, among others.

4. Why this charter is needed and how it can be used

This updated charter further clarifies and clearly articulates the rights of women and newborns in the context of maternity care provided within a healthcare facility. It specifically delineates how human rights are implicated in the context of pregnancy and childbirth and affirms the basic inalienable rights of women and newborns. Many of these rights are well established in international law and have been interpreted and applied to issues arising during pregnancy, childbirth and the care provided immediately after birth. These rights are articulated in separate human rights conventions and in order to affirm their application in the context of pregnancy and childbirth, it is important to compile them in one document that focuses on this period.

The Respectful Maternity Care Charter addresses the issue of disrespect and abuse toward women and newborns who are utilizing maternal and newborn care services and provides a platform for improvement by:

- Raising awareness for women's and newborns' human rights guarantees that are recognized in internationally adopted United Nations and other multinational declarations, conventions and covenants;
- Highlighting the connection between human rights guarantees and healthcare delivery relevant to maternal and newborn healthcare;
- Increasing the capacity of maternal, newborn and child health advocates to participate in human rights processes;
- Aligning women's demand for high-quality maternal and newborn care with international human rights law standards;
- Providing a foundation for holding governments, the maternity care system and communities accountable to these rights;
- Supporting healthcare workers in providing respectful care to women and newborns and creating a healthy working environment.

4. Bowser, D., ScD., MPH., & Hill, K., MD. (2010). Exploring Evidence for Disrespect and Abuse in Facility-Based Childbirth: Report of a Landscape Analysis. Washington: *Translating Research into Action (TRAction) Project*.

5. World Health Organization, The prevention and elimination of disrespect and abuse during facility-based childbirth, 2014.

1. Everyone has the right to freedom from harm and ill-treatment.

No one is allowed to physically hurt you or your newborn. You should both be taken care of in a gentle and compassionate way and receive assistance when experiencing pain or discomfort.

Legal authority

International Covenant on Civil and Political Rights, 1966, Article 7
 Convention on the Rights of the Child, 1990, Article 19, 37
 Convention on the Rights of Persons with Disabilities, 2006, Article 15, 16

Regional legal authority

African Charter on Human and Peoples' Rights, 1998, Article 6
 African Charter on the Rights and Welfare of the Child, 1990, Article 16
 American Convention on Human Rights, 1969, Article 5
 American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 1988, Article 19
 Convention of Belem do Para, 1994, Article 2, 3, 4
 European Convention on Human Rights, 1950, Article 3

2. Everyone has the right to information, informed consent, and respect for their choices and preferences, including companion of choice during maternity care and refusal of medical procedures.

No one is allowed to force you or do things to you or your newborn without your knowledge or consent. Every woman has the right to autonomy, to receive information, and provide informed consent or refusal for care. Every parent or guardian has the right to receive information and provide informed consent or refusal for their newborn's care, in the newborn's best interests, unless otherwise provided by law.

Legal authority

International Covenant on Civil and Political Rights, 1966, Article 7, 19
 Convention on the Rights of the Child, 1990, Article 5, 13

Regional legal authority

African Charter on Human and Peoples' Rights, 1998, Article 9
 American Convention on Human Rights, 1969, Article 13
 European Convention on Human Rights and Biomedicine, 1997, Article 5, 6

3. Everyone has the right to privacy and confidentiality.

No one is allowed to share your or your newborn's personal or medical information, including all records and images, without your consent. Yours' and your newborn's privacy must be protected, except as necessary for healthcare providers to convey information for continuity of care.

Legal authority

International Covenant on Civil and Political Rights, 1966, Article 17
 Convention on the Rights of the Child, 1990, Article 16
 Convention on the Rights of Persons with Disabilities, 2006, Article 22

Regional legal authority

African Charter on the Rights and Welfare of the Child, 1990, Article 10
 American Convention on Human Rights, 1969, Article 11
 European Convention on Human Rights, 1950, Article 8
 European Convention on Human Rights and Biomedicine, 1997, Article 10

4. Everyone is their own person from the moment of birth and has the right to be treated with dignity and respect.

No one is allowed to humiliate, verbally abuse, speak about or touch you or your newborn in a degrading or disrespectful manner. You and your newborn baby must be cared for with respect and compassion.

Legal authority

International Convention on Civil and Political Rights, 1966, Article 17
 Convention on the Rights of the Child, 1990, Article 16, 23
 Convention on the Rights of Persons with Disabilities, 2006, Article 17

Regional legal authority

African Charter on Human and Peoples' Rights, 1998, Article 6
 African Charter on the Rights and Welfare of the Child, 1990, Article 13
 American Convention on Human Rights, 1969, Article 5, 11
 Convention of Belem do Para, 1994, Article 4
 European Convention on Human Rights, 1950, Article 8

5. Everyone has the right to equality, freedom from discrimination and equitable care.

No one is allowed to discriminate against you or your newborn because of something they think or do not like about either one of you. Equality requires that pregnant women have the same protections under the law as they would when they are not pregnant, including the right to make decisions about what happens to their body.

Legal authority

International Covenant on Civil and Political Rights, 1966, Article 24 (1), 26
 International Covenant on Economic Social and Cultural Rights, 1966, Article 2, 10 (3)
 Convention on the Rights of the Child, 1990, Article 2
 Convention on the Elimination of all Forms of Discrimination Against Women, 1979, Article 1, 12, 14(2)(b)
 Convention on the Rights of Persons with Disabilities, 2006, Articles 5, 6, 7
 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990, Article 14
 International Convention on the Elimination of All Forms of Racial Discrimination, Art. 2, Art. 5
 International Labor Organization, Indigenous and Tribal Peoples Convention, 1989 (No. 169), Art. 3

Regional legal authority

African Charter on Human and Peoples' Rights, 1998, Article 2
 African Charter on the Rights and Welfare of the Child, 1990, Article 3
 American Convention on Human Rights, 1969, Article 1
 Convention of Belem do Para, 1994, Article 6
 European Convention on Human Rights, 1950, Article 14

6. Everyone has the right to healthcare and to the highest attainable level of health.

No one may prevent you or your newborn from getting the healthcare needed or deny or withhold care from either one of you. You and your newborn are entitled to the highest quality care, provided in a timely manner, in a clean and safe environment, by providers who are trained in current best practices.

Legal authority

International Covenant on Economic Social and Cultural Rights, 1966, Article 12
 Convention on the Elimination of all Forms of Discrimination Against Women, 1979, Article 5, 12
 Convention on the Rights of the Child, 1990, Article 23, 24
 Convention on the Rights of Persons with Disabilities, 2006, Article 25
 International Labor Organization, Indigenous and Tribal Peoples Convention, 1989 (No. 169), Art. 25

Regional legal authority

European Convention on Human Rights and Biomedicine, 1997, Article 3
 African Charter on Human and Peoples' Rights, 1998, Article 16
 African Charter on the Rights and Welfare of the Child, 1990, Article 14
 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 1988, Article 10

7. Everyone has the right to liberty, autonomy, self-determination and freedom from arbitrary detention.

No one is allowed to detain you or your newborn in a health-care facility, even if you cannot pay for services received.

Legal authority

International Covenant on Economic Social and Cultural Rights, 1966, Article 1
 International Covenant on Civil and Political Rights, 1966, Article 1, 9.1, 18.1
 Convention on the Rights of the Child, 1990, Article 37
 International Labor Organization, Indigenous and Tribal Peoples Convention, 1989 (No. 169), Art. 2, Art. 5

Regional legal authority

African Charter on Human and Peoples' Rights, 1998, Article 6, 20
 African Charter on the Rights and Welfare of the Child, 1990, Article 30
 American Convention on Human Rights, 1966, Article 7
 European Convention on Human Rights, 1950, Article 5

8. Every child has the right to be with their parents or guardians.

No one is allowed to separate you from your newborn without your consent. You and your newborn have the right to remain together at all times, even if your newborn is born small, premature or with medical conditions that require extra care.

Legal authority

International Convention on Civil and Political Rights, 1966, Article 17
 Convention on the Rights of the Child, 1990, Article 9, 16
 Convention on the Rights of Persons with Disabilities, 2006, Article 22

Regional legal authority

American Convention on Human Rights, 1969, Article 11
 European Convention on Human Rights, 1950, Article 8

9. Every child has the right to an identity and nationality from birth.

No one is allowed to deny your newborn birth registration, even if they die shortly after birth, or deny the nationality your newborn is legally entitled to.

Legal authority

International Covenant on Civil and Political Rights, 1966, Article 24
 Convention on the Rights of the Child, 1990, Article 7
 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990, Article 29

Regional legal authority

African Charter on Human and Peoples' Rights, 1998, Article 5
 American Convention on Human Rights, 1969, Article 3

10. Everyone has the right to adequate nutrition and clean water.

No one is allowed to prevent you and your newborn from having adequate nutrition, clean water or a healthy environment. You have the right to information and support on child nutrition and the advantages of breastfeeding.

Legal authority

Convention on the Elimination of all Forms of Discrimination Against Women, 1979, Article 12
 Convention on the Elimination of all Forms of Discrimination Against Women, 1979, Article 14(2)
 Convention on the Rights of the Child, 1990, Article 24 (2)(c), (2)(e)
 International Covenant on Economic, Social and Cultural Rights, Article 11(f)
 Convention on the Rights of Persons with Disabilities, 2006 Article 25(1)

Regional legal authority

African Charter on the Rights and Welfare of the Child, 1990, Article 14(2)
 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2005, Article 15(a)
 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 1999, Article 12(1)



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A broad group of stakeholders representing research, clinical, human rights and advocacy perspectives came together to develop this charter. The campaign to promote respectful maternity care is led by White Ribbon Alliance.

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