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**Access to Justice for Reproductive and Sexual Health Rights of  
Women through Law Faculty Clinics**

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Oluyemisi Bamgose\*\***

“Legal rights are only meaningful if they can be asserted”  
- CEDAW COMMITTEE- Access to Justice (2012)<sup>1</sup>

**Abstract**

Reproductive and sexual health issues affecting women and girls include sexual abuse, rape, coercion, harassment, sexually-transmitted infections, unsafe sex, unwanted pregnancy and illegal abortion, infertility and inability to regulate fertility or negotiate sex. These are most often considered private and confidential, and victims may not desire or require the formalities and exposure of regular courts. The pro-bono legal clinics without resort to the regular courts or litigation, particularly in the resolution of issues affecting women’s reproductive and sexual health rights, is another form of access to justice. The employment of a plural normative system of resolving dispute in African lives and society remains crucial to engendering and ensuring access to justice for women.

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<sup>1</sup> CEDAW Committee – “Access to Justice- Concept Note for Half day General Discussion (2012) 53<sup>rd</sup> Session of the Committee on Elimination of Discrimination against Women” p.2 Available at <http://www.ohchr.org/Documents/HRBodies/CEDAW/AccessToJustice/ConceptNoteAccessToJustice.pdf> visited 5/29/2015.

This paper discusses the concept of access to justice for women in matters affecting their reproductive and sexual health rights. It espouses the role and strategies employed by the Women’s Law Clinic, University of Ibadan in ensuring access to justice for indigent women in Ibadan area of Oyo State of Nigeria whose reproductive and sexual health rights have been violated or threatened. It concludes on the premise that access to justice against violations of reproductive and sexual health rights starts with the initiation of processes for recognition and awareness of these rights.

The paper also discusses factors affecting access to justice and remedies against violations of these rights. This paper is based on a desktop and empirical research.

**Keywords:** Reproductive, sexual health, human rights, access, justice, violation

**Introduction**

Reproductive rights embrace human rights that are recognized in national, regional and international laws and documents in Nigeria.<sup>2</sup> Health is an exclusive right of all persons and a basic human right. As early as 1988, the Nigerian government adopted *The National Health policy and Strategy to Achieve Health for all Nigerians* with the goal of enabling all Nigerians to achieve socially and economically productive lives. In September 1994, Nigeria was one of the several countries that participated in the International Conference on Population and Development held in Cairo, Egypt. At that conference, Nigeria along with other nations, affirmed that reproductive health is a right for all men, women and adolescents. A goal was therefore set to achieve universal access to reproductive health information and services by the year 2015. How far this has been achieved in Nigeria in 2015 will be seen in the paper.

The issue of reproductive health and sexual right as an aspect of academic discourse has brought with it a number of touching issues positively and negatively. There is therefore a need to define

<sup>2</sup> Section vii of the United Nations, Report of the International Conference on Population and Development Cairo Egypt, 5-13 September 1994, United Nations Doc. N.Y.A/Conf. 171/13 Rev. 1 U. N Sales No. 95.XIII 18

reproductive health. Accordingly, Professor B. Dickens, defining reproductive health in relation to the positive definition of health in the constitution of the World Health Organization (WHO), presents reproductive health as “a state of complete physical, mental and social wellbeing and not merely the absence of disease or disorder of the reproductive process”<sup>3</sup>

Equally notable, right is defined as entitlements to certain kinds of treatment based on one’s status” Therefore, reproductive rights can be defined as entitlements or freedom to have a state of complete physical, mental and social well-being and not merely the absence of disease or disorder of the reproductive process.

Sexual health has been defined as an integral part of reproductive rights<sup>4</sup>. It is said that sexual health is achieved when sexual rights are exercised.<sup>5</sup> Sexual health is that enabling environment wherein the sexual rights of an individual are protected. The sexual rights include right to sexual freedom, sexual pleasure, sexual expression, sexual autonomy, sexual privacy, sexual education, sexual health care and right to make reproductive choice.<sup>6</sup> The problems arising from sexual health are so fundamental that WHO in 2004 embarked on the promotion of sexual health rights in its own right. Since 1994, sexual health has been linked with reproductive health and while sexual rights and reproductive rights are used interchangeably by many authors, there is arguably a slight difference between the two concepts.<sup>7</sup>

<sup>3</sup> Cook R.J., Dickens B.M. Dickens, and Fathalla M.F.: *Reproductive Health and Human Rights: Integrating Medicine, ethics and Law*, New York: Oxford University Press (2003).

<sup>4</sup> WHO (2005): “Working Definitions after WHO Technical Consultation on Sexual Health” <http://www.worldsexuality.org/who.def.asp> visited 7/18/2015).

<sup>5</sup> Aina Olabisi., Aransiola Joshua O. and Osezua O. Clementina “Sexual Health and sexual Rights within Marriage” Vol. 3 No. 1 2009 *African Research Review, An International Multidisciplinary Journal* pp 27-46.

<sup>6</sup> “14<sup>th</sup> World Conference on Sexology held in Hong Kong adopted the Universal Declaration of Sexual Rights”. Cited in Aina Olabisi, Aransiola Joshua O. and Osezua O Clementina (supra note 5).

<sup>7</sup> Wigley Jenny, “Politics and Fertility: The Evolution of Sexual and Reproductive Rights” Vol. 8, 2005 *Human Rights Research*.

### Reproductive health and human rights

Reproductive and sexual health rights are among the most important but controversial human rights in international human rights law. These rights are intrinsically based on other well-recognised and established human rights. It includes the right to autonomy and self-determination without any form of discrimination, stigma, coercion, or violence. This includes the right of individuals to enjoy and express their sexuality, be free from interference in making personal decisions about sexuality and reproductive matters, and to access sexual and reproductive health information, education, services, and support. These rights have been identified to be based on the right to equality and equal protection of the law, the right to life and liberty as well as to be free from torture and cruel and inhuman treatment and the right to privacy.<sup>8</sup> Generally, reproductive and sexual health rights rest on the recognition of the right to attain the highest standard of sexual and reproductive health.

Reproductive and sexual health rights are guaranteed in various international and regional human rights treaty documents and instruments. While some of these laws have binding effect on state parties to them, others are merely persuasive and non-binding in nature. These laws place certain obligations on state parties to promote and protect these rights. Implementation of these rights at the domestic levels is largely influenced by socio-cultural beliefs and inclinations. This in effect determines the extent to which these rights are realised, promoted and protected by state parties.

Reproductive health situation in Nigeria is generally poor while reproductive rights development in Nigeria is still at a rudimentary stage. This could be attributed to many factors which include little or no access or unaffordable access to health services, low level of access to quality reproductive health information and services.

It is not in doubt that most health concerns of women in Nigeria and globally centres on reproductive health. Women’s health cannot be isolated from their reproductive role while the reproductive health is

<sup>8</sup> ICPD – “United Nations Report of the International Conference on Population and Development” Cairo, Egypt, 5-13 September 1994. United Nations Doc. N.Y.A/Conf. 171/13 Rev. 1 U. N Sales No. 95. XIII. 18.

an important component of women's general health.<sup>9</sup> It is also important to note that reproductive health is important for social economic and human development of any woman. Therefore, there is a nexus between it and the social, economic, cultural and human rights.

Generally, across cultures in Nigeria, the status of women is low. They are marginalised in various spheres of life such as in education, politics, and workplace and, more relevant to this paper, the health sector. It is said that two-thirds of the women in the world live in the poorer nations where health care facilities are either non-existent or, if present, inaccessible and /or unaffordable.<sup>10</sup> It is further stated that economic recession and structural adjustment programmes in developing countries with meagre health budgets have exerted increasing pressure on people especially women generally and the indigent ones in particular.

According to the mandate<sup>11</sup> establishing the Women's Law Clinic, in the course of offering pro bono legal services to indigent women, it was discovered that many cases or issues affecting these women had underlying causes bothering on reproductive and sexual health violations which need be addressed, and without which there can be no meaningful intervention in accessing justice.

Reproductive and sexual health issues observed by clinicians and students and those specifically reported to the Women's Law Clinic include sexual abuse, rape (including marital rape), coercion, harassment, sexually-transmitted infections, unsafe sex, unwanted pregnancy and illegal abortion, discrimination, violence, abandonment and ill-treatment due to barrenness or infertility, and inability to regulate fertility or negotiate sex.

<sup>9</sup> Moronkola O.A.: "Strategies for Meeting Women Reproductive Health Needs and Concerns", In H.O. Nwagbu, O.A. Moronkola, D.O. Akintunde (eds): *Women Issues in Nigeria, Ibadan: Royal People Nigeria Ltd, 2009.*

<sup>10</sup> Ilesanmi, Oladokun and Arowojolu "Women's Reproductive Health and the Developing Countries", Vol.2No.1, 2001 *Archives of Ibadan medicine* pp 5-7.

<sup>11</sup> The mandate of the Women's Law Clinic, University of Ibadan is promoting access to justice for indigent women.

The study on reproductive and sexual health violation and access to justice for women in Ibadan area and its environs spanned the year 2007 to 2015. During this period, 318 cases were reported and handled by clinicians and students. In many of these cases, only 20% favoured litigation, while 70% preferred to settle disputes without resort to the traditional legal process. Some 10% of the cases were withdrawn by the clients due to family and societal pressures as well as frustration. Withdrawal of cases by clients out of frustration and pressure was a major challenge to this study.

Reproductive and sexual health matters affecting these women and girls are private and confidential, and which in many cases the clients do not desire, and do not or require the formalities and exposure of regular courts. This observation necessitated the adoption of a new strategy to resolving legal issues and accessing justice for these women.

#### **International legal instruments governing reproductive and sexual rights**

The following are the international legal instruments which provide for reproductive and sexual health rights in Nigeria:

The legally-binding international instruments include:

- The Protocol on the Rights of Women in Africa
- The African Charter on Human and Peoples' Rights
- The African Union Charter on the Rights and Welfare of the Child
- UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- UN Convention on the Rights of the Child (CRC)<sup>12</sup>
- UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- International Covenant on Civil and Political Rights (ICCPR)

<sup>12</sup> Article 24 recognises the right of children to the highest attainable standard of health and access to health facilities. It provides for the right to protection from all forms of sexual exploitation and abuse. Article 24(d) provides the right to pre and post-natal care.

- International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>13</sup>
- International Covenant on the Elimination of all forms of Racial Discrimination (ICERD)<sup>14</sup>
- The Universal Declaration of Human Rights, December 10, 1948, though not a treaty, is regarded as embodying core provisions relevant to reproductive health and rights.
- The non-binding instruments include:
- The 1993 Declaration and Programme of Action of the World Conference on Human Rights, Vienna
- The 1994 Cairo Programme of Action of the UN International Conference on Population and Development (ICPD).
- The 1995 Beijing Declaration and Platform for Action, UN Fourth World Conference on Women.

The right to reproductive and sexual health is inferred from the broader provisions of these international and regional treaties and documents on the rights to life, dignity and health among other rights. However, the Protocol on the Rights of Women in Africa and CEDAW has specific and more comprehensive provisions for women's reproductive and sexual rights. The Protocol on the Rights of Women in Africa in Article 14 specifically affirms right to reproductive choice and autonomy<sup>15</sup>, right to sexual education<sup>16</sup>, right to abortion in specified circumstances such as when pregnancy results from sexual assault, rape or incest or endangers the life or health of the woman.<sup>17</sup> Additionally, it prohibits harmful practices such as female genital mutilation.<sup>18</sup> Articles 6, 7, 12, 13 and 21 make provisions for issues affecting women's sexual and reproductive health such as sexual harassment and rights of women within marriage.

<sup>13</sup> Article 12 affirms the right to control one's body.

<sup>14</sup> Article 12 makes general provision for the right to enjoy the highest attainable standard of physical and mental health which inextricably includes the right to sexual and reproductive health.

<sup>15</sup> Article 14 (1).

<sup>16</sup> Articles 14 (1) (i) and 14 (2) (a).

<sup>17</sup> Article 14 (2) (c).

<sup>18</sup> Articles 2 (2) and 5.

In addition, the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) specifically addresses women's right against discrimination, especially in relation to health and health care services. Article 16 of CEDAW also makes provision for the equal rights of spouses in marriage to freely determine the number and spacing of children alongside having access to education and means to exercise these rights.

The ICPD Programme of Action, though merely persuasive, is recognised as the first international legal document which gives comprehensive definitions of reproductive and sexual health and advances the idea of reproductive rights. The 1995 Beijing Declaration and Platform for Action, UN Fourth World Conference on Women expands on the provisions of the ICPD (1994) and makes further provisions of women's rights to their bodies, sexuality and reproduction.

States have certain obligations under the provisions of the international instruments which are not merely persuasive but imperative in respect of reproductive and sexual health rights.<sup>19</sup> In accordance with international human rights standards, reproductive health services must be available, accessible, acceptable and of quality. In human rights law, states are accountable for both the commission of violations and omission of appropriate action. With respect to reproductive and sexual health rights, states have obligations to respect, protect and fulfil their rights obligations<sup>20</sup> and ensure access to timely, adequate and effective remedy, and these include removing legal and practical barriers to accessing justice.

In Nigeria, however, there is no explicit provision in the constitution for the right to sexual and reproductive health as other constitutionally-recognised human rights, not even as much as the right to health from which the right to sexual and reproductive health

<sup>19</sup> Among other obligations, Article 12 (2) of CEDAW obligates States parties must ensure equal access to health services and appropriate services for maternity.

<sup>20</sup> "Committee on Economic Social and Cultural Rights 22<sup>nd</sup> Session General Comment No. 14 (2000) on Article 12 of ICESCR E/C.12/2000/4" <http://www.refworld.org/docid/4538838d0.html>. Visited 5/30/2015.

may be inferred. The right to reproductive and sexual health is inferred from the existing wider provisions in respect of other human rights such as the right to life, the right to dignity and other related rights and a few other legislations which fragment provisions in respect of these rights.<sup>21</sup>

### ***The unfair burden of reproductive and sexual health***

Reproductive and sexual health right is not just a health and rights issue; it is also a development issue.<sup>22</sup> While reproductive health is considered to be an important component of health for both women and men, the issues are more critical for women than men.<sup>23</sup> The unfair burden for reproductive health lies heavily on women due to women's reproductive functions, reproductive potentials coupled with the way society treats or mistreats women because of their gender. Culture, religion, traditions and literacy levels impact greatly on women's reproductive health rights and access to justice when reproductive rights are violated.

Reproductive and sexual health issues affecting women and girls are, amongst others, sexual abuse, rape, coercion, harassment, sexually transmitted infections, unsafe sex, unwanted pregnancy and illegal

<sup>21</sup> The right to health is not specifically stated under the Nigeria constitution, but rather as an amorphous issue under Chapter II as an objective, see Fundamental Objectives and Directive Principles of State Policy; Durojaiye E., "Discrimination Based on HIV/AIDS Status: A Comparative Analysis of Nigerian Court Decision in Festus Odaife & Ors. V. Attorney General of the Federation & Ors. with Other Commonwealth Jurisdictions" *Law Democracy and Development* Vol.11 No.2 2007. pp. 133 – 151 and Anickwu N. I., "Gender and Reproductive Health: Towards Advancing Judicial Reform in Nigerian Law: A Tribute to Hon. Justice Dahiru Musdapher CJN", *Nigerian Institute of Advanced Legal Studies, Nigeria*, 2012 pp 428 – 455 rightly observed the constitutional provision which makes reference to health in Section 17 (3) (d), Chapter II of the 1999 Constitution under 'Fundamental Objectives and Directive Principles of Government Policy' is non-justiciable in accordance with Sec. 6 (6). The provision places obligations on the state to ensure the provision of adequate medical and health facilities for all persons howbeit unenforceable as other rights provided in Chapter IV.

<sup>22</sup> Cook R.J., Dickens B.M. and Fathalla M.F.: *Reproductive Health and Human Rights: Integrating Medicine, ethics and Law*. New York: Oxford University Press 2003, p 8.

<sup>23</sup> Ibid.

abortion, infertility and inability to regulate fertility or negotiate sex, polygyny and multiple sexual relationships.

### **The Concept of Access to Justice**

Access to justice in any society is critical and fundamental. It is not only the most basic requirement of any system of justice; it is the hallmark of a civilised society.<sup>24</sup> Access to justice has been defined as the right of every individual to require the state to provide a means of dispute resolution that is equally accessible and socially just. This presupposes the establishment of a machinery of justice with accessible courts and the right to fair hearing. While this may seem to be the general perception of the concept of access to justice, it is broader and more deeply-rooted and therefore should not be restricted to such a narrow perception. Access to justice is not just access to lawyers and courts. It is a concept that embraces the nature, mechanism and even the quality of justice obtainable in a society as well as the place of the individual within the judicial matrix.<sup>25</sup> It encompasses recognition that everyone is entitled to the protection of the law, enforcement of the law with minimal constraint to the aggrieved persons, fair treatment of all persons according to the law, appropriate redress in circumstances of unfair treatment. Shittu says that access to justice entails normative legal protection, legal awareness, legal aid and counsel, adjudication, enforcement and civil society oversight.<sup>26</sup>

Access to justice against violations is so pivotal to promoting and protecting sexual and reproductive rights. In this context, access to justice can be considered from two main perspectives. In the first instance, access to justice may be viewed with respect to access of an individual to legal provisions in order to enforce these rights. On the other hand, it encompasses access to adequate and effective remedy

<sup>24</sup> Bamgbose O, "Access to Justice through Clinical Legal Education: A Way Forward for Good Governance and Development". *African Human Rights Law Journal* (2015) Vol 15, p 378-396.

<sup>25</sup> Ojukwu, E.Akinseye-George Y., Chiroma I.H., Erugo S., Idorenyin E., Nwankwo C.K., Omaka A., *Handbook on Prison Pre-Trial Detainee Law Clinic*. Abuja: Network of University Legal Aid Institutions 2012.

<sup>26</sup> Shittu Wahab, "Access to justice: The challenges". *The Nation Newspaper - Legal Opinion* Tuesday July 14 2015 p.39.

for victims who have been injured by the violation of such rights. When a right is violated, access to justice is of fundamental importance for the injured individual. In other words, access to justice encompasses not only the availability of legal provisions protecting the rights in the first place, and the provisions for legal and judicial remedies against the violation of such rights, but also such issues as impartiality of the justice system and the rule of law, imposition of sanction on states and duty bearers for violations, access to legal representation, information and justice processes including full and fair access to the justice system.

Access to justice may therefore be defined as the right of an individual to all those processes, procedures, means and modes that can be employed in resolving a dispute and ensuring justice for the aggrieved or victimised. Access to justice is not limited to judicial remedial facilities but also embraces effective remedy and redress through transparent and prompt processes. Disputes or conflicts are inevitable in every human interaction, be it commercial, marriage or any other social interaction. One of the functions of law is to evolve in every society that efficient means of resolving or settling disputes or conflicts, while also ensuring justice. The two methods which law has evolved for resolving or settling disputes can be broadly categorised into adjudicatory (adversarial) and non-adjudicatory (alternative dispute resolution).

However, systems of settling of disputes or conflicts differ from one society to another, and are in accordance with the cultural setting and milieu of that society. Since time immemorial, particularly in African traditional societies, a plural normative system of resolving dispute in African lives and society remains very crucial and more acceptable to Africans; these systems or approaches include Alternative Dispute Resolution (ADR) such as mediation; indeed, conciliation in its ancient form has been and remains the traditional mode of settling disputes be it commercial, family and particularly marriage. The adjudicatory method otherwise referred to as litigation is not favoured in most sub-Saharan African societies. While the traditional legal mode of resolving conflicts and seeking justice has been mainly by litigation, the use of litigation approach in disputes or matters involving women's reproductive and sexual health rights has not

proved to be effective means of protecting women and girls against violations and abuses. The traditional mode through the use of the courts is cumbersome, expensive, many at times discriminatory. This is unlike seeking justice through non-traditional modes like the Women's Law Clinic of the University of Ibadan, Ibadan, Nigeria which is rid of red tape. This however does not suggest that informal system of access to justice should supplant the formal system, but should supplement them to bring about effective access to justice to all and to women in particular.

### **Reproductive and sexual health rights violations and access to justice**

#### **For women in Ibadan**

The focus and scope of this paper is on the reproductive and sexual health violations of women in Ibadan area and environs. It is however imperative to this study that a general overview of the status of reproductive and sexual health rights in Nigeria is given. Although there is a national policy on reproductive health,<sup>27</sup> as stated earlier, reproductive health rights development in Nigeria is still at a rudimentary stage.

#### **Safe sex**

Safe sex is an implication arising from reproductive health.<sup>28</sup> This means responsible, satisfying and safe sex life. According to Spielberg, a satisfying and safe sex life means freedom from fear of unwanted pregnancy and risk of contracting disease. A satisfying and safe sex life enhances life and personal relations.<sup>29</sup>

<sup>27</sup> 1998, revised in 2004.

<sup>28</sup> "Guidelines On Reproductive Health (United Nations Population Information Network (POPIN) UN Population Division, Department Of Economic And Social Affairs, With Support From The UN Population Fund (UNFP)" In *Guidelines On Reproductive Health - The United Nations* <http://www.Un.Org/Popin/Unfpa/Taskforce/Guide/latfrehp.Gdl.Html>. visited 6/6/2015

<sup>29</sup> Spielberg Laurel A. "Reproductive Health Part 1: Introduction to Reproductive Health & Safe Motherhood December(2007)". *Global Health Education Consortium* <http://www.cugh.org/sites/default/files/content/resources/modules/To%20Post%20Both%20Faculty%20and%20Trainees/54%20Reproductive%20Health%20Part%201%20Introduction%20to%20Reproductive%20Health%20and%20Safe%20Motherhood%20FINAL.pdf> visited 6/26/2015

As it is today, there is no evidence of such rights to safe sex. Legally, a Nigerian wife cannot negotiate sex with her husband. Despite the unrestricted access to contraceptives in Nigeria, a married woman cannot freely negotiate the use of condom or other means of ensuring safe sex with her husband since they are usually associated with promiscuity and infidelity.<sup>30</sup> This is because under the Criminal Code applicable in the south,<sup>31</sup> a husband cannot be charged for the rape of his wife; at most, he can be charged for assault. The implication of this is that the husband can have sex with his wife at anytime he desires, even where the woman does not desire it and where nothing is used to prevent pregnancy at sex. Under the penal code as applicable in the north, it is more explicit in its definition under section 282.

#### *Access to contraceptives*

There is no law in Nigeria that prohibits the use of contraceptives. The sale is not regulated and they can easily be purchased over the counter in any drug store and family-planning hospitals abound. However illiteracy and misinformation have been a major setback for its effective use. While the use of contraceptives is unrestricted and the sale is unregulated, many women are neither free to discuss the use of contraceptives with their spouses nor can they freely suggest its use. The use of contraceptives, when initiated by women, usually requires the approval of their spouses or meets with reluctant consent or absolute refusal. In effect, the woman is in a dilemma on birth control and spacing of children. In many instances, women engage in family planning without the husbands' knowledge.

#### *Abortion*

Abortion is nearly absolutely prohibited and it is criminalised in Nigeria, going by both the criminal and the penal codes which criminalise abortion and prescribe jail terms for offenders except where it is to save the mother.<sup>32</sup> Evidence however abounds to show

<sup>30</sup> Aina O. I., et al. 'Sexual Health and Sexual Rights within Marriage' supra note 6 at p.14.

<sup>31</sup> Criminal Code Cap C 38 LFN 2004. Section 6.

<sup>32</sup> Sections 228, 229 and 230 of the Criminal Code Act applicable to the southern part of Nigeria; Sections 232.233 of the Penal Code applicable to the northern part of Nigeria.

that abortions are done on a daily basis. The implication of this is that quacks are engaged in these abortions, since no professional would risk his practice and reputation to do an abortion since it is illegal. Hence far-reaching negative effects are experienced by the victims.

#### *Pre-natal, ante-natal, peri-natal and post-natal care*

These have to do basically with health care services in the country and the economic power to procure them. It is evident that these services are nearly unavailable in Nigeria. Where available, the cost is unaffordable to the average woman. The infant Mortality Rate (IMR) in Nigeria is put at 94 deaths per 1,000 live births.<sup>33</sup> This is one of the highest in the world. This does not only affect infant mortality rate but also maternal morbidity and mortality. The issue has been complicated by the attack of the insurgency group, Boko Haram, in the northern part of Nigeria and the abduction and kidnap of young girls and women. There are reports of the captives who delivered their babies in captivity without any medical aid and others who lost their babies due to trauma experienced in captivity.<sup>34</sup>

#### *Sexual violence*

Sexual violence against women constitutes one of the greatest violations of their sexual rights and this includes sexual abuse, rape, sexual harassment and indecent assault. In Nigeria, women experience sexual violence in formal relationships in workplaces and educational institutions, or private spheres such as in intimate relationships or within the larger family or community structure and during times of conflict. Systematic rape during armed conflicts, sexual abuse of some vulnerable groups of women such as the physically and mentally challenged, demand for sex in return for favours or coerced sex are manifestations of sexual violence against women.

The report on the girls and women who were recently rescued from the insurgent Boko Haram group in northern Nigeria presents a clear

<sup>33</sup> World Bank Data, <http://data.worldbank.org/indicator/SP.DYN.IMRT.IN>, visited 7/27/2015

<sup>34</sup> Anuforo Emeka, Ojugbana Victoria and Alade Benjamin, "Safeguarding dignity, health of pregnant teenagers in IDP camps" In *The Guardian*, Friday 19 June 2015, p. 28 -29.

case of the plight of the Nigerian women who are victims of sexual violence in form of coerced sex and systematic rape during armed conflict.<sup>35</sup> In May 2015, over 275 women and children who had been held captive by the Boko Haram insurgent group in Sambisa forest, the stronghold of the insurgency group, in north-eastern Nigeria, were rescued by Nigerian soldiers. According to reports, many of the young girls and women were abused and raped. In a related report, over 200 of the women and girls rescued are presently pregnant<sup>36</sup> as a result of the sexual assault and some are requesting abortion.<sup>37</sup>

While rape is clearly criminalised in Nigeria, it is given a myopic definition which excludes marital rape. As stated earlier, the criminal and penal codes limit rape to non-marital relationships. Women experiencing marital rape may therefore be in need of intervention. The recent alarming increase in incidents of rape of young girls and minors in Nigeria undermines their sexual and reproductive health. Often, sexual violence results in unwanted pregnancies which predispose women to unsafe abortion and gynaecological complications, sexually-transmitted diseases among many other grave consequences on the reproductive health of women.<sup>38</sup>

### **Sexual health education**

Sexual health education is an important component of reproductive and sexual health rights which involve access to accurate and comprehensive information about sexual health and reproductive health services. Many women, especially in the indigenous societies, have distorted ideas and mythical beliefs about important sexual and reproductive health issues. Issues bordering on the use of contraceptives, family planning, female genital mutilation and

<sup>35</sup> Newspaper report on ONE NEWS: "At least 91% of Women and Girls Rescued from Boko Haram are Pregnant". Available at <https://www.tvnz.co.nz/one-news/world/at-least-91-women-and-girls-rescued-from-boko-haram-are-pregnant-6309426>. Visited 6/3/2015

<sup>36</sup> Shokunbi Yinka "Sambisa forest: 214 rescued. Girls' women pregnant- UNFDP" in *Daily Independent*. <http://www.dailyindependentng.com/2015/05/sambisa-forest-214-rescued-girls-women-pregnant-unfpa/> visited 7/17/2015

<sup>37</sup> Ibid.

<sup>38</sup> Aina O. I. et al. (2009) supranote 6 at pp. 13 -14 on the effect of sexual violence on women.

sexually-transmitted diseases are core to sexual health education. Indeed, still prevalent in Nigeria are false beliefs including those that initiate and support sex with a virgin or minor as cure for certain diseases and citing the use of contraceptives as not only the cause of waywardness in women but also preventing future fertility and causing cancer.<sup>39</sup> Sexual health education should involve both men and women. With regard to sexually-transmitted diseases, women are more vulnerable, especially to HIV/AIDS and usually become infected at a faster rate,<sup>40</sup> hence the need for proper sexual-health education. Presently in Nigeria, survivors of Boko Haram abduction in the north-eastern states of Bornu and Adamawa, many of whom are women, may be in dire need of intense sexual-health education especially with specific focus on victims of sexual onslaught. While many NGOs are making great efforts at this, there is still required in this respect.

### **Polygyny and wife battering**

Polygyny is defined as a marital relationship in which a man has more than one wife simultaneously. In Nigeria, polygyny is more predominant in rural settings and Islamic societies. Polygyny may not only affect the sexual lives of women but also deprive them of their sexual and reproductive rights.<sup>41</sup> Women in polygynous relationships have limited choices in sexual decisions, limited ability to protect themselves against unwanted pregnancies and suffer from inability to restrain sexual intercourse. They may not usually be able to negotiate safe sex; hence they stand greater risk of contracting sexually-transmitted diseases as they are exposed to multiple sexual partnerships.<sup>42</sup> Women in polygynous marriages may also be

<sup>39</sup> Ankomah A., Anyanti J. and Oladosu M. "Myths, Misinformation and Communication about Family Planning and contraceptive Use in Nigeria" *Open Access Journal on Contraceptives*, (2011). Available at <http://www.dovepress.com/myths-misinformation-and-communication-about-family-planning-and-contr-peer-reviewed-article-OAJC> (Accessed on 30 May, 2015).

<sup>40</sup> Aina O. I. et al. (2009)supra note 6 at p. 16.

<sup>41</sup> Olomola O, "An Appraisal of Polygyny and Reproductive Rights of Women in Nigeria"Vol.5 No.1, 2013*Journal of Conflict and Law Resolution*.

<sup>42</sup> Olomola states that the Nigerian man does not need the permission of the wife to bring in more wives which puts women at greater risk of contracting HIV/AIDS; Olomola (2013) p. 11.

unwilling to approach reproductive health-care facilities for voluntary testing and counselling concerning sexually-transmitted diseases such as HIV/AIDS for fear of the husband's reaction to the outcome of such decisions.

Wife battering subjects women to the whims of the man in marriage especially when it concerns sex and reproduction. It places women in subservient position to men, hence they may be unable to decide when and how they may have children. Sexual violence against married women is regarded as a private matter and precluded from getting public attention and victims suffer more stigmatisation than the perpetrators.<sup>43</sup>

According to Aina, Aransiola and Osezua, based on an empirical study on domestic violence against women in Nigeria, battered women usually do not make formal reports of the impact of the battery on their health,<sup>44</sup> however in many cases, domestic violence may have serious impact on pregnancy outcomes as it has been linked with increased risks of miscarriage and abortions.<sup>45</sup>

#### Access to Courts in Nigeria

The fact that these rights are controversial makes it difficult to seek redress through the courts in the event of violation. As it is with other human rights generally, in Nigeria litigation is the customary and most available means of enforcement and seeking redress. It is no doubt however that accessing justice through litigation has its peculiar limitation and is fraught with much procedural ineffectiveness. These limitations range from inability to afford legal representation to high evidentiary standard of establishing such violations. These limitations do not exclude reproductive and sexual-health rights; it is in fact more pronounced and discouraging to victims of violations of these rights. For instance, the evidential burden of establishing a case of rape is so high that the evidence of the victim must be corroborated to ground a conviction.

<sup>43</sup> Aina O.I. et al. (2009) supra note 6 at p7.

<sup>44</sup> Ibid. 12.

<sup>45</sup> Amaral et al (1999) as cited in Aina et al. (2009) 11.

There are a few court decisions which have significant effect on issues of sexual and reproductive rights; however, it appears that there is still a long road to women's access to justice in Nigeria. The recent court decision in the popular case of *Georgina Ahamfule v. Imperial Medical Centre and Another*<sup>46</sup> though described as a landmark case on women's right to health and right against discrimination, has its own shortcomings.<sup>47</sup> The period of litigation which lasted over 12 years and the issue of enforcement of the court decision in terms of damages awarded to the claimant are a few of the factors which discourage victims and prospective litigants from litigation. It clearly depicts the ever-plaguing inadequacies, typical of Nigerian courts on issues of human rights. While this is not an attempt to undervalue the role of the courts in women's access to justice, it is apparent that litigation has limitations. In another case on discrimination based on HIV/AIDS, Durojaye rightly observes that ignorance or fear of stigmatisation impedes victims from approaching the court. Others who are bold enough to approach the court encounter hostility, discouraging others from approaching the court.<sup>48</sup> Also, unwillingness of women to make formal reports of cases of reproductive and sexual health violations, or even go through the rigorous process of litigation, makes it increasingly difficult for such women to access justice. It is in light of these obvious and recurring obstacles to the customary legal method of seeking justice that a plural normative approach is explored and encouraged.

#### *Adopting the plural normative approach to ensuring access to justice*

Access to Justice is the ability of people to seek and obtain a remedy through formal or informal institutions of justice for grievances in

<sup>46</sup> *Georgina Ahamfule v. Imperial Medical Centre and Dr Alex Molokwu* (Unreported High Court of Lagos State Ikeja ID/1627/2000) - Available at <http://www.serac.org/litigation/ongoing-cases/111-litigation/current-cases/115-ahamfule-v-imperial-medical-centre> (Accessed 30 May 2015).

<sup>47</sup> See also Durojaye E., "So Sweet So Sour: A commentary on the Nigerian High Court Decision in *Georgina Ahamfule v. Imperial Medical Centre and Anor. Relating to the Rights of Persons Living with HIV*" Vol. 13 No2, 2013 *African Human Right Law Journal*, pp464 – 480.

<sup>48</sup> Durojaye E., "Discrimination Based on HIV/AIDS Status: A Comparative Analysis of Nigerian Court Decision in *Festus Odaife & Ors. V Attorney General of the Federation & Ors. With Other Commonwealth Jurisdictions*" Vol.11, No. 2, 2007; *Law, Democracy and Development*, pp133 – 151.

compliance with human rights standard.<sup>49</sup> It means that access to justice could be through the non-traditional/non-governmental organizations. The plural normative approach envisages alternatives to the customary legal method of seeking redress or obtaining justice through the courts. It embodies the recognition of multiple methods of dispute resolution within a legal system which may sometimes include informal conflict settlement procedures. In the recent times, various forms of the recognised Alternative Dispute Resolution (ADR) methods such as negotiation, mediation, arbitration and conciliation have continued to gain increased recognition within the Nigerian legal system. With respect to reproductive and sexual-health matters and conflicts with underlying issues bordering on reproductive and sexual-health violations within domestic and private spheres, this approach may be a veritable tool for addressing the limitations of litigation in accessing justice.

The cases that will later be discussed in this paper will further expose the role legal clinics can play using the plural normative systems of African culture and socio-cultural norms in the resolution of disputes to ensuring access to justice. Below are the case studies observed by Women's Law Clinic (WLC) University of Ibadan in Ibadan, Nigeria.

#### **Illustration of cases in the WLC**

The WLC was inaugurated in 2007. From that time to July 2015, 318 cases on diverse areas of law had been handled in the clinic by staff and student clinicians.

The four cases discussed below are a few of the cases randomly selected to report and reflect the following issues.

- access to justice for women and girls in Ibadan and its environs;
- the present spate of reproductive and sexual health abuse, and violence experienced by women and girls within Ibadan metropolis as a reflection of the Nigerian situation;

<sup>49</sup> United States Institute of Peace. "Necessary Conditions: Access to Justice" <http://www.usip.org/guiding-principles-stabilization-and-reconstruction-the-web-version/7-rule-law/access-justice>. Visited 6/6/2015.

- the inadequacies in the traditional legal regime in seeking redress for reproductive and sexual rights violation and abuse;
- the effect and role of culture on societal perception of women and girls and their reproductive and sexual health rights;
- the adoption of a plural normative strategy in resolving conflict and securing access to justice for indigent women in indigenous settings;
- the effectiveness and challenges of using a plural normative approach in resolving conflicts and
- seeking redress and providing access to justice for the clients in the cases that have been handled by the WLC.

#### ***Aims and Objectives of adopting the plural normative strategy in WLC***

The main aim is to examine and showcase the effectiveness of a plural normative approach of resolving dispute in engendering and providing access to justice for women in cases where reproductive and sexual-health rights are violated.

The specific objectives are to expose students to life cases, using these plural normative methods in clinical legal education; to acquire and develop specialised lawyering skills of students; to familiarise students with the realities of reproductive and sexual-health rights violations and conflicts arising within Nigerian legal marriages, communities and society, and how these incidents continue to affect women and girls' reproductive and sexual-health rights, to imbibe in the law students the spirit of community pro bono service towards helping indigent women and girls in cases of reproductive and sexual-health rights violations.

#### ***WLC/CAS/156***

In case number WLC/CAS/156, the client hereinafter referred to as Mrs X (not real name), a Nigerian, came to the WLC and sought assistance that the clinic should help in persuading her husband, a non-Nigerian citizen, to allow her to complete the school leaving certificate which was ongoing, before relocating the whole family to another country. The issue arising from this case had to do with the

client's human right to self-determination. Self-determination is a right first enshrined in the Charter of the United Nations<sup>50</sup> and now in the International Covenant on Civil and Political Rights (the ICCPR).<sup>51</sup> Coupled with this fact is the reproductive right issue. It is the fact that, in nearly all cultures in Nigeria, reproductive liberty, right or independence is surrendered to please the husband upon marriage. The cultural issue of bride price, in itself, is conceived as the purchase of all the rights of the bride by the husband including that of her body and freedom. Total obedience to the husband is therefore expected.

The issue in the above case arose firstly because Mrs X is a married woman. Secondly, the issue arose because it is assumed that the right to reproductive self-determination of the client had been surrendered when she married Mr X and she was expected to follow the whims of the husband in relocating to another country during the period of sitting for a very critical examination. In a case of this nature, recourse to a formal or traditional court would not yield the desired result which was to allow Mrs X complete her examination before relocation. This case would be better understood when placed properly in the Nigerian cultural context. Generally, there is a belief which has brought about a saying, which if literally interpreted from the vernacular means that "you do not proceed against any person in court and you ever remain friends". This being the case, the best method of gaining access to justice which would yield the result which Mrs X desired in this case is through an informal process such that is available in WLC.

In the above case, the student clinician in WLC contacted the husband in writing and invited him to the clinic. Mr X, on arrival at the clinic with Mrs X, met the staff and student clinicians handling the case. Mr X was counselled on the importance of Mrs X completing her examination for self-determination of acquiring a certificate and self-development which will be in the overall interest of the family. Mr X

at the session agreed to reschedule his plan to relocate the family until after his wife might have completed her examinations.

#### *WLC/CAS/152*

The second case, randomly chosen from WLC, is case number WLC/CAS/152. The client, hereinafter referred to as Mrs Y (not real name) came to the clinic in 2011. She informed the clinicians that she got married to her husband in 1987, under the traditional law and customs of her area. The couple gave birth to six female children; the eldest child is 21 years old and the youngest is five which Mr Y is not happy about. Mrs. told the clinicians that Mr Y had sent her packing out of the matrimonial home on two different occasions because she had no male child and Mr Y is involved in other relationships outside the marriage. Mr Y abandoned her and the female children with no maintenance allowance. The relief Mrs Y sought was for the WLC to make Mr Y responsible towards the maintenance of the family.

According to Dickens,<sup>52</sup> reproductive health is "a state of complete physical, mental and social wellbeing and not merely the absence of disease or disorder of the reproductive process"

There are therefore many issues arising from the above case of Mrs Y. These include the violation of the reproductive right to physical, mental health and social health which affects her right to self-determination. From the facts given at WLC, the frequency of the pregnancy of Mrs Y exposed her to frequent risks associated with pregnancy and childbirth and this again would have negative impact on her physical wellbeing. Noting that the overall lifetime risk of a maternal death is very high in Africa and has been put as 1 in 16 compared to 1:2,500 in more developed countries,<sup>53</sup> it is without gainsay that the physical health of Mrs Y was highly compromised.

It was obvious that Mrs Y's right to negotiate spacing between her children had been compromised in her desperate effort to please her husband and in search of a male issue. This fact again can only be understood within the Nigerian context. Nigeria is a patriarchal

<sup>50</sup> Charter of the United Nations, Article 1 (2).

<sup>51</sup> International Covenant on Civil and Political Rights, Article 1; see generally Section 42 of the Constitution of the Federal Republic of Nigeria 1999.

<sup>52</sup> Supra, note 5.

<sup>53</sup> Cook Rebecca, Dickens, Bernard and Fathalla, Mahmoud (2003) Supra note 5.

society where there is preference for a male child over a female child for many reasons, ranging from cultural to economic and social factors. The fact that Mrs Y does not have a male issue has its impact on her mental wellbeing as the desperation and emotional torture of being thrown out of the house due to this fact compromised her reproductive right. Mrs Y's right to sexual health of deciding on when to have sex and right to enjoy sex has been compromised and jeopardised as it would appear that sexual relationship with Mr Y was carried on for the purpose of having a male child. Coupled with this fact is the extramarital relationship in which Mr Y was engaged, which exposes Mrs Y to contracting sexually-transmitted infection. This is more so when contraceptives are not used as it is the case amongst many spouses in Nigerian societies. The social wellbeing of Mrs Y was another issue also raised in this case. The frequency of her pregnancy, coupled with the age gap of the children, would have attracted comments and ridicule within the society.

The student clinician wrote a letter to Mr Y and invited him to the clinic. Mr Y was counselled on his obligation to his children and the wife. He agreed that he has a responsibility to the children and that they have a right to his love and care. He promised to be responsible for his children and his wife upkeep by providing shelter clothing and food for them, but refused to take the wife back into his house. This was probably due to the fact that he now has a male son from one of the women with whom he was having extramarital affairs. Again, the stand of Mr Y not to take back his wife into his house because of her inability to have a male issue affects the right of Mrs Y to marry a person of her own choice. Mr Y has since then taken responsibility of the welfare of the family by paying monthly through the Clinic to them.

Going by the definition of the term *reproductive health* by Fathalla in 1988<sup>54</sup> expanded in the Programme of Action developed at the ICPD in 1994<sup>55</sup> and the International Conference on women in 1995<sup>56</sup> which

<sup>54</sup> Fathalla M. F., "Promotion of Research in Human Reproduction: Global Needs and Perspectives" Vol. 3, 1988, *Human Reproduction*.pp7-10.

<sup>55</sup> UN, Population and Development, I, Programme of Action developed at the international Conference on Population and Development, Cairo, 5-13 September 1994. (New York: United Nations).

implies that people are able to have a satisfying and safe sex life, have the freedom to decide if, when and how often to do so and to have access to safe, effective, affordable and acceptable method to family planning and that reproduction is carried to a successful outcome through infant and child survival and wellbeing, it is in doubt if Mrs Y's right to her reproductive health has not been trampled on by her husband. In this case, Mrs Y presently has a shop where she carries on a trade and she is supported by her husband for the maintenance of herself and her children.

#### *WLC/CAS/153*

The third case selected is case number WLC/CAS/153, a case of a childless client, hereinafter referred to as Mrs A (not real name). From biblical times, the issue of childlessness has been of concern to women.<sup>57</sup> The story of Hannah in the Bible is an example of such a concern for women. Hannah, as the account went, was the first wife of Elkanah and she was childless. Peninnah, the second wife of her Elkanah on the other hand had children. It was recorded in the biblical story that Peninnah provoked Hannah to irritate and taunt her because of her childlessness until she wept and did not eat.<sup>58</sup> In many communities in Nigeria unlike in the some cultures in the Western world, childlessness is taken as a very serious issue and has been a cause of broken marriages. Children occupy a pivotal place in the African culture. Giving birth is an evidence of womanhood. Fertility is given a place of prominence in African marriages and inability to have a child constitutes a serious problem. Women are more often than not accused of being the cause of childlessness in marriage. It is often associated with wayward life as a spinster. The psychological and social burden of childlessness is heavier on the woman in most societies and particularly in Africa. The fate of a sterile woman is very hard one indeed. She is often made the object of conversation and ridiculed and taunted by some of her female neighbours or husband's

<sup>56</sup> UN, Department of Public Information, Platform for Action and Beijing Declaration. Fourth World Conference on Women, Beijing, China, 4-15 September 1995(New York: UN, 1995).

<sup>57</sup> 1<sup>st</sup> Samuel Chapter 1: 7 New Living Translation.

<sup>58</sup> Ibid.

family.<sup>59</sup> The position of a wife in her husband's family remains shaky and unpredictable until she begets a child. It is often a cause of social ridicule and cause of divorce. The position of an African woman only becomes secured after giving birth to a child. The problem is not completely solved until she gives birth to a male child. In the WLC/CAS/153 case above, Mrs A, a widow, came to the clinic in 2011 complaining that she was being excluded from sharing her late husband's property because she had no issue before her husband died. She complained that the husband had two children in a previous marriage. The issue of infertility is a very serious reproductive-health issue in Africa. While it is said that the responsibility is shared by the couple, it is also true that the burden is unequally shared and falls more on the woman. Because of the sensitivity of the case, the staff and student clinicians requested that they wanted to see the documents in her possession to ascertain her claims of being married to MrA. This request was important to determine her legal status for proper counselling and further action. Mrs A went away and never returned. This last case was one in which the clinicians felt that Mrs A did not come back because she resigned herself to fate considering her status as a widow and childless woman within the Nigerian context and might have been ill advised in the society, the consequences of pursuing a case of this nature outside the family setup. The status of an infertile woman, coupled with widowhood, is a double-burden tragedy in many rural communities in Nigeria. Under the various customary laws on succession, wives do not inherit the estate of their deceased husbands but can only 'inherit' through their children. The implication of this is that an infertile woman cannot 'inherit'

#### **WLC/CAS/093**

The fourth case is WLC/CAS/093. The client hereinafter referred to as Mrs B (not real name) came to the WLC in October 2009 following the Notice of Dissolution of Marriage petition by her husband. Her request was that she did not want a divorce for the sake of her children. The student clinician requested the presence of both parties and in November 2009, and both honoured the invitation. At the meeting, Mr B gave reasons why the divorce should go on and be

concluded. After series of counselling for the couple, and Mr B in particular on the need to maintain the children and Mrs B who was not economically empowered at the time, he agreed to pay maintenance of N10,000.00 fortnightly for his children and to remain responsible for their upkeep until the determination of the suit in court. Although the husband decided to continue with the court proceedings for dissolution of their marriage, WLC was able to mediate between both parties to get maintenance allowance for Mrs B and the children. The WLC was well-respected by both parties in this matter. Mr B kept to his promise as to payment of the maintenance sum. The WLC protected the interests of Mrs B and her children while the case was in court. Maintenance is important in any matrimonial cause. This was successfully gotten by WLC without waiting for the judgment of the court and it was considered a high point for WLC in this matter. Both parties were reconciled and the case in the court was struck out.

This case illustrates an instance of compromise of the right to reproductive self-determination as a result of cultural and economic factors. The effect that a broken home would have on the children, the feigned status of remaining married and lack of resources to maintain herself and her children were reasons Mrs B considered in staying on in a marriage in which she was not initially happy.

All the four cases discussed are illustrative of the fact that reproductive and sexual ill-health does not occur in vacuum, but are conditioned by cultures, laws and values.<sup>60</sup> All the cases discussed affected women who are resident in Ibadan and environs, but it is important to state that it is a reflection of the Nigerian society. The cases were selected randomly to reflect some, and not all, aspects of reproductive and sexual-health issues affecting women treated in the clinic. They however showed the inadequacies of the formal courts in satisfactorily handling reproductive or sexual-health abuses. In addition, these cases go a long way in illustrating how the society and women, particularly in the cultural settings, perceive reproductive or sexual health issues.

<sup>60</sup> Cook Rebecca, Dickens Bernard and Fathalla Mahmoud, *supra* note 5p4.

<sup>59</sup> Obianuju Chiamaka Amangbo, "Which Way Nigeria- Childlessness in Marriage. In Nigeria Village Square". <http://www.nigeriavillagesquare.com/articles/Obianuju-amangbo/Which-Way-Nigeria-3-childlessness-in-marriage>

### Conclusion

Flowing from the above case studies and their results, WLC has been able to successfully resolve issues affecting many of these women. The cases initiated by these women at first appeared to be unconnected to their reproductive and sexual health. However, in the process of resolving the conflicts, it became obvious that the underlying issues were undoubtedly related to their reproductive health and sexual rights. With specific reference to the cases handled in the clinic, issues such the right of women to parenting, right to self-determination in taking reproductive health and sexual rights decisions, rights against torture and violence, right to freedom from discrimination which rights are fully embedded in women's reproductive and sexual rights were affirmed.

Following from the above case studies and their outcomes, it is arguable that the ADR processes may be explored further even in cases relating to sexual and reproductive health especially where parties are given to privacy and may not necessarily be contentious. This is especially applicable to cases involving non-criminal elements and where parties are fully disposed to exploring the ADR plural normative system which is more culturally-acceptable in African societies.

However, as much as this approach may be successful and present a prospective outlook on more successful outcome, this approach may not be able to claim an exclusive preserve for issues of sexual and reproductive health rights. Issues of reproductive and sexual health may present serious cases that need the intervention of the court, particularly in criminal cases of rape and sexual assault if the victim is willing. It is however instructive that the plural normative approach should serve as an effective means of assisting the courts and improving on access to justice in cases relating to reproductive and sexual-health rights of women.

Access to justice plays an important role in the realising, protecting and promoting reproductive and sexual rights. However in the course of this study, it appears that there is a dearth of research in this area. In fact, there is no full published paper or article with respect to the issue

of access to justice for reproductive and sexual rights. While the reason for this is unknown, it becomes imperative for more research to be conducted in this area since its importance cannot be overemphasised in the discourse on reproductive and sexual rights.