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Submission to the Office of the High Commissioner for Human Rights on the use of the 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.

On behalf of Ipas, I write to make the following submission on the use of the Technical Guidance (TG) in response to Note Verbale reference WRGS/LOH/Res2711.

Below I include our submissions that reflect the work of Ipas in Brazil (page 2), Sierra Leone (p 7) and that of Ipas Mexico (page 9, with attachment).

Sincerely

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Good practices in the application of TG on Human Rights Accountability at national level in Brazil

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The TG outlined categories of good practices to address maternal mortality and morbidity in compliance with human rights obligations: enhancing the status of women, ensuring sexual and reproductive health rights, strengthening health systems, addressing unsafe abortion, and improving monitoring and evaluation.¹

Ipas has been working closely at with national-level civil society partners in Brazil to develop human rights accountability mechanisms to address unsafe abortion and to apply a human-rights based approach to assess sexual and reproductive health laws, policies, and practices.

1. Follow up mission on Alyne case's decision implementation with Brazilian coalition at national level

In August 10 2001 the Committee on the Elimination of Discrimination against Women (CEDAW) issued a landmark decision in *Alyne da Silva Pimentel Teixeira v Brazil* (Alyne).² In its decision, CEDAW established for first time a State's duty to prevent maternal death under international human rights law." The case was filed by the organization *Advocaci – Advocacia Cidadã pelos Direitos Humanos* and the Center for Reproductive Rights against the state of Brazil on November 30th 2007.

The Alyne case concerned a 20-year old woman who suffered complications from pregnancy in 2002. She sought care from a health center, but the care was inadequate and she received it too late. She died after being left unattended for 21 hours in the hallway of a hospital. She died due to the lack of appropriate medical treatment and timely emergency obstetric care.

The Committee decided that she suffered maternal death; established the state's duty to ensure appropriate services in connection with pregnancy; the state's duty to regulate and monitor private health care institutions as a due diligence obligation; state's multiple forms of discrimination as a women of African descent, and socio economic background and state's failure to ensure effective judicial protection. The Committee considered that the state party violated its obligations under article 12 (access to health), article 2 (c) (access to justice), article 2 (e) (state's party due diligence obligation to regulate the activities of private health service providers), in conjunction with article 1, of the Convention, read together with general recommendations No. 24 and 28 and

¹ Human Rights Council, A/HRC/18/27, July 8, 2011.

²CEDAW, Communication No. 17/2008

made several recommendations to the state to comply with its international human rights obligation.

Follow-up to Alyne

With national partners, Ipas has used a human rights-based approach to monitor the Brazilian governments' progress in taking effective measures to implement the CEDAW Committee's decision. Beatriz Galli, Ipas regional senior advisor for Latin America and former National Special Rapporteur on the Right to Sexual and Reproductive (2011-2014) carried out a follow-up mission "Alyne decision: 11 years later" to assess quality of emergency obstetric care to pregnant women in Baixada Fluminense in the state of Rio de Janeiro, which resulted in a report that found Brazil's efforts fell far short of what was required by the CEDAW decision.³

Bia Galli was able to participate in the mission in her role as Special Rapporteur. The Special Rapporteur mechanism can serve to other countries as an example for TG implementation. As noted by Professor Rebecca Cook:

Through an innovative initiative of civil society, the coalition called Brazilian Platform on Economic, Social, Cultural and Environmental Rights (Dhesca Brasil) established a series of Rapporteurships,⁴ including one on the Human Right to Sexual and Reproductive Health.⁵ The Rapporteurs are independent experts appointed with a two year mandate, often working in conjunction with the Procuradoria Federal dos Direitos do Cidadão (Federal Attorney General of Citizenship Rights) to investigate noncompliance with human rights or other related offenses. On the first anniversary of the Alyne decision, the Sexual and Reproductive Rights Rapporteur and many civil society organizations submitted a letter to the Procuradoria Federal calling for the implementation of the decision.⁶ Time

³ Report on maternal mortality in context the process of implementing the decision of the Committee CEDAW against the Brazilian State in the case Alyne da Silva Pimentel / [writing Beatriz Galli, Helena Rocha and Jandira Queiroz]. - Brasilia: United Nations Population Fund UNFPA, 2015.

Full report available at:

https://www.researchgate.net/publication/280624768_Caso_Alyne_Pimentel_Relatorio_sobre_Mortalidade_Materna_no_context_de_implentacao_da_decisao_do_Comite_CEDAW_contra_o_estado_brasileiro

⁴ Dhesca, Brazilian Platform on Human, Economic and Social Rights.

<http://www.plataformadh.org.br/2014/05/29/2013-mortalidade-materna-no-contexto-do-processo-de-implementacao-da-decisao-do-comite-cedaw-contra-o-estado-brasileiro-no-caso-alyne-da-silva-pimentel/>

⁵ Maria Beatriz Galli was appointed Rapporteur on the Human Right to Sexual and Reproductive Health on May 8, 2012, by Dhesca, the Brazilian Platform on Human, Economic, Social, Cultural and Environmental Rights, at <<http://www.dhescabrasil.org.br/>> (last visited Aug 21, 2012).

⁶ Relatoria do Direito à Saúde Reprodutiva da Plataforma DHESCA Brasil, Letter of August 10, 2012 to the President of Brazil et al., at <http://www.dhescabrasil.org.br/attachments/614_alyne_case_english_version.pdf> (last visited September 5, 2012).

will tell whether these initiatives can capitalize on the positive reputational effects of appropriate compliance.⁷

Bia Galli presented her report on the follow-up to the Alyne case during a public Senate hearing. The report has also been shared with the General Federal Prosecutors' Office, which has been asked to take urgent measures to protect the human rights of pregnant women and ensure quality emergency obstetric care in Brazil.

2. Study Tour study in 5 states in Brazil using human rights based approach to assess abortion care:

Ipas has worked with Brazilian organizations to use a human rights-based approach to assess the quality of post abortion care in 5 Brazilian states (Rio de Janeiro, Pernambuco, Paraíba, Mato Grosso do Sul and Bahia). The TG provided a useful human rights framework for the assessment mission, which was sponsored by a network of civil society organizations and social movements. The mission examined the status and availability of emergency obstetric care services for women seeking post abortion care at public health services in underprivileged municipalities in these states. Researchers used a human rights based approach and based their interview questions on the TG.⁸

3. Thematic Regional Hearing at the IACHR

In October 2015, the final study tour report was presented in a thematic hearing before the Inter-American Commission on Human Rights on Brazil. The presentations included women's testimonies, updated information on obstetric violence and examples of how health and judicial systems discriminate against women seeking emergency obstetric. We presented the following summary and recommendations for the Brazilian government:

- The health care that women seek is of poor quality, which is a barrier to access and stems from stigma and discriminatory and disrespectful treatment. In particular, women seeking emergency obstetric services for complications from unsafe abortion receive poor-quality service because of gender inequality and institutional violence against women. The lack of quality health care for these women is discriminatory, as only women experience unwanted pregnancy, choose to have abortions, and require emergency obstetric care.

⁷https://www.researchgate.net/publication/236198092_Human_Rights_and_Maternal_Health_Exploring_the_Effectiveness_of_the_Alyne_Decision

⁸ Soares, G.S., Galli, M.B., & de A.L. Viana, A.P. (2011). Advocacy for access to safe legal abortion: Similarities in the impact of abortion's illegality on women's health and health care in Pernambuco, Bahia, Paraíba, Mato Grosso do Sul e Rio de Janeiro. Ipas, available at: <http://www.ipas.org/en/Resources/Ipas%20Publications/Advocacy-for-access-to-safe-legal-abortion-Similarities-in-the-impact-of-abortions-illegal.aspx>

- The report documented the following examples of institutional violence in public health services, as reported by women interviewed in the five states: delayed care, requirements of prolonged fasting, feelings of social isolation, lack of information and communication between the patient and the health care team, lack of listening and guidance from professionals, and explicitly damning words and attitudes. Furthermore, the absence of suitable facilities for women receive post-abortion care shows health professionals' punitive and discriminatory treatment towards women who have abortions.
- The study revealed that in general women seeking post abortion care have to face delays in receiving treatment, despite facing an obstetric emergency that risks their life and health. Informal policies prioritize the care of pregnant women who are giving birth. In some facilities, women who arrive bleeding from unsafe abortion typically have to wait several hours at the reception or screening, even if they are in pain.
- In a maternity ward in Campina Grande, women are immediately discharged after undergoing a curettage procedure. This places them at risk for complications and poor health outcomes, particularly for women living in poverty who often must work immediately after leaving the hospital. These poor women may be alone without transportation home.
- Ipas and the ISER investigated criminal cases against women suspected of having abortions in the state of Rio de Janeiro women, where they are at risk of torture. Women seeking care for complications of unsafe abortion are reported to police by doctors, arrested, processed criminally. The majority of criminal abortion cases in Rio de Janeiro are through the public health system. Doctors give police the power to interrogate their patients on whether they sought an abortion, contrary to their duty confidentiality, under the Norma Technical Humanized Care for Service of the Ministry of Health.
- In more than one case a woman accused of abortion was handcuffed to a stretcher, while still bleeding from unsafe abortion. Unable to pay bail, one woman was arrested in her hospital bed and required to wait at the hospital for three months, until her legal representative, the Public Defender, arrived.
- The report found curettage performed without anesthesia, a painful and common practice in health services in Brazil.
- The report recommended Brazil adopt a human rights-based harm reduction strategy based on best practices and experiences of Uruguay to prevent unsafe abortion and preventable maternal deaths and guarantee the right to information

on sexual health and reproductive health, the right to life, personal integrity and the right to health free of coercion, discrimination, and violence.

- The report also recommended that Brazilian government review its punitive abortion law to guarantee women's sexual and reproductive rights.

Ipas Submission on the TG in Sierra Leone

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The Government of Sierra Leone is working toward reforming its abortion law in order to reduce preventable maternal morbidity and mortality, in accordance with the Human Rights Council's technical guidance. I write to report on Sierra Leone's progress in using a human rights-based approach to reduce preventable maternal morbidity and mortality from unsafe abortion.

Sierra Leone has the fourth-highest maternal mortality rate in the world, due in part to the large number of unsafe abortions which take place in the country each year.⁹ A major contributor to the high rates of unsafe abortion is the Offenses Against the Person Act sections 58 and 59, which criminalize abortion in nearly all cases. This law is an artefact of colonial times and is identical to the 1861 offenses against the person act, which applied to United Kingdom and its colonies. Great Britain and most of its former colonies have since reformed their laws.

Beginning in 2010, the government of Sierra Leone took steps to reduce unsafe abortion, as recommended in paragraph 30 of the technical guidance which states, "laws and policies that impede access to sexual and reproductive health services must be changed, including laws that criminalize certain services only needed by women." The government's efforts culminated in the December 2015 passage of a bill legalizing abortion. At the time of this submission, the President had not given his assent as he sent the bill back to parliament for revision and approval.

Steps toward law reform

Efforts to liberalize the abortion law began in 2010 when a law reform commission reviewed the law and recommended law reform. This was followed with three studies by the Ministry of Health and Sanitation in partnership with Ipas, which documented the harm of unsafe abortion. The studies found that unwanted pregnancies are a problem throughout Sierra Leone and showed high cost associated with treatment of morbidity due to unsafe abortion.

National support grew for legal abortion. The Ministry of Health and Sanitation studies showed that the majority of Sierra Leoneans wanted the abortion law liberalized to reduce maternal mortality from unsafe abortion. In 2013, First Lady Sia Nyama Koroma voiced her support for safe legal abortion. The Minister of Social Welfare and the

⁹ Sierra Leone Ministry of Health and Sanitation. (2013). Unsafe Abortion in Sierra Leone: A report of Community and Healthy System Assessments. Freetown: Ipas.

Minister of Justice added their voices, as did hundreds of women who showed up to Parliament in support of change.

At the end of 2015, citing CEDAW's 2014 concluding observations on Sierra Leone, Honorable Isata Kabia brought forward a private member's bill to Parliament. The Safe Uterine Evacuation Care Act makes early abortion legal for any reason. It also follows the recommendations of the technical guidance. The bill passed by parliament ensures that health providers who object to providing abortion services must refer the woman to another provider, in accordance with technical guidance recommendations to change "laws that allow conscientious objection to hinder women's access to a full range of services" (para 30). The bill was based on "authoritative public health guidance" (paragraph 31) as the drafters took into account the World Health Organization's Safe abortion: technical and policy guidance for health systems.¹⁰

The Safe Uterine Evacuation Care Act reflects a human rights-based approach to reducing maternal morbidity and mortality from unsafe abortion, in accordance with the technical guidance. We continue to work toward the enactment of the Act to help ensure the women of Sierra Leone can access sexual and reproductive health services, including safe abortion care, unimpeded and without being criminalized or risking their health and lives.

¹⁰ World Health Organization, (2012). Safe Abortion: Technical and Policy Guidance for Health Systems. Second ed. Geneva: World Health Organization.

Ipas Mexico Submission on the use of United Nations technical guidance on the application of a human-rights based approach to the implementation of policies and programmes to reduce preventable maternal mortality and morbidity

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Also see attachment

Project at Jalisco with the Ministry of Health

Mexico's Implementation Team:

- Committee for the Promotion of Safe Motherhood in Jalisco (CPMSJ)
- National Committee for the Promotion of Safe Motherhood in Mexico (CPMSM)
- Simone de Beauvoir Leadership Institute (ILSB)
- United Nations Office of the High Commissioner for Human Rights
- Consultants on Research Methodology

Sixty social workers (SW) from the health system in Jalisco have concluded 8 training modules on a Human-Rights Based Approach (HRBA) to health service providers including the Technical Guidance (TG), the procedure to conduct a verbal autopsy and to document HR violations. They have also produced 10 research protocols on sexual and reproductive service provision within the health facilities where they work using a HR perspective.

All of them have become familiar with the TG. In order to include some sessions on research methodology in the workshop, the team collaborated with a doctor expert in research methodology. The SW participants in the training were divided into 10 teams, and each one elaborated a research protocol to apply some aspects of the HRBA to their daily work in the health care facilities. The research protocol's themes selected by the SW focused in different aspects of maternal health provision, such as: culturally sensitive maternal health services for indigenous populations; delay in health service provision as a cause of maternal death; quality of sexual and reproductive health information provided to adolescents by health services in a specific Jalisco locality; identifying the knowledge the social workers (who did not attend this workshop) of HR; identify causes of obstetric violence in a specific health facility, etc.

The sessions intended to present the official procedure to conduct verbal autopsies in cases of maternal deaths to SW and to document human rights violations. Both cases were practiced during the session through dramatization exercises.

After concluding the training, the sixty social workers that work at health care facilities throughout Jalisco:

- Got familiar with the Technical Guidance
- Got sensitized with a HRBA for health care provision
- Got familiar with an inclusive language (non-sexist, non-discriminatory against indigenous people)
- The SW are able to empower users of maternal health service facilities on their rights and how to demand them.
- Created links with civil society organizations that can help them and health service users in case of HR violations.
- Implement research methodology and research protocols under development at the health facilities where they work with a HR perspective.
- Know the procedure to conduct a verbal autopsy after a maternal death occurs in the health facility where they work.
- Know the procedure to document a case of human rights violation and have a contact within the Human Rights Commission of Jalisco to present the case anonymously.

Meetings

The TG was presented by Raffaella Schiavon, Technical Secretary of the CPMSM, and other team members, to relevant decision makers in these major meetings on maternal health and reproductive rights:

1. Raffaella Schiavon at a meeting organized by the Medical Committee of Hidalgo. She also disseminated the Mexican adaptation of the guidelines - December 4, 2015
2. Raffaella Schiavon presented at a panel at the Global Maternal and Newborn Health Conference - October 22, 2015
3. Sofía Reynoso Delgado, Valentina Zendejas, Silvia Loggia and Nira Cardenas at the IIMMHR Secretariat meeting with Social Workers in Jalisco – October 20, 2015
4. Sofía Reynoso Delgado, Valentina Zendejas and Silvia Loggia at a Sexual and reproductive rights CSOs meeting with Alicia Yamin in Mexico City – October 19, 2015 (12 civil society organizations attended the meeting with Alicia Yamin in Mexico City to discuss the TG, their experiences pushing for a RBA to maternal health and the challenges faced).
5. Valentina Zendejas, Nira Cárdenas, Sofía Reynoso Delgado, Silvia Loggia and consultants at the IIMMHR implementing partners meeting in Mexico City- October 16 and 17, 2015
6. Raffaella Schiavon at the Symposium of the National Medical Committee (Comisión Nacional de Arbitraje Médico –CONAMED) on quality of health service. October 9 and 10, 2015. Mexico City. Addressed to doctors.

7. Raffaella Schiavon. 25th International Congress of Gynaecology, June 4 and 5, 2015 Guadalajara, Jalisco. Addressed to 400 attendees, gynaecologists and health system officials.
8. Sofía Reynoso Delgado at the First Lecture Elvia Carrillo Puerto held by the National Commission of Human Rights and the Supreme Court of Justice, June 18, 2015. Mexico City. Fifty attendees. Event open to the general public.
9. Julia Escalante at the National Meeting of Antenatal Care, hosted by National Centre for Gender Equality and Reproductive Health (CNEGySR), from the National Ministry of Health (SSA). December 8-10, 2014. State of Morelos. Addressed to gynaecologists and health system officials.
10. Raffaella Schiavon at the National Forum on Maternal Health, hosted by State Institute of Women in Campeche. November 13 and 14, 2014. State of Campeche. Addressed to the national health system public officials.
11. Raffaella Schiavon at the Extraordinary Meeting of the National Health Council, July 30, 2014. Mexico City. Addressed to health system officials.
12. Raffaella Schiavon at the XXIV Meeting of the National Committee on Maternal and Perinatal Health (Comité Arranque Parejo en la Vida –APV) September 9, 2014. Mexico City. Dissemination of the Mexican adaptation. Addressed to top ranked national health system officials