The Center for Reproductive Rights (“the Center”), a global legal advocacy organization headquartered in New York, with regional offices in Nairobi, Bogotá, Kathmandu, Geneva, and Washington, D.C., appreciates the opportunity to share this information around implementation 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 (“Technical Guidance”). For the past two decades, the Center has advanced preventable maternal mortality and morbidity as violations of women’s fundamental human rights through fact-finding, litigation, and advocacy at the national, regional, and international levels. In particular, the Center was a key actor in supporting the first Human Rights Council resolution on maternal mortality and morbidity in 2009 and has steadfastly supported subsequent Council resolutions, as well as the creation of the Technical Guidance. Since its publication, the Technical Guidance has served as an invaluable resource for advocacy, litigation, and increasing accountability for states’ human rights obligations in relation to safe pregnancy and childbirth. This submission details a number of these important contributions in relation to the Center’s work towards implementing the Technical Guidance across the globe.

I. Litigation and Advocacy
The Center has integrated the Technical Guidance into its national-level advocacy to encourage states to realize women’s right to safe pregnancy and childbirth. For example, in collaboration with local partners, the Center works in Nigeria to advocate against the practice of mandatory blood donation as a precondition to receive antenatal care services – a harmful practice that undermines women’s access to essential maternal care in a country with one of the highest maternal mortality rates globally. Among the myriad forms of expertise afforded by the Technical Guidance, the Center in particular relies on its firm recognition of the role that discrimination plays in undermining women and adolescents’ access to reproductive health care and its guidelines for creating just health systems as an essential component of a human rights-based approach to reducing maternal mortality and morbidity. The Center’s 2014 submission for OHCHR’s report to the Human Rights Council on the Technical Guidance details the various ways in which this practice fails to comply with the general principles set forth in the Technical Guidance.

The Center has also utilized the Technical Guidance in advocacy before United Nations Treaty Monitoring Bodies, particularly during country reviews, to increase pressure on states to adopt a human rights-based approach to preventing maternal mortality and morbidity. Further, the Center is considering ways to incorporate the Technical Guidance into national-level litigation on maternal health care, with the Technical Guidance serving as the standard that states should look to in assessing their current provision of maternal health care and in considering future reforms.
II. Implementation of International Human Rights Jurisprudence

The Technical Guidance has further proved essential in advancing implementation of the decision in *Alyne v. Brazil*, which the Center brought with local partners before the Committee on the Elimination of Discrimination against Women (CEDAW Committee). The CEDAW Committee’s decision in this case held Brazil accountable for the preventable death of an Afro-Brazilian woman after she was denied access to essential maternal health care. Through this decision, the CEDAW Committee clearly established that states must put in place health services that meet all women’s distinct health needs and interests free from discrimination and that, where states outsource health services to private institutions, they maintain their due diligence obligation to regulate and monitor the institutions to ensure that the health services are appropriate. A number of the CEDAW Committee’s recommendations in this case that are geared towards non-repetition of these human rights violations include reforms to how the state administers maternal health care.

In 2015 – four years after the decision was issued – the Center convened a Follow-Up Commission to assess implementation of these measures of non-repetition, in recognition that the Brazilian government had made little progress in creating systemic change. The Follow-Up Commission predominately utilized the Technical Guidance in evaluating the extent to which Brazil is complying with its human rights obligations in regards to the provision of maternal health care. In particular, the Follow-Up Commission relied on the “circle of accountability” set forth in the Technical Guidance in examining Brazil’s maternal health budget, program implementation, monitoring and review mechanisms, and effective remedies. As a result of the information contained in the Technical Guidance, the Follow-Up Commission was able to craft robust recommendations for further reform of Brazil’s maternal health system, which the Center is currently using in further advocacy with a diverse body of stakeholders.

III. Translating the Technical Guidance into National and Local Level Policy Measures

In the United States (U.S.) in particular, the Center is engaged in translating the Technical Guidance’s overarching recommendations into specific law and policy measures which stakeholders at the national and local levels can advocate for within the framework of a human rights-based approach to maternal health care. Using the Technical Guidance as a blueprint, the Center is examining law and policy proposals from a range of stakeholders, including grassroots activists, law and policy-makers, legal advocates and public health actors, among others, to determine how they can advance a human rights-based approach to maternal mortality and morbidity and set forth a “menu” of options that states should consider adopting. In this process, the Center is also working to translate the Technical Guidance from specialized terminology into language that is more easily accessible for a diverse range of stakeholders, thereby enabling the guidance to reach a broader audience.

The underlying principles set forth in establishing a human rights-based approach is particularly useful in the U.S. context, where the minimal ratification of international human rights treaties serves as a barrier for integrating human rights norms directly into laws and policies and holding the state accountable for its failure to do so. The Technical Guidance is unique in this regard, as it builds upon the human rights principles of transparency, participation, accountability, non-
discrimination, and monitoring and review to create recommendations that are applicable to countries across the globe. Therefore, the Technical Guidance can be used with stakeholders to show that a global consensus has emerged around best practices for creating a human rights-based approach to maternal mortality and morbidity.

IV. Implementation of the Sustainable Development Goals and the Global Strategy for Women’s, Children’s and Adolescents’ Health

While the Center is still devising its plans in relation to implementation of the Sustainable Development Goals and the Global Strategy for Women’s, Children’s and Adolescents’ Health, we are confident that the Technical Guidance will be instrumental for a broad range of stakeholders seeking systemic change, not only in relation to maternal mortality and morbidity, but also more broadly in creating just and effective health care systems, monitoring and implementation of laws and policies, and enabling individuals to claim their rights and seek access to justice. The framework set forth by the Technical Guidance will further be utilized in ensuring a human rights-based approach to implementing the Sustainable Development Goals and the Global Strategy, in addition to creating state accountability for their obligations and commitments around these development agendas, particularly since formal mechanisms for these remain unclear.

V. Challenges

While the Center has had some success implementing the Technical Guidance, a number of challenges have also been identified. For example, local and national level adaptation requires concerted and dedicated effort, both in identifying relevant policies for change, devising policy solutions, and advocating for the duty-bearers to take up these changes. This requires multi-stakeholder initiatives and coordination across civil society, which can be time and resource intensive. To enable a broad range of actors to work towards implementation of the Technical Guidance, it is important that the more specialized or legalistic language contained therein be translated into vernacular that is more accessible for non-human rights actors, including those working at the grassroots and community levels.

Furthermore, the entrenched nature of states’ current health care systems makes holistic, cross-sectoral change difficult. Finding key entry points and allies is essential for making progress. This is further complicated where lines of accountability are unclear, which is particularly relevant in decentralized health care systems, where actors at the federal, state, and local level all influence laws and policies around maternal health, as well as where the private sector is largely responsible for the provision of health services. Although in all cases, federal governments are ultimately accountable for their human rights obligations, in decentralized and mixed public/private systems, entry points for change are often found at more local levels. This can create tensions between effecting change and establishing long-term accountability.

The Center for Reproductive Rights hopes that the information provided within this submission assists the Office of the High Commissioner for Human Rights in its study on implementation of the Technical Guidance. Should the Office of the High Commission for Human Rights have any questions or require any further information, please do not hesitate to contact Rebecca Brown, Director of Global Advocacy, at rbrown@reprorights.org.


3 REPORT OF FOLLOW-UP COMMISSION ORGANIZED BY THE CENTER FOR REPRODUCTIVE RIGHTS (CRR) TO ASSESS IMPLEMENTATION OF GENERAL RECOMMENDATIONS OF CEDAW COMMITTEE, Oct. 8, 2015 (on file with the Center for Reproductive Rights).