

# Making a Case for the Domestication of CEDAW in Nigeria: Empirically and Conceptually Justified

Ganiat Mobolaji Olatokun\*, Rusniah Ahmad, Harlidah Abdul Wahab  
College of Law, Government & International Studies, Universiti Utara Malaysia. 06010 UUM Simtok.  
Kedah Darul Aman, Malaysia.

\*E-mail of corresponding author: [kazgan2000@yahoo.com](mailto:kazgan2000@yahoo.com)

## Abstract

Despite the laudable provisions of the Convention on the Elimination of all forms of Discrimination Against Women, (CEDAW), aiming to stop discrimination against women, the widely spread abortion right interpretation given to the provisions of reproductive right under Article 16(e) of CEDAW has made it impossible for Nigeria, a country with a restrictive abortion law to domesticate CEDAW. The authors here, have deviated from the general interpretation, and have consequently made a case for the domestication of CEDAW in Nigeria, using reproductive right, under a progressive interpretation, as the basis. Under a progressive interpretation of CEDAW's reproductive rights, Primary Health Care (PHC) will serve as an embedded principle, whereby the right to health for women will be the determining factor. Also, the authors have strengthened their case by conducting a case study in eight (8) different states in Nigeria. This step, according to the authors, will serve as a basis for future policy development in the area of reproductive right in Nigeria.

**Key words:** Reproductive Right, Abortion right, Domestication, CEDAW, PHC.

## 1. Introduction

It has been said that, human rights exists in morality and in law at the national and international levels.<sup>1</sup> Consequently, the main source of the contemporary concept of human right, the *Universal Declaration of Human Rights* (1948), which happens to be an international human right instrument, sets out over two dozen specified human rights that countries should respect and protect. One of such right is the minority and group rights which centre on the equal rights of disadvantaged groups. One of such disadvantaged groups is the women.<sup>2</sup>

Concern for the equal rights of the disadvantaged group is a long standing objective of the human right movement. International human right document like the UDHR emphasizes that all people, including women have the same basic rights and should be able to enjoy them without discrimination.<sup>3</sup> Since 1964, the United Nations has mainly dealt with rights of women under specialized treaties such as, CEDAW.<sup>4</sup> The preamble to

---

<sup>1</sup>Statement by HLA Hart in his famous article on Natural Rights in A Pagden, (2003) *Human Rights, Natural Rights and Europe's Imperial Legacy*, *Political Theory* 31(2) 172. <<http://www.jstor.org/stable/3595699>> (date accessed 31 February 2011. See also, N. Roger Normand and Sarah. Zaidi ,(2008) *Human Right at the United Nations: The Political History of Universal Justice* (USA: Indiana University Press ) 1, where it was revealed that in little more than half a century, the issue of human rights have become the preeminent signifier of international morality and legitimacy.

<sup>2</sup>There were just four women signatories among the 160 signatories to the UN's founding document at its charter conference at San Francisco in 1945. The four women established a foundation for the UN by making sure that women issues were present in the text of the Charter. The simple act of inserting the word, 'women', in the text made sure that, the principle of equality between sexes was part of the founding ideas of the new organization. See, J Devaki Sen, K Amartya , (2005)*Women, Development and the United Nations: A Sixty -Year Quest for Equality and Justice* (USA Indiana University Press) 12. See also, K.N. Hervener, (1986) An Analysis of Gender Based Treaty Law: Contemporary Development in Historical Perspective *Human Right Quarterly* 8(1) 70-88. Equality of right of women is a basic principle of the United Nations and discrimination on the basis of sex is singled out among the lists of items prohibited. See, the United Nations Fact Sheet No 22, 1993.

<sup>3</sup>Art 1 Universal Declaration of Human Rights 1948.

<sup>4</sup>This Convention is a human right document which promotes the principle of non-discrimination and equality between men and women. The Convention focuses on three key issues of which reproductive right is one. The right to choose is one aspect of reproductive right. Other aspects of reproductive rights includes, fully shared responsibility for child rearing by both sexes, right to maternity and family planning. The effect of this article is that, in order the good health of women; women should be able to decide freely and responsibly as regards the number and spacing of their children. The access of women to health care is justifiable so as to provide women with basic information needed in order to be able to space their children. See the *WHO Birth Spacing Cluster Representatives and Health Volunteers Guide* (2008) 2-3< [www.emro.who.int/mps/pdf](http://www.emro.who.int/mps/pdf) > (date accessed: 26

CEDAW acknowledges the existence of discrimination against women and made it clear that the continued existence of such discrimination violates the principle of equality of all persons and respect for human rights and dignity.<sup>1</sup>

One of such right that will eliminate discrimination against women is 'reproductive right' for all women.<sup>2</sup> Accordingly, all women are entitled to the right to decide freely and responsibly as to the number and spacing of their children. When women are given this reproductive right, it will also lead to right to health for all women (including the child they will bear). This is so because, when women give enough space between births, it makes them healthier.<sup>3</sup> CEDAW, by its provision for reproductive right for women has further demonstrated a right based approach to health for all women (consequently, children).<sup>4</sup> The late Jonathan Mann once said that there

---

November 2011). Here, birth spacing has been described as a procedure which save lives of mothers and babies, reduces abortion and unwanted pregnancies and improves children's health and mother's health. Furthermore, longer birth intervals have been identified as bettering the health of mothers. See, *USAID ISSUE BRIEF on Healthier Mothers and Children Through Birth Spacing*. <[www.usaid.gov](http://www.usaid.gov)> (date accessed: 26 November 2011). See also, A Conde-Agudelo, A Rosas-Bermudez & AC Kafury-Goeta, (2006) Birth Spacing and Risk of Adverse Perinatal Outcomes: A Meta- analysis *Journal of American Medical Research* 295(15) 1822. <[www.fsfb.org.co/sites/default/files/birthspacingandriskofadverse.pdf](http://www.fsfb.org.co/sites/default/files/birthspacingandriskofadverse.pdf) > (date accessed: 26 November 2011). It must be emphasized that CEDAW made reference to family planning, not abortion.

<sup>1</sup>Art 1 CEDAW.

<sup>2</sup>**Art 12(1) CEDAW** provide that State parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on the basis of equality of men and women, access to health care services, including those relating to family planning. **Article 16(1)(e) CEDAW**, provided further that, State parties shall take all appropriate measures to eliminate discrimination against women in all patterns relating to marriage and family relations and in particular shall ensure, on the basis of equality of men and women, the same right of deciding freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them exercise these rights. See also, Ganiat Mobolaji Olatokun, (2014) Right to Choose within CEDAW: Its Importance to Women in Nigeria, *Journal of Humanities and Social Sciences* 19(1) 15. See also, Ganiat Mobolaji Olatokun and Harlida Abdul Wahab, (2013) Alternative Interpretation to 'Right to Choose' within CEDAW: A Suggestion, paper delivered at the 7<sup>th</sup> UUM International Conference, Malaysia. 13<sup>th</sup> November, 2013. See also, Ganiat Mobolaji Olatokun and Rusniah Ahmad, (2013) Fundamental Principle of International Human Rights Law: Basis for the Right to Life for the Unborn Child, paper delivered at the 7<sup>th</sup> UUM International Conference, Malaysia. 13<sup>th</sup> November, 2013.

<sup>3</sup>Farwa Rizvi and Ahmad Khan, (2011) Birth Spacing as a Health Intervention, *Annals of Pakistan Institute of Medical Science* 7(3) 113-114. <<http://apims.net/Volumes/Vol7-3/Birth%20Spacing%20as%20a%20Health%20Intervention.html>> (date accessed 5 January 2013). The promotion of family planning so that women can avoid unwanted pregnancy is central to the World Health Organization (WHO) work on improving maternal health and is core to achieving the Millennium Development Goal (MGD). See, L.M. Williamson, A. Parkes, D. Wight, M. Petticrew and G.J. Hart,(2009) Limit to Modern Contraceptive use among Women in Developing Countries: A Systematic Review of Qualitative Research, *Reproductive Health Bio Med Central* 6(3) 1, 2. <<http://www.reproductive-health-journal.com/content/pdf/1742-4755-6-3.pdf> > (date accessed: 11 May 2012). Improving access to safe and voluntary family planning counseling and services is essential to reduce high level of unintended pregnancy and short birth intervals. See, Y Dibaba, (2010) Child Spacing and Fertility Family Planning Behavior among Women in Mama District, Jimma Zone, South West Ethiopia , *Ethiopia Journal of Health Science* 20(2) 83, 83. <<http://www.ejhs.ju.edu.et/admin/Volume-20-Num2/Yohannes.pdf>>(date accessed 11 May 2012).

<sup>4</sup>A right based approach to health refers to the process of using human right as a framework for health development. Consequently, a right-based approach to health entails recognizing the individual characteristics of the population groups concerned. In all actions relating to children, for example, the guiding principles of the Convention on the right of the child should be applied. These include, the best interest of the child shall be the primary consideration. CEDAW, by giving women reproductive right has taken into cognizance the best interest of the child, because it is only when a woman is healthy that issues relating to right to life of the unborn can come to play). A right based approach to health further entails using a gender perspective, recognizing that both biology and socio cultural factors play a significant role in influencing the health of a woman. (Reproductive right within CEDAW has taken into consideration biology, culture as well as social factors, because CEDAW has recognize the significant place of women in their task of carrying pregnancy, and has woven into the Convention the right to health of women, both during and after pregnancy. Art 12(2) CEDAW has further recognize the fact that, there are conditions which only women experience and which have negative health impact, that only

exist a synergy between public health and human rights.<sup>1</sup> This can be visualized from the above provision of CEDAW, which conveniently brought in public health within its framework. Health care is necessary in order to help women express their right to determine the number and spacing of their children by means of family planning.

The General Recommendation 24 of CEDAW which requires state parties to eliminate all forms of discrimination against women in the context of health and health care appears laudable, but when such recommendation proceeded and made it clear that, discrimination occurs against women when health systems refuse or neglect to provide health services that only women need, such as safe abortion services,<sup>2</sup> the recommendation 24 has compromised the right based approach to health which reproductive right in the main body of CEDAW seeks to promote.<sup>3</sup> This recommendation by the CEDAW committee have yielded result in

---

women suffer. Some of these conditions such as, pregnancy and child birth are not in themselves diseases, but normal psychological and social process that carry health risks and require health care. This, -precisely serve as the backbone for the inclusion of health of women as human right. (Emphasis mine). Women's health, it must be stressed, are matters, not only for the women themselves, but also crucial to the health of the children they will bear. (Art 12 CEDAW). See, G Lance, (2010) Reproductive Health as Human Right, *Case Western Reserve Law Review*, 60(4) 957-966. See also, WHO, (2009) *Women and Health: Today's Evidence, Tomorrow's Agenda* (Apia, Geneva, Switzerland WHO Press) 3. K. SAIN', a member of parliament in the Republic of Singapore said that, health has to be a necessary input to and goal of development. It is necessary that women are healthy in order for them to participate fully in development as workers, mothers, and family and community members. Besides being recipients of health care, women are also providers and promoters of health. See, J.R. Kitts & J.H. Roberts (1996) *Health Gap: beyond Pregnancy and Reproduction* (Canada, International Development Research Centre) 8. Reproductive right granted by CEDAW to women, has therefore; reinforce women with vital health through right. This will further ensure health for all, since these healthy women has no choice, but to produce healthy children. See the opinion of Rebecca Plant, who holds an MPH in American Parliament. To her, women's health is more than reproductive health. Women are primarily responsible for every one's health. See, B Eileen, (2011) Feminist Currents, *Frontiers: A journal of Women Studies*, *A journal of Women Studies* 32(1) 200. See also, Marilyn Porter, (2007) Review: Transnational Feminism in a Globalized World: Challenges, Analysis and Resistance *Feminist Studies Inc* 33(1) 54. Reproductive right has also been linked to health right here.

<sup>1</sup>Mann observed that, human rights thinking and action have become much more closely allied to, and even integrated with public health work, and that the 'skills and expertise needed in public health include, epistemology, biostatistics, policy analysis, economics, sociology and other behavioral sciences', but also that, 'in modern world, public health officials have two fundamental responsibilities to the public: to protect and promote public health and to promote human rights. Rebecca J. Cook, (2006) Abortion, Human Rights and the International Conference on Population and Development (ICPD) in *Preventing Unsafe Abortion and its Consequences, Priorities for Research Action* eds. Ina K. Warriner and Iqbal H. Shah. (New York NY: Guttmacher Institute) 1 7. See, Mann J. M, (1997) Medicine and public Health, Ethics and Human Rights, *Hastings Centre Rpt* 27 (3) 6-13.

<sup>2</sup>This is where abortion right interpretation crept into CEDAW. The right to choose, which is one aspect of reproductive right under CEDAW, according to the radical feminists of the 1960s means, the right women have to determine what happens to their bodies. According to Firestone, a radical feminist, the connection which women usually have with men is an invasion of the women's body, and the resultant effect of that connection, which is pregnancy, should be left at the mercy of the women. See, R. west, (1993) *Jurisprudence and Gender* in P Smith ed., *Feminist Jurisprudence* (Oxford, Oxford University Press) 505 at506; see also, Martha C. Nassbaum, (2008) R. west, *Jurisprudence and Gender, Defending Radical Feminism*, *University of Chicago Law Review* 75(3) 985 <<http://www.jstor.org/stable/201411934>> (date accessed: 15 February 2011. see also, the declaration by the Administrator of the United Nations Development Programme, when speaking of a 1995 worldwide survey of the status of women, that 'life is dramatically unfair to women', in R.S. Mc Elvaine, (2000) *Eve Seed: Biology, the Sexes and the Course of Human History*, (New York, McGrawhill Company) 1. To radical feminists, this right extends to the decision whether or not to carry a pregnancy to term. This decision should be left absolutely with the women. This view was boosted in 1973, by the Supreme Court of the United States of America in the case of *Roe v Wade* (1973) 410 US 113. Based on this background, the right to choose to determine the number and spacing of children provided by CEDAW has been taken to mean right to abort for women.

<sup>3</sup>It has been proved that, no abortion is safe. Even with qualified doctors carrying out abortions, risks abounds. Doctors carried out 61 of the abortions in which 18 died. See, G.O. Igberase, (2008) Exploring the Pattern of Complications of Induced Abortion in Rural Mission Tertiary Hospital in the Niger Delta, Nigeria *Tropical Doctor* 38(3)146. <<http://td.rsmjournals.com/content/38/3/146.abstract>> (date accessed: 28<sup>th</sup> May 2012). The

terms of 83 nations now legalizing abortion, and expanding access to it, despite the fact that within the whole body of CEDAW, there is no part or portion suggestive of right to abortion for women.<sup>1</sup> The right which is being propagated by CEDAW is reproductive right to reproduce healthy children by healthy mothers by means of family planning.

The World Health Organization (WHO) defines family planning thus; “Family planning allows individuals and couples to anticipate and attain their desired number of children and the spacing of their births. It is achieved through the use of contraceptive methods. A woman’s ability to space and limit her pregnancies has direct impact on her health and well being as well as the outcome of each pregnancy”.<sup>2</sup> Family planning cannot be likened to abortion. They are completely different phenomena. While family planning basically deals with the way and manner of spacing the number of children women intend having by means of contraception,<sup>3</sup> abortion is concerned with the killing of already implanted life in the womb of a woman.<sup>4</sup>

It is here reaffirmed by these researchers that, the killing of an already implanted life in its mother’s womb is not within the contemplation of CEDAW as seen in the reproductive right granted by CEDAW. This can be seen from its provision of article 12 on health, whereby, the right to life of children is already being anticipated by the provision of family planning. According to this provision on health, both the mother’s right to life as well as that of the children is being defended. It is however further contended by these researchers that, in order to stay alive and healthy, women need to plan their families adequately. Adequate planning of the family is the only key that will ensure right to health for women, and not abortion.

It is trite to conclude this section, by saying that, abortion forces have seek to create an expansive legal right to abort in a document (CEDAW) that was drafted with the initial aim to promote equality between men and women, eliminate all other forms of discrimination against women and above all, to reinforce the respect for the sanctity of human life. Despite the fact that Nigeria had signed the CEDAW Treaty since 1985, domestication as well as implementation of CEDAW has since become a dream because of the abortion rights interpretation imputed into CEDAW’s reproductive rights.

## 2. Methodology

### 2.1 Conceptual Analysis

The aspiration of what the law is capable of doing, informs the use of a conceptual analysis<sup>5</sup> which was carried

---

centre for Disease and Control and Prevention reports that, in the United States, the world’s leaders in modern medicine, over 300 women have died from legal abortions since the procedure was legalized in 1973. See, J.E. Head and L. Hussey (2004) Does Abortion Access Protect Women’s Health, *World and I* 6(19). <<http://www.spuc.org.uk/resources/abortionandhealth>> (date accessed: 15 May 2012). Furthermore, worldwide evidence confirms that abortion promotion only leads to greater numbers of abortion and does not solve the underlying health problems that cause maternal death. See, Minnesota Citizens Concerned for Life Global Outreach, (2011) The Truth about Health Care Law in Ghana. <<http://www.mcccl-go.org/pdf/GhanaWhitePaper.pdf>> (date accessed 15 May 2012).

<sup>1</sup>T.W. Jacobson, (2010) CEDAW Committee Ruling Pressuring 83 Nations to Legalize Abortion. 1995-2010 *Focus on Family, UN Brief* (2010-02) 1-33. <<http://www.c-fam.org/doc:L/20101022-CEDAWAbortionRuling-2010.pdf>> (date accessed 15 may 2012). See also, S. Yoshihara, (2010) Does CEDAW Promote Abortion? Briefing for Senate Judiciary Committee, Sub-Committee on Human Rights and the Law, *Catholic Family and Human Rights Institute*, 1-6.

<sup>2</sup> See, Dorothy Shaw, (2010) The ABC’s of Family Planning, *opEd for Globe and Mail* [http://www.who.int/pmnch/media/membernews/2010/20100322\\_d\\_shaw\\_oped/en/](http://www.who.int/pmnch/media/membernews/2010/20100322_d_shaw_oped/en/) (accessed April 24, 2013).

<sup>3</sup>The deliberate prevention of fertilization is contraception. Methods of contraception work to prevent the sperm from reaching the site of fertilization, by preventing ovulation or by interfering with implantation. See, Peter J. Russell, Paul E. Hertz and Leverly McMillian, (2011) *Biology: The Dynamic Science*, (Volume 3) (Belmont CA: Brooks/Cole Cengage Learning) 1087.

<sup>4</sup>As agreed in 1994 by the UN Member States in Cairo, abortion is not to be recognized as a method of family planning. See, Shaw above n13.

<sup>5</sup>Concepts are abstract or general ideas, which are important to how we think about particular subjects or issues. See Loraine Blaxter, Christina Hughes and Malcom Tight, (2005) *How to Research* ( 3<sup>rd</sup> edition). (England: Open University Press), 167-168, 206. In order to achieve this, the authors intend to analyze the concept by using a library-based research. Conceptual thoughts are said to revolve around classification and interference. See, Hans-Johan Glock, (2010) Concepts, Abilities and Propositions in Langakau Julia and Nimtzh Christian, eds., *New Perspectives on Concepts*.(New York,: Rodopi) 115 at 123. A library-based research is aimed at producing a critical synopsis of an existing area of research writing. This is otherwise known as using documents for research. See, Anwarul Yaqin, (2007). *Legal Research and Writing* (Malaysia: LexisNexis) 10.



out on certain laws in Nigeria that bears semblance with the reproductive right as provided by CEDAW. A doctrinal analysis appears necessary in order to bring to lime light the need to domesticate CEDAW in Nigeria. In this vein, the relevant provisions of these laws were analyzed as it relates to health of mother and child. By so doing, the exact importance and relevance of the reproductive right provision within CEDAW which will call for its domestication and subsequent implementation in Nigeria came to lime light. It is the believe of these researchers that, the nature and extent of the existing laws as well as the efficacious use of these laws can be used as an instrument of control, change and reform.

## 2.2 Empirical Analysis

The choice of sampling strategy is dependent on the type of approach being used in a study. Rather than select a large number of people, the qualitative researcher, like these researcher identifies and recruits a small number of samples that will provide in depth information about the central phenomenon. Hence, in a bid to ascertain whether or not there is the need to domesticate CEDAW in Nigeria on the grounds of health, an empirical analysis (case study) was carried out in eight (8) different cities in Nigeria between 1<sup>st</sup> March 2012 and 15<sup>th</sup> May 2012. Data was collected through structured interviews<sup>1</sup> and unstructured interviews<sup>2</sup> with selected samples. Focus group discussion, as a form of participant observation<sup>3</sup> was also employed in this study in order to elicit views from the participants. Generally, the question asked centers around how important reproductive right provision within CEDAW is to Nigerian women particularly.

A non-probabilistic sampling was favoured as statistical generalization is not within the purview of this study.<sup>4</sup> The non-probabilistic sampling employed in this study is the purposeful or judgment sampling, wherein the authors use their judgment as to who can provide the best information needed to justify the call for the immediate domestication of CEDAW. In a purposeful sampling, random sampling makes little sense.<sup>5</sup> The researcher is not interested in 'how much' or 'how often'. It is therefore, necessary to select samples from which the most can be learned. The researcher sampled for heterogeneity, where all relevant opinions and views will be included. The researchers are not concerned about representing the views proportionally, because their primary aim is getting broad spectrum of ideas, not identifying 'average' or 'modal instance'. Here, what were sampled

---

<sup>1</sup> This is a formal interview with questions already written down as a guide for the researcher to follow. See Mairead, Dunne, John Pryor, Paul Yates, (2005) *Becoming a Researcher: A Research Companion for the Social Sciences* (England, Open University Press) 28. A formal interview conducted when the researcher knows exactly what information is needed. It is usually conducted with the help of an interview schedule or guide. See, Yaqin, above n16, 170. In a structured interview, the interviewer asks all the respondents the same series of pre-established questions with limited set of response categories. See, Fontana Andrea, Prokos, Anastasia H, (2007) *Interview: From Formal to Post-Modern* (California, Left Coast Press) 19; See also, Clifford Lorenza, (2006) *Step to Success: Interview Others* (London, A&C Black Publishers) 11.

<sup>2</sup> An interview conducted in an informal (non-guided) manner to elicit information on the experiences, opinions, attitudes, feelings or perceptions. See, Yaqin, above n16, 170. The objective of an unstructured interview is to collect information on some preliminary issues so that the researcher can formulate ideas of what variables need further in-depth investigation. See, Uma Sekaran, (1992) *Research Methods for Business: A Skill Building Approach* 2<sup>nd</sup> ed. (United Kingdom, John Wiley and Sons Ltd,) 190. Also for the aim of an unstructured interview, see Prokos and Anastasia, above n17, 39-40. The unstructured interview has been vigorously described as naturalistic, autobiographical, in depth, narrative or non- narrative. See, Blaxter, Hughes, and Tight above n16, 172; See also, Holland J., and Ramazonoglu, C., (1994) *Coming to Conclusions: Power and Interpretation in Researching Young Women's Sexuality* in M. Maynard and J. Purvis eds., *Researching Women's Lives from a Feminist Perspective*, (UK and USA, Taylor and Francis Ltd) 125 at135.

<sup>3</sup> See, Henrik Palsson, (2007) Participant Observation in Logistics Research: Experiences from an RFID Implementation Study, *International Journal of Physical Distribution and Logistics Management* 37(2) 150. <<http://www.emeraldinsight.com/journals.htm?articleid=1597751&show=html>> (date accessed :8 May 2012). This paper suggests that, the comparison between interview studies and participant observation are to a large extent, also valid for focus groups.

<sup>4</sup> This is a qualitative research, which is a procedure that produces findings not arrived at by means of statistical procedures or other means of quantification. See Strauss A. and Cobin J., (1990) *Basics of Qualitative Research: Grounded Theory Procedures and Techniques* (Sage Publications) 17; See also, Marie Hoepfl, (1997) Choosing Qualitative Research: A Premier for Technology Education Researchers *Journal of Technology Education. Electronic Journal* 9(1) <<http://scholar.lib.vt.edu/ejournals/JTE/v9n1/hoepfl.html>> (date accessed: 23 February 2012).

<sup>5</sup> Donald E Pokinghorne, (2005) Language and Meaning: Data Collection in Qualitative Research *Journal of Counseling Psychology* 52(2) 140.

are not the people, but their ideas and opinions. It has been imagined that, there is a universe of all possible ideas relevant to the topic, and the researchers, in order to sample these ideas, have included a broad and diverse range of participants, including the ‘outliers’ or unusual ones in order to get the ideas required.

In the light of the above, ‘31’ samples were selected for the purpose of this study, ‘10’ out of which were participants from the ‘2’ focus group sessions. Ultimately, the researcher secured 21 Key informants and 2 focus group sessions (the focus group ‘1’ comprised of four participants, while the focus group ‘2’ comprise of six participants)<sup>1</sup> consisting of both Christians and Moslems. They came from various backgrounds and professions, had varying qualifications and worked in both government as well as non-government organizations.

In order to analyze the data collected during the course of interviews, the researcher has integrated qualitative content analysis into the analysis of data in this case study research. Qualitative content analysis is an important tool to help researchers develop a comprehension of a specific research field through identifying how particular issues or topics have been interpreted.<sup>2</sup> Hence, by using a qualitative content analysis in this case study, a step-by-step theory guided procedure was undertaken, wherein complexity was reduced and the main points of the analysis were filtered out in an iterative process. Hence, qualitative content analysis perfectly matches the credo of case study research, thereby helping to understand complex case study.<sup>3</sup>

Table 1. Background information of participants

	Study Area	Occupation	Education	Religion	Sex	Unit of Analysis
KI1	Ilorin	Politian	MBBS	Islam	M	Doctor
KI2	Ajaokuta	Doctor	MBBS	Christian	M	Doctor
KI3	Lokoja	Doctor	MBBS	Christian	F	Doctor
KI4	Ilorin	Retired Civil Servant	Diploma	Christian	M	Married Man
KI5	Ilorin	Islamic Cleric	Primary School Cert.	Islam	M	Married Man
KI6	Abuja	Banker	B.Sc	Islam	M	Married Man
KI7	Ilorin	Trader	B.Sc	Islam	F	Married Woman
KI8	Lokoja	Nurse	School Nursing Cert.	Christian	F	Married Woman
KI9	Ajaokuta	Hospital Attendant	Primary School Cert.	Christian	F	Married Woman
KI10	Lagos	Student	Student	Islam	M	Unmarried Man
KI11	Ilorin	Banker	BA	Christian	M	Unmarried Man
KI12	Lokoja	Civil Servant	BA	Islam	M	Unmarried Man
KI13	Abuja	Teacher	National Cert. Education	Christian	F	Unmarried Woman
KI14	Abuja	Civil Servant	Diploma	Christian	F	Unmarried Woman
KI15	Ilorin	Student	Student	Islam	F	Unmarried Woman
KI16	Abuja	NGO Director	B.Sc	Islam	F	(Dawah) NGO
KI17	Ilorin	Nursery & Primary School Proprietress	B.Sc	Christian	F	(Girls Guide) NGO
KI18	Abuja	Secretary FIDA Office	LL.B, BL	Christian	F	(FIDA) NGO
KI19	Ilesha	NGO Director	Pharmacist	Christian	F	(Disabled Children) NGO
KI20	Ile-Ife	Senior Lecturer Obafemi Awolowo University, Ile-Ife.	PhD	Christian	M	African Traditional Religion
KI21	Osogbo	International Renowned author and chief priest		Traditionalist	M	African Traditional Religion

Source: Field Study 2012

KI: Key Informant

Table 2: Background information focus group session ‘1’

<sup>1</sup> Focus group interview is an interview with a small group of people on a specific topic. Groups are typically 6 to 10 people with similar background who participate in the interview for one or two hours. See, Patton, Michael Quinn, (2002) *Qualitative Research and Evaluation Methods* 3<sup>rd</sup> Edition (California, Sage Publication) 385; See also, Danuta Pzepiorkowska, (2010) An Interpreted Focus Group Interview as a Type of Interpreter-Mediated Event in Omid Azadibougar, (ed.) *Translation Effects. Selected papers of the CETRA Research Seminar in Translation Studies 2009*, 7 <<http://www2.arts.kuleuven.be/info/bestanden-div/Danuta%20PRZEPIORKOWSKA,%20An%20Interpreted%20Focus%20Group%20Interview.pdf>> (date accessed: 24 January 2012).

<sup>2</sup> Kyle Fisk et al, (2012) Using computer-Aided Content Analysis to Map a Research Domain: A Case Study of Institutional Legitimacy in Post Conflict East Timor, *Sage Open* 2 (4) 1

<sup>3</sup> Kohlbacher Florian, (2005) The Use of Qualitative Content Analysis in Case Study Research, *Forum Qualitative Sozialforschung/Forum Qualitative Social Research* 7(Nol Art 21) <http://www.qualitative-research.net/index.php/fqs/article/%20view/75/153January%202006> (accessed April 21, 2013).

	Study Area	Occupation	Education	Religion	Sex	Unit of Analysis
FGS1a	Ilorin	Nurse	School of Nursing Cert.	Christian	F	Women Wing of Christian Association of Nigeria.
FGS1b	Ilorin	Headmistress of Public School	National Cert. Education	Christian	F	Women Wing of Christian Association of Nigeria.
FGS1c	Ilorin	Trader	Secondary School Cert.	Christian	F	Women Wing of Christian Association of Nigeria.
FGS1d	Ilorin	Secretary, Women Wing of Christian Association of Nigeria	B.Sc	Christian	F	Woman Wing of Christian Association of Nigeria.

Source: Field Study 2012  
 FGS: Focus Group Session

Table 3: Background information focus group session '2'

	Study Area	Occupation	Education	Religion	Sex	Unit of Analysis
FGS2a	Ilorin	National Trustee of FOMWAN and proprietor of Secondary school	BA	Islam	F	Federation of Muslim Women Organization of Nigeria (FOMWAN)
FGS2b	Ilorin	Teacher	National Cert. Education	Islam	F	Federation of Muslim Women Organization of Nigeria (FOMWAN)
FGS2c	Ilorin	Business Woman	Secondary School Cert.	Islam	F	Federation of Muslim Women Organization of Nigeria (FOMWAN)
FGS2d	Ilorin	Civil Servant	B.Sc	Islam	F	Federation of Muslim Women Organization of Nigeria (FOMWAN)
FGS2e	Ilorin	Civil Servant	B.Sc	Islam	F	Federation of Muslim Women Organization of Nigeria (FOMWAN)
FGS2f	Ilorin	Trader	Primary School Cert.	Islam	F	Federation of Muslim Women Organization of Nigeria (FOMWAN)

Source: Field work 2012  
 FGS: Focus Group Session

### 3. Making a case for domestication of CEDAW in Nigeria

#### 3.1 A conceptual case for Nigeria

Nigeria is operated on a National Health Policy with a central goal to bring about a comprehensive health care system, based on Primary Health Care<sup>1</sup> that is promotive, protective, preventive, relative and rehabilitative, to

<sup>1</sup>Primary Health Care as defined by the World Health Organization in 1978 as, essential health care based on practical, scientifically sound and socially acceptable method and technology, universally accessible to all in the

every citizen of the country within the available resources so that individuals and communities are assured of productivity, social well-being and enjoyment of living.

Health, as it were, in the *Constitution of the Federal Republic of Nigeria 1999*, can be found under the Concurrent Legislative List. The implication of this is that, the three tiers of government are vested with the responsibilities to promote health. Accordingly, the federal state and local government of Nigeria shall support, in a coordinated manner, a 3-tier system of health care. Primary health care is to be provided by the local governments, secondary health care is the responsibility of the state governments, while tertiary health care becomes the burden of the federal government.<sup>1</sup>

Within the eight (8) important elements of Primary Health Care lies, the identification and control or prevention of health challenges. Also, within the elements is, maternal and child care, including family planning. With these two issues forming an essential part of the *Constitution of the Federal Republic of Nigeria 1999*, reproductive right of women can be said to be guaranteed under the Constitution. The reason for this stand is not farfetched.<sup>2</sup>

community through their full participation at an affordable cost, and geared towards self-reliance and self-determination. PHC needs to be delivered close to the people: thus, should be on maximum use of both lay and professional health practitioners and include the following eight (8) essential commitments:- education for the identification and prevention or control of prevailing health challenges, proper food supply and nutrition, adequate supply of safe water and basic sanitation, maternal and child care, including family planning, immunization against the major infectious diseases, prevention and control of locally endemic diseases, appropriate treatment of common diseases using appropriate technology, promotion of mental, emotional and spiritual health and provision of essential drugs. See the World Health Organization, Alma-Ata Declaration of 1978, adopted by the International Conference on Primary Health Care, jointly sponsored by WHO and UNICEF, 1978, Principle VII. <<http://www.righttohealthcare.org/Docs/DocumentsC.htm>> (date accessed: 10 June 2012). See also, Menizibeya Welcome Osain, (2011) The Nigerian Health Care System: Need for Integrating Adequate Medical Intelligence and Surveillance Systems, *Journal of Pharmacy and BioAllied Sciences* 3(4). <<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3249694/>> (date accessed: 5 January 2013). The first level of contact individuals, families and communities have with health care system is equally, Primary Health Care. See, H. Keleher, (2001) Why Primary Health Care offers more Comprehensive Approach to Tackling Health Inequalities than Primary Care, *Australian Journal of Primary Health* 7(2) 56-61 <<http://www.nphp.gov.au/publications/documents/ag-phcare.pdf>> (date accessed: 5 January 2013). See also, I.N. Igwu, (1989) The Concept of Interactive Primary Health Care and Rural Development in Nigeria, *Community Development Journal* 24(4) 247. See further, D.O. Adeyemo,(2005) Local Government and Health Care Delivery in Nigeria: A Case Study, *Journal. Human Ecology* 18(2), 151.. See also, *Women's Reproductive Right in Nigeria: A Shadow Report*. (1998) Centre for Reproductive Rights. (Centre for Reproductive Law and Policy) 1-3 <[http://reproductiverights.org/sites/default/files/documents/sr\\_nig\\_0698\\_eng.pdf](http://reproductiverights.org/sites/default/files/documents/sr_nig_0698_eng.pdf)> (date accessed 10 July 2012). See further, Reproductive Health Issues in Nigeria: *The Islamic Perspectives* (2004) (Pathfinder International, Policy Project and Islamic Scholars) 10.

<sup>1</sup>See Federal Ministry of Health (Nigeria) *National Health Policy and Strategy to achieve health for all Nigerians*. (12-13, 53, Sec 5(a)-(c), Annex II (1998). The current 1999 Constitution makes reference to the division of health responsibilities among government levels. The National Health Policy 1998 further defines the division and responsibilities. The federal government, according to the policy, set health policies and guidelines and monitors states and local government's health programs to ensure compliance, train doctors and provide tertiary and specialized health services. The state governments provide secondary health services; train nurses, midwifery and auxiliary health personnel and assist local government in managing primary health care services. The local government directly manages the primary health care services. See World Bank *Working Papers: Improving Primary Health Care Delivery in Nigeria: Evidence From Four States*, (World Bank Publication, 2010) 33. See also, Federal Ministry of Health (FMH), *National Health Policy Strategy to achieve health for all Nigerians* (Lagos, Nigeria: FMH 1998; Revised National Health Policy Abuja, Nigeria: FMH, 2004).

<sup>2</sup>Under the Concurrent Legislative List, health care in Nigeria becomes a shared responsibility amongst the three tiers of government. Specifically, Primary Health Care is the responsibility of the Local Government. Since Primary Health Care has found itself into the body of the Nigerian Constitution, right to health is thereby envisaged, and maternal and child care indicates women's right to reproductive health.(emphasis by the authors). Maternal and child health outcomes in Nigeria are among the worst in the world. Consequently, the PHC services aim at providing innovation to provide essential care for women, babies and children. See, H.V. Doctor, R Bairagi, S.E. Findley, S. Hellinger and T. Dahiru, (2011) Northern Nigeria Maternal, Newborn and Child Health Programme: Selected Analyses from Population Based Baseline Survey, *Open Access Demography Journal* 11, 12, <<http://www.benthamscience.com/open/todemoj/articles/V004/11TODEMOJ.pdf>> (date



Still on the constitutional guarantee of reproductive right for women, the *Constitution of the Federal Republic of Nigeria 1999* has provided under Section 33(1) for the right to life of all persons. In a bid to protect the life of the citizenry of Nigeria, government is required to make provisions for adequate health facilities for all, especially women and children. Nigerian Constitution in protecting the right to life of everyone is indirectly protecting the reproductive right of women,<sup>1</sup> by the provision of adequate medical facilities.<sup>2</sup>

Aside the *Constitution of the Federal Republic of Nigeria 1999*, Section 54 of the *Labour Act 2004 (Cap L1 LFN)*, also has direct bearing with reproductive rights of women. It provides as follows;

- 1) In any public or private industrial or commercial undertaking or in any branch thereof, a woman –
  - a) Shall have the right to leave her work if she produces a medical certificate given by a registered medical practitioner that her confinement will probably take place within six weeks;
  - b) Shall not be permitted to work during the six weeks following her confinement;
  - c) If she is absent from her work in pursuance of paragraph (a) or (b) of this subsection and been continuously employed by her then employer for a period of six months or more immediately prior to her absence, shall be paid not less than fifty percent of the wages she would have earned if she had not been absent; and
  - d) Shall in any case, if she is nursing her child, be allowed half an hour twice a day during her working hours for that purpose.
- 2) Subsection (1) (C) shall have effect notwithstanding any law relating to the fixing and payment of a minimum wage.
- 3) No employer shall be liable, in his capacity as employer, to pay any medical expenses incurred by a woman during or on account of her pregnancy or confinement.
- 4) Where a woman-
  - a) is absent from her work in pursuance of subsection (1) (a) or (b) of this section; or
  - b) remains absent from her work for a longer period as a result of illness certified by a registered medical practitioner to arise out of her pregnancy or confinement and to render unfit for work, then until her absence has exceeded such a period (if any) as may be prescribed, no employer shall give her notice of dismissal during her absence expiring during her absence.<sup>3</sup>

The provisions above are the most explicit statements of law in any status on women's reproductive rights. These provisions have proven to have far reaching effect in the protection of reproductive rights as understood in contemporary times, especially within the Nigerian working environment. Hence, any woman who decides to have a child during the course of her work will not be deprived of her reproductive right by her employer.

The above provisions in the *Labour Act* demonstrate the respect which the law has for the health of the mother and child. It shows that, while pregnant, women need not stress themselves in order for them to be healthy, as

---

accessed 9 June 2012).

<sup>1</sup>See Sec 33(1) of the *Constitution Federal Republic of Nigeria 1999*. Constitutional provisions that guarantees right to life may be construed as guaranteeing right to health for women, and consequently, guaranteeing reproductive right for all women. Right to life is clearly connected to physical and mental health of persons, and if properly construed, it is closely related to the general health of women. See, Dr T. Ladan, (2006) Review of Existing Reproductive Health Policies and Legislations in Nigeria, paper presented at a one-day Stakeholders' Forum on Reproductive Health in Nigeria, organized by The Independent Policy Group, Abuja, Nigeria, 20<sup>th</sup> April, 2006.

<sup>2</sup>See Sec 17 of the Constitution Federal Republic of Nigeria 1999 on health, dealing with the social objectives of the Nigerian State to direct its policies to ensure adequate medical and health facilities for all persons; ensure that health, safety and welfare of all persons in employment are not endangered or abused. Further, it provides that children, young persons and aged shall be protected against exploitation, and against moral or material neglect. See, 'Review of Existing Reproductive Health Policies and Legislation in Nigeria, Ibid.

<sup>3</sup>This provision have been framed by both welfare considerations for maternal and child health (labour law can also be said at this point, to have accommodated some issues under the Primary Health Care as stated in the Alma-Ata Declaration. This has been embedded in the 1999 Constitution), and economic considerations. The law tries to balance the interests of pregnant women, motherhood and child survival against the interests of the employers who are investors. See, Dr T Ladan above, n28. See also, J. Conaghan and L. Chudleigh, (1987) Women in Confinement: Can Labour Law Deliver the Goods? *Journal of Law and Society* 4(1) 133. <<http://www.jstor.org/stable/1410302>> (date accessed: 9 June 2012). See also, sec 60 *Employment Protection (Consolidated) Act UK 1978* which is similar to sec 54 *Labour Act 2004 (Cap L1 LFN)*. See further, F. Adewumi and A. Adenuga, (2010)*The State of Workers' Rights in Nigeria: An Example of the Banking, Oil and Gas and Telecommunications Sectors* (Nigeria, Friedrich-Ebert-Stiftung) 13.

well as the child they will bear. The Primary Health Care policies as contained in the *Constitution of the Federal Republic of Nigeria 1999*, is hereby maintained.

The Criminal Laws of Nigeria, which stand as a strong upholder of reproductive rights of women has provided thus;

Any person who, with intent to procure miscarriage of a woman whether she is or not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force or any kind or uses any other means whatever, is guilty of a felony, and liable to imprisonment for seven years.<sup>1</sup>

Furthermore, Section 229 *Criminal Code Act 1990 (Chapter 77 Laws of the Federation of Nigeria)* provides, Any woman who, with intent to procure her own miscarriage, whether she is or is not with child, unlawfully administers to her or causes her to take poison or other noxious thing, or uses any force of any kind or uses any other means whatever, is guilty of a felony, and is liable to imprisonment for seven years.

Still on the provisions of Criminal Law, Section 230 provides that,

Any person who unlawfully supplies to or procures for any person anything whatever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or not with child, is guilty of a felony, and is liable to imprisonment for three years.

The provisions of the *Penal Code 2004 (Cap P3 Laws of the Federation of Nigeria) Provisional Act* are substantially the same. Section 232 of the Penal Code provides that,

Whoever voluntarily causes a woman with child to miscarry, shall if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment for fourteen years.

Under the Nigerian Criminal Laws, interference with pregnancy, no matter how early or how late, constitutes a crime, except such interference was done in good faith, for therapeutic purposes, to save the life of the mother.<sup>2</sup> The Criminal Law is seen here, as a monk in working to refine a moral truth and to preserve it for use, in the hope that, a time more receptive to its message will arrive.<sup>3</sup> The criminal law is trying to save women from complications<sup>4</sup> that might arise from the procurement of an abortion. By so doing, the reproductive right of

---

<sup>1</sup>Sec 228 Criminal Code

<sup>2</sup>In Nigeria under both the *Penal Code* (applicable in the North) and *Criminal Code* (applicable in the South) abortion is a crime and carries heavy jail term of up to 14 years for the provider and 7 years for the woman, unless it is performed to save the life of the woman. Secs 232, 235 *Penal Code* and secs 228, 229 and 230 *Criminal Code* in the Southern States, physical and mental health reasons is also inclusive. See also, V.O Otoide, F. Oronsaye and F.E Okonofua, (2001) Why Nigerian Adolescents Seek Abortion Rather than Contraception: Evidence from Focus Group Discussion, *International Family Planning Perspective* 27(2) <[www.guttmacher.org/pubs/journals/2707701](http://www.guttmacher.org/pubs/journals/2707701) (date accessed: 20 November 2011). See also, S.K. Henshaw, S. Singh, B.A. Oye-Adeniran, I.F. Adewole, N. Iwere and Y.P. Cuca, (1998) The Incidence of Induced Abortion in Nigeria *International Family Planning Perspective* 24(4) <[www.guttmacher.org/pubs/journals/2415698.html](http://www.guttmacher.org/pubs/journals/2415698.html)> (date accessed: 20 November 2011) See further, I. Okagbue, (1990) Pregnancy Termination and the Law in Nigeria, *studies in Family Planning* 21(4) 197. <[www.ncbi.nlm.nih.gov/pubmed/2219225](http://www.ncbi.nlm.nih.gov/pubmed/2219225)> (date accessed: November 2011). See, V.N. Opara, (2004) Re: Characterizing Abortion in Nigeria: An Appraisal of the Necessity Test, *International and Comparative Law Journal* 11 ILSA 143, <<https://litigation-essentials.lexisnexis.com/webcd/app?action>> (date accessed: 20 November 2011). See further, O Nnamuchi, (2007) *The Right to Health in Nigeria, Right to Health in the Middle East Project*, (Law School, University of Aberdeen) 11. <[www.abdn.ac.uk/law/documents/Nigeria-%20210808.pdf](http://www.abdn.ac.uk/law/documents/Nigeria-%20210808.pdf)> (date accessed: 20 November 2011). See also, J. Garland and Dr. P. Idoko, (2010) *Every Abortion Stops a Beating Heart* (Nigeria, African Christian Textbooks) 21.

<sup>3</sup>The concept of criminal law theory is being described. Aside the criminal law being seen as a monk, the criminal law, is further viewed as a mathematician of fault, wherein, elegance and consistency of the entire structure is what satisfies it. The criminal law is also considered as a militant, hoping to have impact, the sooner the better. As a militant, the criminal law hopes that its work will shape contemporary debates and influence those who litigate. For a full concept of the theory of criminal law, see, S.J. Schulhofer, (2000) The Mathematician, The Monk and The Militant: Reflections on the Role of Criminal Law Theory, *California Law Review* 88(3) 708-710.

<sup>4</sup>Several complications have been linked to abortion. See, D.Y. Buowari, (2010) Pattern of Gynecological Admission at a Rural Hospital in Nigeria, *The Internet Journal of Tropical Medicine* 7(1) 5; See also, B.A. Oye-Adeniran, A.V. Umoh and S.N.N. Nnatu, (2002) Complications of Unsafe Abortion: A Case Study and the need

women in Nigeria is further recognized.

By criminalizing abortion by the Criminal Laws of Nigeria, the Criminal Laws can be said to be interested in maternal and child health, which means that, the Criminal Laws also, upholds the key elements within the Primary Health Care Policy of Nigeria. In order to give reproductive rights to Nigerian women, Criminal Laws must prohibit abortion, and set the minimum for, and extent of liability<sup>1</sup> for those found guilty under the law. This will be performed by adjudication process.

### 3.2 An Empirical Case for Nigeria

The manual thematic analysis used in this study reveals that all the participants view that reproductive right provision within CEDAW is important to Nigerian women on the ground of health (mother and child's health). Women should not be seen giving birth every year.<sup>2</sup> It is said to be risky<sup>3</sup> and a period of at least 2 years should be given between births. This will enhance health for both the mother and child.<sup>4</sup>

The benefits of pregnancy planning and child spacing (reproductive right) on maternal, infant and child health has been well documented. Researchers have shown that family planning can reduce about 25% to 40% maternal deaths by preventing unplanned and unwanted pregnancies and about 10% of child deaths by eliminating inter-birth intervals of less than two years.<sup>5</sup>

For many years, studies demonstrated that when mothers' space births at least two years apart, their children are more likely to survive and to be healthy. Infant spaced at least two years apart are also less likely to be premature, of low birth weight and be malnourished.<sup>6</sup> Children given birth to after short intervals between pregnancies are at

---

for Abortion Law Reform, *Reproductive Health Matters* 10(19) 18.

<sup>1</sup>Criminal law can be said to perform two important functions- defining prohibited conducts and setting the minimum condition for, and extent of liability. See, P.H. Robinson, (2005) Fair Notice and Fair Adjudication: Two Kinds of Legality, *University of Pennsylvania Law Review* 154(2) 369. <[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=880761](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=880761)> (date accessed: 9 June 2012). See also, D. Husak, (2004) The Criminal Law as Last Resort, *Oxford Journal of Legal Studies*.24(2) 207. <[www.lexisnexis.com/esreve](http://www.lexisnexis.com/esreve)> (date accessed 12 April 2012). Conducts required to be defined by criminal law are those that fortifies and strengths moral opinions. See H.V. der Witt, (2010) The Legacy of Bert Rolling for International Criminal Law. A Valiant Champion of Equity and Humaneness, *Journal of International Criminal Justice* 8(4) 1127. For further readings on the functions of criminal law, see, M. Odello, (2010) Tackling Criminal Acts in Peacekeeping Operations: The Accountability of Peacekeepers, *Journal of Conflict and Security Law* 15(2) 347.

<sup>2</sup>In the Kanuri tribe, Lake Chad Basin of Nigeria, it is an abomination among Kanuri women to fall pregnant in quick succession; a phenomenon termed, 'Konkomi'. Child spacing in Kanuri is advisable for the welfare of the child and maternal well being. See, Abdulkarim G Mairiga et al.(2010) Sociocultural Factors Influencing Decision-Making Related to Fertility Among Kanuri Tribe of North-Eastern Nigeria, *African Journal of Primary Health Care and Family Medicine* 2(1) 94. <<http://www.phcfm.org/index.php/phcfm/article/view/94/85>> (date accessed: 12<sup>th</sup> May 2012).

<sup>3</sup>Children born after short intervals between pregnancies are at the risk of developing autism. The highest risk was associated with pregnancies spaced less than one year apart. See, Keely Cheslack-Postava, Kayyet Liu and Peters Bearmann, (2011) Closely Spaced Pregnancies are associated with Increased Odds of Autism in California Sibling Births, *Pediatrics* 127, 246. <<http://pediatrics.aappublications.org/content/early/2011/01/10/peds.2010-2371.full.pdf+htm>> (date accessed: 12 May 2012). Other consequences of bad child spacing includes, significant increased risk of neonatal, infant, child and under-5 mortality, low birth weight and preterm births, infant or child malnutrition in some populations and still births, miscarriages and maternal morbidity. See USAID Health: Family Planning (2009) 1. <[http://www.usaid.gov/our\\_work/global\\_health/pop/techareas/birthspacing/index.html](http://www.usaid.gov/our_work/global_health/pop/techareas/birthspacing/index.html)> (date accessed: 13 May 2012).

<sup>4</sup>See Dibaba above n7, 83.

<sup>5</sup>Ibid. See Olatokun above n6, 18. Family planning is effective in preventing unintended pregnancies. Family planning also contributes to birth spacing, lower infant mortality risks as well as lowering maternal mortality and maternal morbidity associated with unintended pregnancies. See, Amy O Tsui, Raegan McDonald-Mosley and Anne E Burke, (2010) Family Planning and the Burden of Unintended Pregnancies, *Oxford Journals* 32(1) 152. <<http://epirev.oxfordjournals.org/content/32/1/152.full>> (date accessed: 25 June 2012).

<sup>6</sup>Children born after short intervals between pregnancies are at increased risk of developing autism. The highest risk was associated with pregnancies less than one year. See, Keely Cheslack-Postava, (2011) Closely Spaced Pregnancies are Associated with Increased Odds of Autism in California Sibling Births 127 *Pediatrics* 246. <<http://www.pediatricsdigest.mobi/content/127/2/246.full.pdf+html>> (date accessed: 26 June 2012). See also,

increased risk of developing autism. The highest risk was associated with pregnancies of less than one year.<sup>1</sup> In recognition of the adverse outcomes associated with close child birth intervals, the World Health Organization (WHO 2005) recommended a two year waiting period after birth before the next pregnancy.<sup>2</sup> Short inter birth intervals has also been associated with leukemia.<sup>3</sup>

Based on the facts above, all the participants express the view that reproductive right provision within CEDAW will afford Nigerian women the opportunity to space their children and plan their family.<sup>4</sup> Going by the views expressed by the participants of this study, it becomes vivid that the immediate domestication and implementation of CEDAW in Nigeria is very important, if not for anything, because of the health of the mother and child.

#### 4. Conclusion

This paper has given to CEDAW's reproductive right, an interpretation that will spur the Nigerian government to look into the immediate domestication and implementation of the Convention on the Elimination of all forms of discrimination against women (CEDAW). State parties have been directed by CEDAW to make sure that women have access to reproductive right, and the authors here, felt that, the Primary Health Care as provided by the Nigerian Constitution can be used as a means of enabling women to have access to such right. Another area where the government can play a role in accessibility of reproductive right to women is under the Labour Act of Nigeria, where in several provisions and concessions are given only to women by reason of their biology. The conditions experienced by women (pregnancy and child birth) were the driven considerations in promulgation of the Labour Act. An exclusive reproductive right can be attained by women, only if abortion is criminalized. The Nigerian government is particular about the health risks and complications resulting from abortion, and will not want women in Nigeria to be subjected to such hazards.

As a follow up of the conceptual analysis and in a bid to provide a concrete justification on the need to domesticate CEDAW in Nigeria, the empirical analysis carried out in the course of this study has given the required backup necessitating the need for the immediate domestication of CEDAW in Nigeria. All the participants agree unanimously that, family planning and child spacing results in both child health and maternal health. Hence, with the responses gathered from the participants in this study, as well as the provisions of the Constitution of the Federal Republic of Nigeria, the Labour Act of Nigeria, and the Criminal laws of both the North and South of Nigeria, reproductive right of women as provided by CEDAW is hereby guaranteed thus, giving reproductive right to women.

---

Nancy Felipe Russo and Julia R. Steinberg. "Contraception and Abortion: Critical Tool for Achieving Reproductive Justice" in Joan C Chrisler ed. *Reproductive Justice: A Global Concern* (California, Praeger, 2012) 145 at154. In recognition of the adverse outcomes associated with close child birth intervals, the World Health Organization (WHO 2005) recommended a two year waiting period after birth before the next pregnancy.. Short inter birth intervals has also been associated with leukemia. See, Cardwell C R et al, "Inter Birth Interval is Associated with Childhood Type 1 Diabetes" (2012) 61(3) *Centre for Public Health Pubmed* 702.<<http://www.ncbi.nlm.nih.gov/pubmed/22315303>> (date accessed: 26 June 2012). The relationship between chronic malnutrition and birth spacing is statistically significant. There is a clear pattern of increasing chronic and general under nutrition as the birth interval is shorter. See Rutstein S O, "Effects of Preceding Birth Intervals on Neonatal, Infant and Under-Five Years Mortality and Nutritional Status in Developing Countries: Evidence from the Demographic and Health Survey" (2005) 89(1) *International Journal of Obstetrics Genecology* S7, S7. <<http://www.ncbi.nlm.nih.gov/pubmed/15820369>> (date accessed: 26 June 2012). See also, Syed Farid-ul-Hasnain, "Prevalence and Risk Factors for Stunting among Children Under 5 Years: A Community Based Study from Jhangara Town, Dahu Sindh" (2010) 60(41) *Journal of Pakistan Medical Association*. <[http://jpma.org.pk/full\\_article\\_text.php?article\\_id=1899](http://jpma.org.pk/full_article_text.php?article_id=1899)> (date accessed: 26 June 2012). Pregnancy intervals of less than six months are associated with increased risk of pre-term births and low birth weight. See, Farwa Rizvi and Ahmad Khan, "Birth Spacing as a Health Intervention" (2011) 7(3) *Ann Pak Institute of Medical Science* 113-114. <<http://apims.net/Volumes/Vol7-3/Birth%20Spacing%20as%20a%20Health%20Intervention.html>> (date accessed: 26<sup>th</sup> June 2012).

<sup>1</sup>See Postava above n40. Joan C. Chrisler, (2012) *Reproductive Justice: A Global Concern* (Santa Barbara: Praeger)154. Pregnancy intervals of less than six months are associated with increased risk of pre-term births and low birth weight. Rizvi and Khan above n40, 113-114.

<sup>2</sup>Chrisler above n41,154.

<sup>3</sup>Cardwell C. R. et al, (2012) Inter Birth Interval is Associated with Childhood Type 1 Diabetes, *Pubmed* 61(3) 702, <http://www.ncbi.nlm.nih.gov/pubmed/22315303> (accessed June 26, 2012).

<sup>4</sup>Ganiat Mobolaji Olatokun and Rusniah Ahmad, (2013) African Traditional Values and the Right to Choose for Women: A Conflict Resolved, *International Journal of Business, Management and Social Sciences* III(1) 2.



This paper is a complete deviation from the wide spread abortion right interpretation given to the reproductive right provision within CEDAW and will help Nigerian government in the area of reproductive right policies today and in future.

## References

- Adewumi F and Adenuga A, (2010) *The State of Workers' Rights in Nigeria: An Example of the Banking, Oil and Gas and Telecommunications Sectors*, Nigeria: Friedrich-Ebert-Stiftung,, 13.
- Adeyemo D. O, (2005), Local Government and Health Care Delivery in Nigeria: A Case Study *Journal. Human Ecology*, 18(2), 151.
- Amy O Tsui, Raegan McDonald-Mosley and Anne E Burke, (2010) Family Planning and the Burden of Unintended Pregnancies, *Oxford Journals* 32(1),152. [Online] Available: <http://epirev.oxfordjournals.org/content/32/1/152.full> (June 25, 2012).
- Anwarul Yaqin, (2007), *Legal Research and Writing* Malaysia: LexisNexis,10.
- Buowari D. Y, (2010), Pattern of Gynecological Admission at a Rural Hospital in Nigeria, *The Internet Journal of Tropical Medicine*, 7(1), 5.
- Cardwell C R, Svenson J, Waldhoer T, Ludviqusson J, Sadaukaite-akuehne V, Roberts C. L, Parslowc. R, Wadsworth E. J, Urbonate B, Schober E and Devoti G, (2012), Inter Birth Interval is Associated with Childhood Type 1 Diabetes, *Centre for Public Health Pubmed*, 61(3) ,702. [Online] Available: <http://www.ncbi.nlm.nih.gov/pubmed/22315303> (June 26, 2012).
- Centre for Reproductive Law and Policy, (1998), *Women's Reproductive Right in Nigeria: A Shadow Report. Centre for Reproductive Rights*. 1-3. [Online] Available: [http://reproductiverights.org/sites/default/files/documents/sr\\_nig\\_0698\\_eng.pdf](http://reproductiverights.org/sites/default/files/documents/sr_nig_0698_eng.pdf) (July 10, 2012).
- Clifford Lorenza, (2006), *Step to Success: Interview Others*, London: A&C Black Publishers,11.
- Conaghan J and Chudleigh L, (1987)Women in Confinement: Can Labour Law Deliver the Goods? *Journal of Law and Society*, 4(1), 133. [Online] Available: <http://www.jstor.org/stable/1410302> (June 9, 2012).
- Conde-Agudelo A, Rosas-Bermudez A & Kafury-Goeta, A.C, (2006), Birth Spacing and Risk of Adverse Perinatal Outcomes: A Meta- analysis *Journal of American Medical Research* 295(15), 1822. [online] Available: [www.fsfb.org.co/sites/default/files/birthspacingandriskofadverse.pdf](http://www.fsfb.org.co/sites/default/files/birthspacingandriskofadverse.pdf) (November 26, 2011)
- Constitution of the Federal Republic of Nigeria, (199). [Online] Available: <http://www.assetrecovery.org/kc/node/f85cace8-6e8d-11dd-9b9d-b7c0585fc33c.1> (December 12, 2013).
- Convention on the Elimination of all forms of Discrimination against Women. (1979), [Online] Available: <http://www.un.org/womenwatch/daw/cedaw/> (May 23, 2011).
- Danuta Pzepiorkowska, (2010), An Interpreted Focus Group Interview as a Type of Interpreter-Mediated Event in Omid Azadibougar, (ed.) *Translation Effects. Selected papers of the CETRA Research Seminar in Translation Studies*, 1-26, [Online] Available: <http://www2.arts.kuleuven.be/info/bestanden-div/Danuta%20PRZEPIORKOWSKA,%20An%20Interpreted%20Focus%20Group%20Interview.pdf> (January 24, 2012).
- Der Witt H.V, (2010), The Legacy of Bert Rolling for International Criminal Law: A Valiant Champion of Equity and Humaneness, *Journal of International Criminal Justice* 8(4), 1127.
- Devaki Sen J, and K Amartya , (2005), *Women, Development and the United Nations: A Sixty -Year Quest for Equality and Justice*, USA: Indiana University Press, 12.
- Dibaba Y, (2010), Child Spacing and Fertility Family Planning Behavior among Women in Mama District, Jimma Zone, South West Ethiopia, *Ethiopia Journal of Health Science* 20(2) , 83. [Online] Available: <http://www.ejhs.ju.edu.et/admin/Volume-20-Num2/Yohannes.pdf> (May 11, 2012).
- Doctor H. V, Bairagi R, Findley S. E, HELLERINGER S and DAHIRU T, (2011), Northern Nigeria Maternal, Newborn and Child Health Programme: Selected Analyses from Population Based Baseline Survey *Open Access Demography Journal*, 11, 12. [Online] Available: <http://www.benthamsience.com/open/todemoj/articles/V004/11TODEMOJ.pdf> (June 9, 2012).
- Donald E Pokinghorne, (2005), Language and Meaning: Data Collection in Qualitative *Research Journal of Counseling Psychology*, 52(2), 140.
- Dorothy Shaw, (2010) ,The ABC's of Family Planning" opEd for Globe and Mail. [Online] Available: [http://www.who.int/pmnch/media/membernews/2010/20100322\\_d\\_shaw\\_oped/en/](http://www.who.int/pmnch/media/membernews/2010/20100322_d_shaw_oped/en/) (April 24, 2013).
- Dr T. Ladan, (2006), Review of Existing Reproductive Health Policies and Legislations in Nigeria. [Online] Available: <http://www.gamji.com/article5000/NEWS5997.htm> (December 11, 2013).
- Eileen B, (2011), Feminist Currents Frontiers, *A journal of Women Studies* 32(1), 200.
- Employment Protection (Consolidated) Act UK 1978*. [Online] Available: <http://www.legislation.gov.uk/ukpga/1978/44/contents> (December 12, 2013).
- Farwa Rizvi and Ahmad Khan, (2011), Birth Spacing as a Health Intervention, *Annals of Pakistan Institute of Medical Science* 7(3) , 113-114. [online] Available: <http://apims.net/Volumes/Vol7->

- 3/Birth%20Spacing%20as%20a%20Health%20Intervention.html (January 5, 2013).
- Federal Ministry of Health (FMH), (2004), *National Health Policy Strategy to achieve health for all Nigerians*, Lagos, Nigeria: FMH 1998; Revised National Health Policy Abuja, Nigeria: FMH.
- Federal Ministry of Health (Nigeria), (1998), *National Health Policy and Strategy to achieve health for all Nigerians*. (12-13, 53, Sec 5(a)-(c), Annex II.
- Fontana Andrea, Prokos, Anastasia H, (2009), *Interview: From Formal to Post-Modern*, California: Left Coast Press, 19.
- Ganiat Mobolaji Olatokun, (2014) Right to Choose within CEDAW: It's Importance to Women in Nigeria, *Journal of Humanities and Social Sciences*, 19 (1), 14-23.
- Ganiat Mobolaji Olatokun and Harlida Abdul Wahab, (2013) Alternative Interpretation to Right to Choose within CEDAW: A Suggestion. 7<sup>th</sup> UUM International Conference.
- Ganiat Mobolaji Olatokun and Rusniah Ahmad, (2013) African Traditional Values and the Right to Choose for Women: A Conflict Resolved, *International Journal of Business, Management and Social Sciences* III(1) 1-4.
- Ganiat Mobolaji Olatokun and Rusniah Ahmad, (2013) Fundamental Principle of International Human Right Law: Basis for the Right to Life for the Unborn Child. 7<sup>th</sup> UUM International Conference.
- Garland J and Dr. Idoko P, (2010), *Every Abortion Stops a Beating Heart*, Nigeria: African Christian Textbooks, 21.
- Hans-Johan Glock, (2010), Concepts, Abilities and Propositions, in Langakau Julia and Nimtz Christian, eds., *New Perspectives on Concepts*, New York: Rodopi., 115 - 123.
- Head J. E and Hussey L, (2004), Does Abortion Access Protect Women's Health *World and I*, 6(19) [Online] Available: <http://www.spuc.org.uk/resources/abortionandhealth> (May 15, 2012).
- Henrik Palsson, (2007), Participant Observation in Logistics Research: Experiences from an RFID Implementation Study, *International Journal of Physical Distribution and Logistics Management*, 37(2), 150 [Online] Available: <http://www.emeraldinsight.com/journals.htm?articleid=1597751&show=html> (May 8, 2012).
- Henshaw S. K, Singh S, Oye-Adeniran B.A, Adewole I.F, Iwere N and Cuca Y. P, (1998), The Incidence of Induced Abortion in Nigeria, *International Family Planning Perspective*, 24(4). [Online] Available: [www.guttmacher.org/pubs/journals/2415698.html](http://www.guttmacher.org/pubs/journals/2415698.html) (November 20, 2011)
- Hervener K. N, (1986), An Analysis of Gender Based Treaty Law: Contemporary Development in Historical Perspective *Human Right Quarterly* 8(1), 70-88.
- Holland J., and Ramazonoglu, C, (1994), Coming to Conclusions: Power and Interpretation in Researching Young Women's Sexuality in M. Maynard and J. Purvis eds., *Researching Women's Lives from a Feminist Perspective*, Uk and USA: Taylor and Francis Ltd, 125 -135.
- Husak D,(2004), The Criminal Law as Last Resort, *Oxford Journal of Legal Studies*, 24(2), 207. [Online] Available: [www.lexisnexis.com.esreve](http://www.lexisnexis.com.esreve) (April 12, 2012).
- Igberase G. O, (2008), Exploring the Pattern of Complications of Induced Abortion in Rural Mission Tertiary Hospital in the Niger Delta, Nigeria *Tropical Doctor*, 38(3) , 146. [Online]: Available <http://td.rsmjournals.com/content/38/3/146.abstract> (May 28, 2012)
- Igwu I. N, (1989), The Concept of Interactive Primary Health Care and Rural Development in Nigeria *Community Development Journal*, 24(4), 247.
- Jacobson T. W, (2010), CEDAW Committee Ruling Pressuring 83 Nations to Legalize Abortion. 1995-2010 *Focus on Family, UN Brief* 1-33. [Online] Available: <http://www.c-fam.org/doc:L/20101022-CEDAWAbortionRuling-2010.pdf> (May 15, 2012)
- Joan C. Chrisler, (2012), *Reproductive Justice: A Global Concern*, Santa Barbara: Praeger, 154.
- Keely Cheslack-Postava, (2011) Closely Spaced Pregnancies are Associated with Increased Odds of Autism in California Sibling Births, *Pediatrics*, 127, 246. [Online] Available: <http://www.pediatricsdigest.mobi/content/127/2/246.full.pdf+html> (June 26, 2012).
- Keleher H, (2001), Why Primary Health Care offers more Comprehensive Approach to Tackling Health Inequalities than Primary Care, *Australian Journal of Primary Health*, 7(2), 56-61.
- Kitts J. R & Roberts J. H, (1996), *Health Gap: beyond Pregnancy and Reproduction*, Canada: International Development Research Centre, 8.
- Kohlbacher Florian, (2005), The Use of Qualitative Content Analysis in Case Study Research, *Forum Qualitative Sozialforschung/Forum Qualitative Social Research* 7(1), Art 21.[Online] Available: <http://www.qualitative-research.net/index.php/fqs/article/view/75/153> January%202006 (April 21, 2013).
- Kyle Fisk, Adrian Cherney, Matthew Hornsey and Andrew Smith, (2012), Using Computer-Aided Content Analysis to Map a Research Domain: A Case Study of Institutional Legitimacy in Post Conflict East Timor, *Sage Open* 2(4), 1.[Online] Available: <http://sgo.sagepub.com/content/2/4/2158244012467788>

- (January 17, 2014).  
*Labour Act 2004 (Cap LI LFN)*. [Online] Available:  
<http://www.babalakinandco.com/resources/lawsnigeria/LAWS/90198Labour%20Act.htm> (December 12, 2013).
- Lance G, (2010), Reproductive Health as Human Right *Case Western Reserve Law Review*, 60(4), 957-966.
- Lorraine Blaxter, Christina Hughes and Malcom Tight, (2005), *How to Research* (3<sup>rd</sup> ed.,) England: Open University Press, 167-206.
- Mairread, Dunne, John Pryor, Paul Yates, (2005), *Becoming a Researcher: A Research Companion for the Social Sciences*, England: Open University Press, 28.
- Mairiga G. A, Kullima A.A, Bako B and Kolo M. A ,(2010), Sociocultural Factors Influencing Decision-Making Related to Fertility Among Kanuri Tribe of North-Eastern Nigeria, *African Journal of Primary Health Care and Family Medicine*, 2(1), 94. [Online] Available:  
<http://www.phcfm.org/index.php/phcfm/article/view/94/85> (May 12, 2012).
- Mann J. M, (1997), Medicine and public Health, Ethics and Human Rights, *Hastings Centre Rpt* 27 (3), 6-13.
- Marie Hoepfl,(1997), Choosing Qualitative Research: A Premier for Technology Education Researchers *Journal of Technology Education. Electronic Journal*. 9(1). [Online] Available:  
<http://scholar.lib.vt.edu/ejournals/JTE/v9n1/hoepfl.html> (February 23, 2012).
- Marilyn Porter, (2007), Review: Transnational Feminism in a Globalized World: Challenges, Analysis and Resistance, *Feminist Studies Inc* 33(1), 54.
- Martha C. Nassbaum, (2008), R. west, Jurisprudence and Gender, Defending Radical Feminism *University of Chicago Law Review*, 75(3), 985.
- Mc Elvaine R. S, (2000), *Eve Seed: Biology, the Sexes and the Course of Human History*, New York: McGrawhill Company, 1.
- Menizibeya Welcome Osain, (2011), The Nigerian Health Care System: Need for Integrating Adequate Medical Intelligence and Surveillance Systems *Journal of Pharmacy and BioAllied Sciences*, 3(4). [Online] Available: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3249694/> (January 5, 2013).
- Minnesota Citizens Concerned for Life Global Outreach, (2011), The Truth about Health Care Law in Ghana. [Online] Available: <http://www.mccl-go.org/pdf/GhanaWhitePaper.pdf> (May 15, 2012).
- Nancy Felipe Russo and Julia R. Steinberg.(2012), Contraception and Abortion: Critical Tool for Achieving Reproductive Justice, in Joan C Chrisler ed. *Reproductive Justice: A Global Concern*, California: Praeger, 154.
- Nigerian Criminal Code Act, 1990* (Chapter 77) Laws of the Federation of Nigeria. [Online] Available:  
<http://www.nigeria-law.org/Criminal%20Code%20Act-Tables.htm> (December 13, 2013).
- Nnamuchi O, (2007), *The Right to Health in Nigeria*, Law School, University of Aberdeen: *Right to Health in the Middle East Project*, 11. [Online] Available: [www.abdn.ac.uk/law/documents/Nigeria-%20210808.pdf](http://www.abdn.ac.uk/law/documents/Nigeria-%20210808.pdf) (November 20, 2011).
- Odello M, (2010), Tackling Criminal Acts in Peacekeeping Operations: The Accountability of Peacekeepers, *Journal of Conflict and Security Law*, 15(2), 347.
- Okagbue I, (1990), Pregnancy Termination and the Law in Nigeria, *Studies in Family Planning*, 21(4),197. [Online] Available: [www.ncbi.nlm.nih.gov/pubmed/2219225](http://www.ncbi.nlm.nih.gov/pubmed/2219225) (November 20, 2011).
- Opara V. N, (2004) Re: Characterizing Abortion in Nigeria: An Appraisal of the Necessity Test , *International and Comparative Law Journal*, 11 ILSA 143. [Online] Available: <https://litigation-essentials.lexisnexis.com/webcd/app?action> (November 20, 2011).
- Otoide V. O, Oronsaye F and Okonofua F. E, (2001), Why Nigerian Adolescents Seek Abortion Rather than Contraception: Evidence from Focus Group Discussion , *International Family Planning Perspective* 27(2). [Online] Available: [www.gutmacher.org/pubs/journals/2707701](http://www.gutmacher.org/pubs/journals/2707701) (November 20, 2011).
- Oye-Adeniran B. A, Umoh A. V and Nnatu S. N. N,( 2002), Complications of Unsafe Abortion: A Case Study and the need for Abortion Law Reform, *Reproductive Health Matters*, 10(19), 18.
- Pagden A, (2003), Human Rights, Natural Rights and Europe's Imperial Legacy *Political Theory*, 31(2) 172. [online] Available: <http://www.jstor.org/stable/3595699> (February 31, 2011)
- Pathfinder International, Policy Project and Islamic Scholars, (2004), *The Islamic Perspectives*, 10. [Online] Available:  
[http://www.nurhi.org/sites/nurhi.k4health.org/files/RH%20In%20Nigeria\\_IsLAMic%20Perspective.pdf](http://www.nurhi.org/sites/nurhi.k4health.org/files/RH%20In%20Nigeria_IsLAMic%20Perspective.pdf) (November 3, 2013).
- Patton, Michael Quinn, (2002), *Qualitative Research and Evaluation Methods* (3<sup>rd</sup> ed.,) California: Sage Publication, 385.
- Penal Code Law 1963(Cap.89) Laws of Northern Nigeria*. [Online] Available:  
<http://www.parliament.gov.zm/downloads/VOLUME%207.pdf> (December 13, 2013).
- Peter J. Russell, Paul E. Hertz and Leverly McMillian, (2011) *.Biology: The Dynamic Science*, (Volume 3)

- Belmont CA: Brooks/Cole Cengage Learning, 1087.
- Rebecca J. Cook, (2006) "Abortion, Human Rights and the International Conference on Population and Development (ICPD)" in *Preventing Unsafe Abortion and its Consequences, Priorities for Research Action* eds. Ina K. Warriner and Iqbal H. Shah. New York NY: Guttmacher Institute, 17.
- Robinson P. H, (2005), Fair Notice and Fair Adjudication: Two Kinds of Legality, *University of Pennsylvania Law Review*, 154(2), 369. [Online] Available: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=880761](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=880761) (June 9, 2012).
- Roe v Wade (1973) 410 US 113.
- Roger Normand and Sarah. Zaidi , (2008), *Human Right at the United Nations: The Political History of Universal Justice* USA: Indiana University Press, 1.
- Rutstein S O, (2005) Effects of Preceding Birth Intervals on Neonatal, Infant and Under-Five Years Mortality and Nutritional Status in Developing Countries: Evidence from the Demographic and Health Survey, *International Journal of Obstetrics Genecology*, 89(1), S7. [Online] Available: <http://www.ncbi.nlm.nih.gov/pubmed/15820369> (June 26, 2012).
- Schulhofer S. J, (2006), The Mathematician, The Monk and The Militant: Reflections on the Role of Criminal Law Theory, *California Law Review*, 88(3), 708-710.
- Strauss A. and Cobin J., (1990), *Basics of Qualitative Research: Grounded Theory Procedures and Techniques* , Sage Publications, 17.
- Syed Farid-ul-Hasnain, (2010), Prevalence and Risk Factors for Stunting among Children Under 5 Years: A Community Based Study from Jhangara Town, Dahu Sindh, *Journal of Pakistan Medical Association*, 60(41). [Online] Available: [http://jpma.org.pk/full\\_article\\_text.php?article\\_id=1899](http://jpma.org.pk/full_article_text.php?article_id=1899) (June 26, 2012).
- Uma Sekaran, (1992), *Research Methods for Business: A Skill Building Approach* (2<sup>nd</sup> ed.,) United Kingdom: John Wiley and Sons Ltd, 190.
- United Nations Fact Sheet No 22, (1993), [Online] Available: <http://www.ohchr.org/Documents/Publications/FactSheet22en.pdf> (March 26, 2012).
- Universal Declaration of Human Rights (1948), [Online] Available: <http://www.un.org/en/documents/udhr/> (March 26, 2012).
- USAID Health, (2009), *Family Planning*, USAID Health Publication, 1. [Online] Available: [http://www.usaid.gov/our\\_work/global\\_health/pop/techareas/birthspacing/index.html](http://www.usaid.gov/our_work/global_health/pop/techareas/birthspacing/index.html) (May 13, 2012).
- USAID ISSUE BRIEF on Healthier Mothers and Children through Birth Spacing (2011), [online] Available: [www.usaid.gov](http://www.usaid.gov) (November 26, 2011).
- West R, (1993), *Jurisprudence and Gender* in P. Smith ed., *Feminist Jurisprudence*, Oxford: Oxford University Press, 505 -506.
- WHO Birth Spacing Cluster Representatives and Health Volunteers Guide (2008), [online] Available: [www.emro.who.int/mps/pdf](http://www.emro.who.int/mps/pdf) (November 26, 2011).
- WHO, (2009), *Women and Health: Today's Evidence, Tomorrow's Agenda*, Apia, Geneva, Switzerland: WHO Press, 3.
- Williamson L.M., Parkes A, Wight D, Petticrew M and Hart G.J, (2009), Limit to Modern Contraceptive use among Women in Developing Countries: A Systematic Review of Qualitative Research *Reproductive Health Bio Med Central* 6(3) , 1,-2. [online] Available: <http://www.reproductive-health-journal.com/content/pdf/1742-4755-6-3.pdf> (May 11, 2012)
- World Bank Working Papers, (2010), *Improving Primary Health Care Delivery in Nigeria: Evidence from Four States*, African Human Development Series: World Bank Publication, 33.[Online] Available: [http://www-wds.worldbank.org/external/default/WDSContentServer/WDS/IB/2010/04/15/000333037\\_20100415012325/Rendered/PDF/540370PUB0heal101Official0Use0Only1.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDS/IB/2010/04/15/000333037_20100415012325/Rendered/PDF/540370PUB0heal101Official0Use0Only1.pdf) (December 12, 2013).
- World Health Organization, (1978), Alma-Ata Declaration of 1978, adopted by the International Conference on Primary Health Care, jointly sponsored by WHO and UNICEF, Principle VII, [Online] Available: <http://www.righttohealthcare.org/Docs/DocumentsC.htm> (June 10, 2012).
- Yoshihara S, (2010), Does CEDAW Promote Abortion? Briefing for Senate Judiciary Committee, Subcommittee on Human Rights and the Law, *Catholic Family and Human Rights Institute*, 1-6.

### Acknowledgement

The authors wish to acknowledge with thanks, all the participants that took part in the field study. Their time and opinions are highly appreciated by the authors.