



**Best practices in addressing maternal mortality from a human rights perspective:
A framework for monitoring policies and resources for MMM prevention
in Guatemala**

“How the substantive human rights framework applies to the context of preventable maternal mortality and morbidity has been laid out thoroughly within the work of treaty bodies as well as that of other international experts and regional bodies. However, what is missing is the operationalization of a human rights-based approach to maternal mortality and morbidity. That is, many questions remain unanswered, such as: What are specific steps that can be taken to implement/adopt a human rights-based approach to eliminating preventable maternal mortality and morbidity?”

OHCHR report on preventable MMM and human rights (April 2010), para 61

In 2008 and 2009, the Center for Economic and Social Rights (CESR) joined forces with the Instituto Centroamericano de Estudios Fiscales (ICEFI) and health rights activists in Guatemala to address the challenges of operationalizing a human rights approach to maternal mortality.

In a joint project entitled ***Rights or Privileges? Fiscal commitment to the rights to health, food and education***, CESR and ICEFI developed a rights-based framework for holding the Guatemalan state accountable for the astonishingly high rates of maternal death, child malnutrition and primary school incompleteness in the country, and for its efforts to use the resources at its disposal to progressively fulfil the rights to reproductive health, food and education.

This submission to the OHCHR consultation on best practices summarizes the aims, approach, results and impact of the project, as an example of how civil society initiatives can spur efforts by government institutions to bring a human rights lens into the process of policy-making and policy-monitoring on maternal health. The CESR/ICEFI project prompted a commitment from the state to increase social spending, including for maternal health, and to implement the necessary fiscal reforms to enable this. It also enabled the Reproductive Health Observatory, a joint Congressional and civil society accountability mechanism, and other public health advocates in Guatemala to operationalize a human rights perspective in their policy-monitoring role at the national and local levels.

CESR therefore hopes that this experience may be useful to future efforts by both governments and civil society organizations to address preventable maternal death from a human rights perspective. The full ***Rights or Privileges*** report in Spanish, and executive summary in English, are available at www.cesr.org.

Aims of the *Rights or Privileges* project

The initiative was motivated by the conviction that Guatemala's high rates of maternal mortality - among the worst in Latin America - are not an inevitable tragedy, but are directly attributable to the state's failure to comply with its economic and social rights obligations. CESR and ICEFI set out to show how these alarming death rates, which primarily affected rural, indigenous women, were not due to a lack of resources but to the failure to prioritise the resources available in such a way as to fulfil the basic rights to life and health of all Guatemalan women, without discrimination.¹

Given the challenges faced by civil society organizations in pursuing such human rights claims through the courts in Guatemala, the strategy was to hold policy makers accountable through advocacy and dialogue aimed at (a) articulating the human rights obligations that should guide maternal mortality prevention efforts, (b) showing how the state's maternal health interventions and fiscal policies were falling short of these, and (c) pushing for specific measures to bring health, budget and tax policy into line with human rights standards, in the context of the government's ongoing health reforms and the 2010 budget process.

Approach

In consultation with development economists and public health experts, CESR and ICEFI devised a methodological framework for assessing compliance in practice with the **range of human rights principles** applicable to the obligation to fulfil the right to health. These principles included the duty of states to prioritize minimum core obligations, to use maximum available resources to progressively realize rights, to ensure equality and non-discrimination, to promote the availability, accessibility, acceptability and good quality of reproductive health services, and to ensure participation, transparency and accountability in the process of policy implementation.

The **methodological framework** which sought to operationalize these principles consisted of four basic steps:

- analyzing maternal health **outcomes** through the lens of the above principles
- analyzing **policy efforts**, including legal and policy commitments relating to the right to reproductive health, as well as efforts in practice to ensure women's access to three essential reproductive health services: emergency obstetric care, skilled birth attendance and family planning services, including safe abortion
- analyzing the **resources** assigned to health and other social spending from a human rights perspective, and examining tax policies to determine the use of maximum available resources in line with human rights principles
- making an overall **assessment** of the State's compliance with the obligation to fulfil the right to reproductive health, based on a triangulation of the above elements, and taking into account contextual factors such as the underlying determinants of maternal death and the political constraints faced by the government

¹ The project can thus be seen as an attempt to substantiate the premise affirmed in the OHCHR study, that "*when women die in pregnancy or childbirth because the Government fails to use its available resources to take measures necessary to address the preventable causes of maternal death and ensure availability, accessibility, acceptability and good quality of services, the responsibility of the State may be engaged in respect of a violation of women's right to life...and... to the highest attainable standard of physical and mental health, including sexual and reproductive health*" (OHCHR study, para 10).

A range of quantitative and qualitative assessment tools was used at each step. **Quantitative indicators** were identified relating to maternal health outcomes, policy efforts and resources. Comparisons with other countries in the region, particularly those with similar levels of GDP, were used as benchmarks for assessing whether Guatemala's outcomes and policy efforts could be considered reasonable given its level of resources. Indicators were disaggregated where possible to identify disparities and tracked over time to assess progress. Disparities in outcomes (eg variations in maternal mortality rates across regions) were correlated with disparities of policy effort (eg inequitable distribution of EmOC across regions).

A range of **qualitative methods** was also used, particularly to analyze the adequacy of policy efforts. These included a review of the literature on effective maternal health interventions; interviews with individuals and families affected by maternal death in the predominantly indigenous community of Senahu, Alta Verapaz; case-research into the circumstances that led to seven women dying in pregnancy or childbirth in the community the previous year; and group interviews to assess community members' perceptions of the availability, accessibility, acceptability and quality of maternal health services.

Budget analysis was used to assess the reasonableness of resource allocations, using international comparisons as a benchmark, longitudinal data to assess changes over time and benefit incidence analysis to assess distributional impacts. Again, disparities in the allocation of resources were correlated with disparities of outcome. **Analysis of the tax structure** examined whether available resources were being marshalled in line with principles of non-discrimination and progressive realization. The project team also carried out interviews and consultations with a range of policy makers, health analysts and civil society organizations and conducted research into the political economy of fiscal reform in Guatemala. A mapping of key actors was drawn up in order to identify priority targets for advocacy, and a workshop was held to engage health advocates and policy makers prior to the launch of the report.

Results

The **assessment of maternal health outcomes** found that Guatemala had one of the highest estimated maternal mortality rates in Latin America, despite not being among the poorest countries in the region. This raised questions regarding how the state was using its resources to meet its core obligations (considered to include provision of essential maternal health services). Disaggregated data revealed that indigenous women were three times more likely to die in pregnancy or childbirth, and that those who died tended to be poor, rural and uneducated women. These striking disparities raised questions about what the state was doing to ensure substantive equality and non-discrimination in access to relevant services. The comparative lack of progress over time in reducing Guatemala's maternal mortality rate flagged a concern regarding the progressive realization of the right to maternal health.

The **assessment of maternal health policy efforts** found a striking contrast between the state's legal and policy commitments, which by and large embodied its commitments to the right to reproductive health, and its policies in practice. Across all three areas studied (access to EmOC, skilled birth attendance and family planning services), the scope and coverage of policy interventions was found to be woefully inadequate, failing to meet any reasonable standard of availability, accessibility, cultural acceptability and quality. A mapping of obstetric services by region revealed that services were least available in regions with the highest maternal mortality rates. The case studies highlighted that the cost of transportation in rural indigenous areas was one of the principal obstacles to accessing adequate care in the case of an obstetric emergency. Interviews indicated that many indigenous women were reluctant to access services which were in theory available because of a widespread lack of sensitivity towards their culture and customs. This accounts, for example, for Guatemala having the same proportion of births

attended by skilled personnel as Sierra Leone, one of the world's poorest countries. Community members reported that they had very little opportunity to influence or participate in policy decisions affecting their health.

The **assessment of resources** highlighted how Guatemala's social spending as a proportion of GDP was among the lowest in Latin America, despite being a low-middle income country. Allocations to health had not exceeded 1% of GDP since the end of the war in 1996 (compared for example to the 5% devoted by Costa Rica). Distribution of spending was found to be highly inequitable, with per capita health spending three times higher in the capital than in Quiché, the poorest region. Resource allocations on health had not evolved over time, despite targets set under the 1996 Peace Accords, and were in fact lower in 2008 than in 2001. Budgetary spending on maternal health was opaque, making it next to impossible for policy makers and civil society organizations to track amounts of spending and their impact in reducing maternal death among the most vulnerable populations.

Low social spending was directly linked to the country's low tax base – still one of the lowest in Latin America, despite commitments under the Peace Accords to increase it. The tax system was also highly inequitable, with most income generated through regressive indirect taxes rather than direct taxation on income and assets. This disproportionately affected the poorest sectors of the population, who were effectively shouldering the main burden of funding the state's social programs. In contrast, the country's most profitable business sectors enjoyed unparalleled tax privileges and incentives. In 2008, the total amount of these tax breaks, deductions and exemptions was twice the amount the state expected to collect in income tax. This led CESR/ICEFI to conclude that the state was not doing all it reasonably could to generate the resources needed to progressively realize the right to health and other ESC rights.

The project's findings on the rights to health, education and food underscored the need to address the interdependence of rights. For women, a lack of education is linked with an increased risk of maternal mortality, because it limits their ability to access information and services related to sexual and reproductive health. A mother's death in turn has economic consequences for the family, increasing children's food insecurity. Poverty and systemic discrimination against indigenous people were identified being among the main underlying determinants of maternal death. Data suggested that efforts to combat these had been inadequate. Although poverty overall had declined between 2000 and 2006, extreme poverty had only decreased slightly and among indigenous people it had even increased. The report looked at recent promising government initiatives on poverty, including a conditional cash transfer program. While such programs were positive in increasing access to maternal health services, the health budget had not been increased to cope with the increased demand.

Analysis of the political economy of fiscal reform revealed that the lack of adequate investment in the realization of economic and social rights resulted from a historical co-optation of the state by economic elites that had blocked all attempts at fiscal reform and ensured that public policymaking protected their privileges at the expense of the rights of the whole population.

Overall, a compelling picture of non-compliance emerged from the three-stepped analysis of outcomes, policy efforts and resource allocation. This methodological framework enabled a **systematic rights-based assessment** of maternal health policies and the role of fiscal policy in constraining maternal health outcomes. The findings, backed by quantitative and qualitative evidence, enabled CESR and ICEFI to make detailed recommendations to the government on the need for increased and more equitable spending on maternal health. The report's recommendations included an approximate estimation of the resources necessary to enable universal coverage of essential reproductive health services in line with the state's core obligations and its commitments under the Millennium Development Goals. It also recommended specific budget and tax reforms that could make this increase in funding possible, as well as enhancing citizen participation in the decision-making process.

Impact and lessons learnt

Framing the issue of maternal mortality as a human rights issue, and tracing the link between preventable deaths and flawed government policies, gave renewed force to civil society demands for both health and fiscal reform. At the launch of the report in November 2009, CESR and ICEFI secured a public commitment from the Minister of Finance to increase social spending (including health) and to push through progressive tax reforms, taking into account the report's findings and recommendations. Subsequent developments in the country led to the stalling of these promised fiscal initiatives and the Minister's resignation.

However, the approach taken in the project was embraced by other relevant official bodies, including the Reproductive Health Observatory (Observatorio en Salud Reproductiva or OSAR), a supervisory body set up by Congress in association with civil society organizations. The project enabled OSAR to incorporate a human rights framework more systematically in its monitoring of maternal health policy and in its proposals for reform. Members of Congress linked to OSAR presented a new maternal health law (Ley de Maternidad Saludable) to Congress, which was adopted in September 2010. The law aims to guarantee safe motherhood by ensuring the right of all women to universal, timely and free access to reproductive health information and services. These should be accessible to all, culturally appropriate and of good quality. The law prioritizes efforts to reduce maternal mortality among rural, indigenous women and mandates that the necessary resources be provided, including through earmarked funding generated from specific direct taxes. A multidisciplinary working group made up by civil society and governmental agencies was set up to monitor the law's implementation. CESR provided input via OSAR on how these provisions should be operationalized in the law's procedural norms. The methodological framework has also been drawn on by Guatemalan health rights advocacy groups, including in efforts by the Citizens' Health Movement (Movimiento Ciudadano por la Salud) to hold local authorities accountable to their decentralized responsibilities.

Internationally, the project succeeded in drawing the issue of fiscal policy and preventable MMM in Guatemala to the attention of UN treaty bodies, including the Committee on the Elimination of Discrimination Against Women (CEDAW), the Committee on the Rights of the Child (CRC) and the Human Rights Committee (HRC), all of whom raised concerns regarding reproductive health with the state. The MMM monitoring framework developed in Guatemala has also been welcomed by donor agencies and UN specialized agencies in the context of efforts to operationalize a human rights perspective in monitoring progress on Goal 5 of the Millennium Development Goals. The framework and the learnings from the project have been well received among a broad range of international civil society organizations seeking to develop more effective tools for human rights monitoring and accountability in this area, including quantitative methods and budget analysis. The framework was also presented by CESR to public health practitioners and advocates attending the Women Deliver conference in June 2010 (see attached presentation).

The *Rights or Privileges* project provides invaluable lessons for future efforts to monitor and shape maternal health policy from a human rights perspective. It shows the value, for both policy design and accountability, of having a systematic framework to trace maternal health outcomes back to policy efforts and resources in order to determine compliance with the duty to fulfil the right to reproductive health. A range of simple quantitative and qualitative tools, including selective use of indicators and benchmarks, can be used at each step of the assessment. Collaboration across the disciplines of public health, development economics and human rights law is critical in ensuring this is done rigorously and effectively.