



addressing Safe
Abortion *in the*
SOUTHERN AFRICAN REGION

**REGIONAL
MEETING
REPORT**



**3 - 4 November 2016
JOHANNESBURG**



INTRODUCTION



Against a backdrop of unsafe abortion representing a critical sexual and reproductive health and rights (SRHR) issue in the region which compromises the lives and health of girls and young women in Southern Africa, the Regional Sexual and Reproductive Health and Rights Fund convened a meeting of practitioners and activists in the field of abortion to discuss strategies on how to take this agenda forward. The role which the Fund sees itself playing in supporting organizations to amplify their voices regionally around specific issues is particularly pertinent in an area such as unsafe abortion which has been highly stigmatized and marginalized. The Fund seeks to capitalize on the benefits of working at the regional level by offering opportunities to share best practices and lessons learned, to coordinate efforts and to facilitate collective engagement on addressing SRHR issues in the region.

Over the past year strategic role players have increasingly recognized the importance of addressing unsafe abortion viz.

- The African Commission on Human and People's Rights (ACHPR) through the mechanism of the Special Rapporteur on the Rights of Women has launched a continental Campaign for the Decriminalization of Abortion in Africa in order to bring attention to unsafe abortion which poses a serious threat to women's and girl's rights to sexual and reproductive health. The ACHPR is also concerned that these deaths occur partly due to laws that criminalize abortion on the presumption that the threat of arrest or imprisonment will prevent women and girls from having abortions.
- The SADC Parliamentary Forum hosted a Symposium on Criminalization and Stigmatization which was organized by the Southern Africa Development Community-Parliamentary Forum (SADC-PF) in partnership with AIDS and Rights Alliance for Southern Africa (ARASA) in May 2016. SADC PF President and Speaker of the House Patrick Hermine called for the decriminalization of public health issues such as abortion as a means of enhancing sexual and reproductive health and rights and reminded the parliamentarians present that they have it within their power to repeal laws that criminalize public health issues such as drug use, abortion and HIV/AIDS.

Civil society regional initiatives have emerged in response to this context and the meeting began by colleagues from both Ipas and the Coalition for African Lesbians sharing information on initiatives that they had spearheaded to respond to unsafe abortion in the Africa region. The meeting sought to locate a strategic conversation against a backdrop of the broader initiatives that were already taking place in the region.

A REGION-WIDE CAMPAIGN ON UNSAFE ABORTION

The importance and relevance of the Campaign on Unsafe Abortion, launched by the African Union Commission, is for Member States to remove legal and policy barriers in order to prevent unsafe abortion. The initiative of the ACHPR comes in response to an estimated 6 million unsafe abortions taking place in the Africa region, of which 29% result in death, with mostly young girls as the victims. The campaign calls on states to sign and ratify the African Union's (AU) Protocol on Human Rights (Maputo Plan of Action) and to be accountable to the African Commission's Gender Committee.

In 2016 the campaign was the focus of the AU Gender Summit meeting and the United Nation's Commission of the Status of Women. At the same time, the UN Special Rapporteur on Women's Rights has drawn attention to unsafe abortion and is undertaking country visits to encourage reforms in policy and services. The campaign which includes public awareness, partnerships with civil society organizations and national institutions is gaining momentum. However there is a need to mobilize at sub-regional level, to decentralize and root the campaign, to facilitate impact at country level.

At a strategy level, it was noted that the contexts of respective countries in Southern Africa varied, and that it is important in the roll out and support for this initiative, that the focus should be clearly articulated and relevant to different contexts. The interpretation at a sub-regional level could possibly be two-fold viz. removing legal and policy barriers to accessing safe abortion and optimising the implementation of policies and laws that are enabling to ensuring that women and girls are able to access services.

THE AUTONOMY PROJECT – A REGIONAL INITIATIVE ON BODILY AUTONOMY

The Autonomy Project of the Coalition of African Lesbians operates a campaign in eight SADC countries which brings together sex workers, young women, LGBTIQ and gender non-conforming women, to collectively analyse issues and develop solutions. Their strategies are informed by feminist analysis and principles. Activists are working across issues and are feeding into national strategies that are particular to campaign members and partners.

At a regional level, CAL works with the African Commission, with rapporteurs and commission members, on developing shadow reports and is an inclusive space for dialogue which doesn't happen otherwise. At the UN Human Rights Commission the language of bodily autonomy is actively promoted at Council meetings and is gaining traction in getting African States to take this language up. A concern is that during negotiations on SRHR and LGBTIQ at the Human Rights Commission, abortion was traded for sexual orientation and sexual identity; abortion is seen by many States as more dangerous than sexual identity.

At a strategy level, an approach that is intersectional, in linking issues and campaigns is useful in amplifying voice and contributes towards minimizing the further stigmatization of an issue like abortion. It is important to find language and arguments, that optimally position the right to safe abortion with different stakeholders using different arguments, within the framework of women and girls having the freedom and right to make their own choices and decisions about their bodies.

OVERVIEW OF WHO WAS IN THE ROOM

A mix of practitioners and activists in the field of abortion came together with a wealth of experience in the fields of abortion research, policy making, documenting access to services, advocacy on SRHR, engagement with the campaign of the African Commission, partnership development, mobilization of young people and using social media for communication and information sharing. This work takes place in the face of adversity such as death and disease and in socio-cultural contexts in which the issue is highly stigmatized. The group therefore felt inspired to focus efforts on how to make abortion safe and legal. Their motivation for their work in this field arises from a belief in women's right to self-determination; their experience in creating platforms

and safe spaces for young women to talk about issues that adversely affect them; their experiences in empowering women on their right to quality health care services and positioning the magnitude of unsafe abortion as a public health and rights issue.

1. FOCUS OF THE MEETING



The meeting therefore set out: to provide a space in which a group of key role players involved in work relating to addressing unsafe abortion in the Southern Africa region can engage in a strategic conversation to identify useful strategies to promote and take action on advancing the right to access a safe abortion for women and girls in the SADC region. It sought to explore unsafe abortion at the sub regional level as well as look at the drivers, at both a law and policy level and at a broader socio-cultural level and health system level, with a view to identifying potential areas for strategic cohesion and action on unsafe abortion in Southern Africa.

2. A COMMON UNDERSTANDING OF UNSAFE ABORTION AND RESPONSES



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3. STRATEGIES ON LAW AND POLICY TO IMPROVE ACCESS



1. ADDRESSING OTHER CHALLENGES TO ACCESS TO SERVICES: STRATEGIES AND OPPORTUNITIES



UNSAFE ABORTION IN THE SUB REGION

Whilst abortion in Africa is often severely restricted, there is no country in which it is totally not allowed. Policy and legislation on abortion in the sub region is restrictive with most Termination of Pregnancy Acts not allowing for abortion based on a women's choice, with the exception of South Africa and Zambia to some extent. The exceptions for the provision of abortion in other contexts relate to continued pregnancy posing a health risk to the pregnant woman or to the foetus and in the case of rape or incest. Procuring or providing an abortion is criminalized and carries heavy prison sentences. Abortion is regulated around the following areas: as to who can perform an abortion; when an abortion can be performed; rules on sign-off and determinations on where services are to be performed.

The key challenges with access to safe abortion consists of the following: (i) legal barriers including the absence of guidelines; (ii) a lack of knowledge and information on its legality; (iii) financial and geographic obstacles; (iv) insufficient numbers of trained service providers (generally and especially on values) (v) inadequate resourcing; (vi) too few facilities providing the services and (vii) and the stigmatization of the service.

A COMPARATIVE ANALYSIS OF LAW AND POLICY STRATEGIES



The session set out to explore appropriate strategies that have been used to effect law and policy change as key to addressing unsafe abortion in the Africa region, historically and currently.

Sierra Leone, Ethiopia and Kenya were cited for a comparison of abortion law reform in Africa.

In 2010 Kenya adopted a Constitution. A subsequent entry to the original draft of the Constitution was for a provision on abortion. The penal code of 1861 remains in place but the two Constitutional provisions (the right to life and permitting abortion) are more generous. However a Constitution that is both restrictive and permitting at the same time results in uncertainty and confusion. Given the State's ambivalence, practitioners are unsure of providing services according to law. It is therefore not useful to have abortion included in the Constitution but better to have laws that legislate on abortion, which can be reformed, on the grounds of women's health.

In Ethiopia, prior to 2005, abortion was prohibited, save *where it was necessary to prevent and save a woman from grave and permanent damage to her life and health* –wording which was imported in 2005 and which served to discourage providers. Subsequent strategies focused on making abortion more accessible: in the case of rape, risk to the life and health of the pregnant woman, disability and in the case of a pregnant minor, who is unable to assume responsibility. Thus the strategy deployed was not to reform the law but to place pressure on implementation. Having a law is a starting point, focusing on how law is to be implemented is strategic.

Sierra Leone, a former British colony, prohibited abortion. Abortion only *to save the life of a woman* was thus permitted by government. However providers considered abortion as not permitted and the country's mortality is one of worst in Sub-Saharan Africa.

Subsequent reforms were to reform the Penal Code or have it removed from the penal code. Abortion was removed from the Penal Code in 2015. The President called for clarification on the constitutionality of the then drafted Safe Abortion Bill, an opportunity which the religious lobby optimized and successfully persuaded the President that the foetus has a right to life under the Constitution. The Act was consequently not promulgated into law. The lessons learnt is that not enough consultation had been done on the Bill, notwithstanding the importance of maintaining vigilance during and after the policy process.

Strategic insights emerging from the discussions on law and policy emphasized that a variety of strategies are required, and that the tactics that are used are responsive to different political contexts. However a range of cross-cutting issues emerge including (i) the importance of promoting public debate and dialogue to build a broad level of support and understanding at all levels of society; (ii) developing specific strategies for key target groups such as policy makers, health care providers, the religious lobby and journalists; (iii) engaging in lobbying and advocacy in an ongoing way to shift consciousness and build support for women's right to bodily integrity and autonomy; (iv) minimizing procedural and administrative barriers; (v) ensuring that conscientious objection clauses do not impede women's access to safe services and (vi) rescinding all criminal laws specific to abortion

SOCIO-CULTURAL BARRIERS

The session set out to explore appropriate strategies and programming responses that have been used to address socio-cultural, media and health system challenges faced by activists and organizations addressing the issue of abortion in the sub region.

SAYWHAT is a Zimbabwean based organization whose core constituency are students at institutions of higher learning. Their work on abortion confirms that regardless of whether abortion is restricted and criminalized, it does not stop young women from seeking an abortion as a solution to unintended pregnancy. Restrictions do not change mind-sets on sex and sexuality and the risk of unintended pregnancy.

Abortion is highly stigmatized and embedded in negative socio-cultural attitudes towards it. This results in laws not necessarily translating into access to services and women and girls encountering negative attitudes, when they are able to access services. Social gendered expectations are that pregnancy should take place within marriages, so pregnancy for young women outside of marriage is also highly stigmatized.

Rules around pregnancy (by choice or unintended) at institutions of higher learning apply – pregnancy is discouraged when opting into academic life. Universities are not responsive to the SRH needs of students within their period of study. Cultural and social acceptability is influenced by gendered expectations in relationships and within society more broadly.

SAYWHAT builds the *capacity* of young people to speak directly about the challenges they face; works to ensure that students are recognized in their own right and not generalized as a population of minors; *supports* students so that they don't self-stigmatize and discriminate; *advocates* for the integration of sexual and reproductive rights and health at institutions of higher learning.

MEDIA BARRIERS

When termination of pregnancy is mentioned through the media, it is most often not in a positive way, partly because journalists and editors do not know how to reflect a controversial issue. The other response is to avoid the issue. The duality of values and alignment with religious views and affiliation plays itself out in the media. Stigma is often reinforced by religious leaders and institutions, which then influences journalists and other key stakeholders. Unfortunately often strategies have not adequately engaged with shifting consciousness within the religious sector. Pro – choice activists must target policy makers and other decision-makers to ensure that training takes place and infrastructure is in place, in an on-going way.

How one speaks about abortion is crucial, given the controversy that surrounds it. Positive framing such as creating environments for access to health is recommended. Presenting issues in a language which does not resonate with people is not useful.

For young people in educational settings, it is not easy for adults to talk sexuality and sexual health as youth suspiciously perceive it as wanting to limit their pleasure. It is important to use young people to talk to other young people and to use social media for communication.

The design of strategies must include the identification of the primary message to be put across. Strategic use of progressive religious, traditional and political leadership is recommended, as these individuals are best placed to understand these target audiences, use the appropriate language to reach them, all of which could contribute to establishing trust and potentially winning support.

HEALTH SYSTEM BARRIERS – A FOCUS ON CONSCIENTIOUS OBJECTION

An important lesson emerging from South Africa is that as legislative reform comes into being the ground has to be prepared simultaneously to bring health care providers on board, who are located within communities where there is stigma and discrimination, myths and misinformation.

When the Choice on Termination of Pregnancy Act was introduced in South Africa, abortion was seen as being newly ushered in by the ANC-led government, as if it didn't exist before. This view was despite the previous restrictive law, which advantaged privileged women who had access to private service provision. With hindsight, supporters of the Choice Act should have better anticipated the resistance of conscientious objectors. Health professionals that have been medically trained for indications of abortion refuse to assist and refer women to points of access as provided by law. The guidelines on conscientious objection that were developed are not implemented and compliance is not enforced. This despite the investment into training health care providers and work that was done with the South African Nursing Council.

At senior political level, there is limited support for the law. At provincial level the provision of data on abortion, which is a requirement of the national department of health, is not adhered to. Despite good laws and policies, information does not filter down to facility level and providers of the service endure indignity,

isolation and emotional and psychological violation from colleagues. Unsafe and illegal abortion thrives in an environment of limited access

The discussions highlighted the importance of understanding and responding to abortion as a stigmatized issue and to find appropriate strategies that enable greater openness within communities to engaging with it as a critical SRHR issue, which if not provided safely has devastating effects on young women. Finding the right language, the right people and the right messages is key to optimally harnessing the power of the media, and it is useful for activists to support journalists with this information and to grow their understanding and angles on the issue.

Finding ways to address significant implementation challenges, that foreground the right of an individual to object above the rights of women and girls to access services, requires vigilance for activists in holding the state accountable for services, and problem solving around this.

A REGIONAL APPROACH TO STRATEGY



A discussion on the sub-regional agenda emerging, to improve access to safe abortion was undertaken through the lens of Health Systems, Law and Policy and Social Mobilization.

Health Systems

The key strategies identified to address health system challenges that women and girls face in accessing safe abortion were to address stigma and negative attitudes of health care providers on the one hand, and to share good practice and implementable models that could increase access to safe services, across different legal frameworks in Southern Africa, on the other hand. There was a recognition that too many policies exist which are not being optimally implemented; that there is an absence of a comprehensive and integrated health care system and which responds to youth needs, requiring policy alignment between health and education; stigma and the attitude of health care providers' points to the need for skills training in ethics and communication; sub-regional networking, for best practice and sustainability; promotion amongst SADC member States to support the roll out and scale up of implementable models for service provision and; continuous monitoring to correct and strengthen health programming in the region.

Law and Policy

Taking a nuanced, country specific approach was key to maximising law and policy strategies for effective change, undergirded by a commitment to widening access to safe abortion services for women and girls in the sub region. There is a general understanding and over emphasis on the criminality of abortion with disregard to the actual content of the law. Transformation on abortion is the change sought, from crime and punishment to a model of sexual and reproductive health. Decriminalization may not be useful nor the imposition of legislation from other countries. Given that countries are at different levels, the local context must inform the

broadening of services on SRHR, include the provision of youth-friendly services, and ensure that law permits mid-level health care providers to prescribe medical abortion.

Social Mobilization

The focus of this area was two-fold: (i) Advocate that policies be put into practice and (ii) Address stigma and discrimination that present a barrier to accessing services. Working with and through existing campaigns by linking abortion to other social justice issues was identified as an important strategy. At the same time it was critical to leverage regional strategic platforms in which the issue of abortion could be foregrounded; to find synergies as well as sub-regional opportunities to link into processes such as SADC summits, AU Protocol, processes of the African Commission and mechanisms of the UN Special Rapporteur. It was recognised that a campaign across Southern Africa focused on safe abortion is key and requires more time to further conceptualise. The importance of on-going political analysis which underpins the strategy alongside constantly and consciously building intersections with other key issues was emphasised as key to building sustained and effective social mobilization around this issue.

TAKING THE WORK FORWARD



The meeting resulted in the following key outcomes: (1) There was a commitment to collaborate in an ongoing way to advance access to safe abortion in Southern Africa and (2) A committee was established to take this work forward, consisting of Ipas Zambia, Muleide, Forum Mulher, SAYWHAT, Katswe Sisterhood, Coalition of African Lesbians, the Southern African Litigation Centre and the Regional SRHR Fund.

Ipas Zambia, as an organization that has done significant work in the region on unsafe abortion will coordinate the work of the committee in partnership with the Fund, that will continue to play a convening role, using its web site and other means.

Specific activities that were identified to be taken forward include:

- Strategizing for respective advocacy initiatives that focus on SADC and other strategic political nodes;
- Developing a deeper understanding of current regional instruments and processes that talk to unsafe abortion, such as the SADC Gender Summit, the Maputo Protocol and Plan of Action – to work out how these could be optimally used to put the abortion issue on the table;
- Contributing towards strengthening and amplifying regional indicators on this issue. Accountability for delivery on these indicators becomes a potentially useful mechanism through which to engage SADC and other bodies;
 - This could take the form of a barometer/ score card that provides information to push policy makers to act on the issue of unsafe abortion, with a specific emphasis on monitoring availability of services, including facilities;

- A strategic partnership for deliberate engagement with the Special Rapporteur, that would pledge support for the wider regional campaign, provide her with information and insights on the issue in an ongoing way and optimize opportunities for commitment;
 - This could for example take the form of inviting her to any existing meeting in the sub region, and providing a space for engagement around this issue;
 - Understanding the opposition (through research on their messaging, information, strategies and allies) in order to strategically respond to issues such as fundamentalisms and contexts that are undermining access to safe abortion;
 - Utilizing existing platforms as spaces in which safe abortion could be integrated, including political schools, academia and other fora which are already structured spaces for political engagement and knowledge generation;
 - Use of the Regional Fund's SRHR resources to share valuable information and to continue networking around strategy, such as the web site and video clip for safe abortion advocacy efforts and engagement with media and policy makers.
 - The committee will work to advance the ideas put forward and the development of a concrete plan of action. The regional meeting on unsafe abortion generated a range of strategies, with links to a wider regional and international agenda and with specific actions to be advanced nationally and collectively in the sub region.

Appreciation was expressed to the Regional SRHR Fund for the timely intervention of convening such a critical forum on this key issue.