



Abortion Policy in Zambia: Implementation Challenges



Catherine Mubita Ngoma*, Maureen M Masumo and Brenda N Sianchapa

Department of Nursing Sciences, University of Zambia, Zambia

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*Corresponding author: Catherine Mubita Ngoma, Department of Nursing Sciences, University of Zambia, Zambia, Email: catherinengoma@yahoo.com

Abstract

The purpose of this article is to analyse and identify the main challenges which hinder the implementation of the abortion policy in Zambia. Abortion is a major public health challenge that could be a contributory factor to the high maternal mortality rate in country. Despite abortion being legal, access to the service is still difficult for some women in need of the service.

Introduction

Abortion is the involuntary loss of the products of conception prior to viability [1]. Globally, 46 million abortions take place every year, close to 19 million of which are unsafe [2] and 95% of the unsafe abortions occur in developing countries [3]. According to WHO [2] two of every unsafe abortions globally occur among women aged 15-30 and 14% occur among women not yet 20 years old.

It is estimated that over four million of the world's unsafe abortions take place in Africa each year, killing approximately 34, 000 African women [4] and 44% of the world's deaths from unsafe abortion laws occur in Africa [5] this is not very clear, maybe rephrase. The number of deaths from unsafe abortions is rising in Africa women who experience unsafe abortions and survive; suffer short and long term injuries and disabilities such as uterine perforation, chronic pelvic pain and secondary infertility which are all too frequent [6].

Africa has some of the most restrictive abortion laws in the world, even where abortion is legal; services are often unavailable [7]. Evidence shows that abortion rates in Africa are three times as high as in Western Europe where sexuality education and access to contraception are widely available. Post Abortal care services have been significantly scaled-up in Ethiopia, Ghana, Kenya and Nigeria, Malawi, Niger, Senegal, Tanzania, Zambia and Zimbabwe [8]. In addition, manual vacuum aspiration is more widely available than it was 10 years ago, but Dilatation and curettage (D&C) is still common, Medical abortion is almost never available. Furthermore Africa suffers the highest unmet

need for contraception of any region in the world and only 13% of married women use contraception while 24% report a desire to use it [2].

Ipas [9], a global nongovernmental organization dedicated to ending preventable deaths and disabilities from unsafe abortion identified several factors influencing unsafe abortions in Africa. These include cultural and religious climate, low social status of women compared to men, limited access to health care particularly contraceptive, lack of properly equipped medical facilities and restrictive laws. The other factors are the high cost of both contraception and safe abortions. Ipas works through local, national and global partnerships to ensure that women can obtain safe, respectful and comprehensive abortion care including counseling and contraception to prevent future unintended pregnancies.

Despite the broad grounds under which the Termination of pregnancy Act of 1972 legalized abortion, safe abortion services are not widely available in Zambia, forcing many women to seek unsafe abortions. Maternal mortality rate is estimated at 398 deaths per 100,000 live births and up to 30% of maternal deaths are due to unsafe abortions [10]. Abortions can either be spontaneous or involuntary expulsion of the products of conception before the foetus reaches viability, or Induced: the termination of pregnancy before the foetus reaches viability, which can either be therapeutic or criminal. Therapeutic abortions may be medically or surgically induced. Medical induction involves the use of drugs to terminate pregnancy while

surgical termination may be done by manual vacuum aspiration or dilatation and evacuation.

Abortion Regulation in Zambia

Abortion is regulated by the termination of pregnancy Act of Chapter 26 of 1972 and chapter 13 of 1994 of the revised Act in Zambia [11]. The termination of pregnancy Act states that a person shall not be guilty of an offence under the law relating to abortion when a pregnancy is terminated by a registered medical practitioner if he and two other registered medical practitioners, one of whom has specialized in the branch of medicine in which the patient is specifically required to be examined before a conclusion could be reached that the abortion should be recommended, are of the opinion, formed in good faith that the continuation of the pregnancy would involve risk to the life of the pregnant woman or risk of injury to the physical or mental health of the pregnant woman or risk of injury to the physical or mental health of any existing children of the pregnant woman; greater than if the pregnancy were terminated or that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

In determining whether the continuation of the pregnancy would involve such risk, account may be taken of the pregnant woman's actual or reasonably foreseeable environment or of her age. Except as provided by subsections, any treatment for the termination of pregnancy must be carried out in hospital. The opinion of two registered practitioners shall not apply to the termination of a pregnancy by a registered medical practitioner in a case where he is of the opinion, formed in good faith that the termination of pregnancy is immediately necessary to save the life or to prevent grave permanent injury to the physical or mental health of the pregnant woman.

No person shall be under any duty whether by contract or by any statutory or other legal requirement to participate in any treatment authorized by this Act to which he has a conscientious objection; provided that in any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it.

Nothing shall affect any duty to participate in any treatment which is necessary to save the life or prevent grave permanent injury to the physical or mental health of a pregnant woman. In any proceedings before a court, a statement on oath by any person to the effect that he has a conscientious objection to participating in any treatment authorized by this Act shall be sufficient evidence for the purpose of discharging the burden of proof imposed upon him. The Minister may, by statutory instrument make regulations better for the carrying out of the provisions of this Act and without prejudice to the generality of the foregoing; such regulation may make provision for:

A. Anything which is to be or which may be prescribed under this Act.

B. Requiring any such opinion as is referred to in section three to be certified by the registered medical practitioner concerned in such form and at such time as may be prescribed by the regulations.

C. The preservation and disposal of certificates made pursuant to the regulations.

D. Requiring any registered medical practitioner who terminates a pregnancy to give notice of the termination of pregnancy and such other information relating to the termination of pregnancy as may be prescribed.

E. Prohibiting the disclosure except to such persons or for such purposes as may be prescribed, of notices given or information furnished pursuant to the regulations.

The information in pursuance of regulations made by virtue of paragraph (d) of subsection (1) shall be notified solely to the permanent Secretary, Ministry of Health. Any person who willfully contravenes or willfully fails to comply with the requirements of regulations made under subsection (1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two thousand penalty units.

As Amended by Act No. 13 of 1994

The amended Act states that for the purpose of the law relating to abortion, anything done with the intent to procure the miscarriage of a woman is unlawfully done unless it is done in accordance with the provision of this Act.

Sections 151 to 153 of the penal code clearly mention the penalty for criminal or illegal termination of pregnancy. Section 151 states that "any person who with intent to procure the miscarriage of a woman or female child, whether she is or not with child, unlawfully administered to her or causes her to take poison or other noxious thing, or uses any force of any kind or uses other means whatsoever; commits a felony and is liable, upon conviction to imprisonment for a term not exceeding seven years".

Section 152 (1) states that every woman being pregnant, who with intent to procure her own miscarriage unlawfully administers to herself any poison or other noxious thing or uses any force of any kind or any other means or permits any such thing or means to be administered or used, commits a felony and is liable upon conviction to imprisonment for a term of 14 years.

Section 152 (2) states that Any female child being pregnant who with intent to procure her own miscarriage unlawfully administers to herself any poison or other noxious thing or uses any force of any kind commits an offence and is liable to community service or counseling as the court may determine in the best interest of the child. The exception is where a child is raped or defiled and becomes pregnant. The pregnancy may be terminated in accordance with the termination of pregnancy Act cap 302.

Section 153 states that any person who unlawfully supplies to or procures for any person anything whatsoever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman or female child commits a felony and is liable upon conviction to imprisonment for a term not exceeding 14 years.

Post Abortion Care (PAC) Services

Since 2011, the Ministry of Health together with Ipas have been working together to expand access to comprehensive abortion care in four of the 10 provinces of Zambia by launching extensive efforts to improve comprehensive abortion care including legal abortion, post abortion care and contraceptive services in 88 public health facilities across the country. An important component of this scale up was to help inform Zambians of service availability and their rights to access these services in partnership with existing community based volunteers and organizations working in the area of sexual and reproductive health and rights. The PAC model has three components including emergency treatment services for complications of spontaneous or unsafe abortions, post abortion family planning counseling and services and linkages between emergency abortion treatment services and comprehensive reproductive health. Contraception advice must be given before discharge, Rhesus negative women should receive anti-D gamma globulin and women with evidence of genital tract infection should receive antibiotics treatment.

Policy Implementation Challenges

The 1972 Termination of Pregnancy Act provides for safe and legal abortion if undertaken by a medical practitioner and recommended by three medical practitioners on grounds of threat to the physical or mental health of the mother or her existing children or if there is risk of the child being born with serious physical or mental handicap. However, in the case of emergency action to save the life or prevent permanent injury of the pregnant women, a single medical practitioner may authorize and carry out an abortion. Except under the provision of this Act, abortion remains illegal under the Penal Code.

Inherent limitations in the Act are the requirement for authorization of three medical practitioners and the carrying out of the abortion by a medical practitioner. However, in the remote parts of the country there are no medical practitioners and this makes it impossible for the women who need abortion to access the service.

Limitation may also arise during the implementation of the Act as it does not provide the scope of service. A large part of the inadequacy of the service arises from prejudice against performing the service by those with conscientious, arising especially from religious belief which is allowed under the Act. This suggests that doctors, nurses and midwives who are responsible for advising pregnant women about safe abortion in relevant circumstances may not be able to do so. This situation

points to the need for a vigorous advocacy campaign to counter stigma against abortion from the community and even from within the medical profession as well as the need to identify and encourage those members of the profession with an interest in providing services for safe abortion [12].

Although the legislation allows for a policy of legal and safe abortion, the Ministry of Health has not developed nor implemented abortion services that are legally allowable. Currently, abortion is highly stigmatized as well as safe abortion providers [10,12].

In Zambia safe abortion services are available only within Provincial government hospitals and in private clinics. There is need for the service to be extended to district hospitals and urban and rural health centers in order to make the service accessible and as close to the family as possible.

According to the termination of pregnancy Act, only a registered medical practitioner can perform an abortion. There is a need to change the Act to allow other health care workers such as Nurses and midwives to perform the same since the procedures involved are within their field of competence according to the provisions of the Nurses and midwives Act (Chapter 300 of the laws). Most Health centers in Zambia provide maternal and neonatal services except termination of pregnancy. The ministry of Health therefore, should develop and encourage medical personnel who have no (covert) conscientious objection to providing the service but who are instead willing to do so. There is need to improve the capacity of rural health centers to recognize and address issues of gender violence and women's sexual subordination which contribute to unwanted pregnancies and to be able to give sympathetic advice and treatment to women especially young women with unwanted pregnancies. Providing such a service requires concerted efforts from all the relevant stakeholders including health care workers such as Nurses and Midwives, community organizations, Churches and traditional leaders.

To deliver quality abortion services, the health care system should include adequate and trained staff, adequate and accessible health units, affordable services, clear guidelines, a range of abortion methods, appropriate equipment, pharmaceutical and supplies, information, education and communication materials for the public and it must be efficiently run [13]. However, Zambia still has a long way to go in terms of providing quality abortion services.

Legal, surgical and medical safe abortion is available only at tertiary hospitals but not at district hospitals or rural health centers in Zambia [10]. However, there are a limited number of health care providers willing to provide the service and there is secrecy in its provision. Women seeking safe abortion have to wait to find a willing provider. The alternative place where women can seek for the service at high cost are private clinics. Perhaps this could explain why abortions in Zambia are illegal

and unsafe. Due to lack of access to safe abortion services many women end up with complications and death. In addition, unsafe abortion contributes to pelvic infection, infertility and deaths.

Conclusion

Termination of pregnancy is legal in Zambia but there are conditions to meet before the service can be offered to needy clients. Government health services should provide an adequate service for legal and safe abortion as provided by law. Health care providers need to be aware of the Act in order to avoid litigation. Advocacy is still needed to overcome information and knowledge barriers to safe abortion, obstructive administrative practices, cultural and religious barriers and to improve political will to take action [14].

Key Phases

- A. Abortion is the involuntary loss of the products of conception prior to viability.
- B. Abortion is regulated by the termination of pregnancy Act in Zambia.
- C. Post Abortion Care (PAC) services are provided.
- D. Policy implementation challenges exist.

References

1. Fraser DM, Cooper MA (2012) Myles textbook for Midwives, Africa Edition, London.
2. World health organisation (2004) Unsafe abortions: Global and regional estimates of incidence of unsafe abortions and associated mortality in 2000. (4th edn), WHO, Geneva, Switzerland.
3. World health organisation (2003) Safe abortion: Technical and policy guidance for health systems, Geneva, Switzerland.
4. Ahman E, Shah I (2002) Unsafe abortion: Worldwide estimates for 2000. *Reprod Health Matters* 10(19): 13-17.
5. Henshaw SK, Singh S, Haas T (1999) The incidence of abortion worldwide. *Int Fam Plann Persp* 25(1): S30-S38.
6. World health organisation (2007) Unsafe abortion: Global and regional estimates of the incidence of unsafe abortion and associated mortality in 2003. WHO, Geneva, Switzerland.
7. Population Reference Bureau (2002) World population Data sheet, USA.
8. Ross JA, Winfrey WL (2002) Unmet need for contraception in the developing world and former Soviet Union: An updated estimate. *International Family planning Perspectives* 28(3).
9. Ipas (2008) Reproductive health in Africa.
10. Ministry of Health (2008) Assessment of Policies, programmes and Research Issues related in prevention of unsafe abortion in Zambia, Lusaka Ministry of Health, Zambia.
11. Republic of Zambia, Termination of Pregnancy Act and Penal Code section 151-153, Lusaka, Zambia.
12. Longwe HS (2011) Identification of key Issues for improved sexual and Reproductive Health Services in Zambia. Longwe Clarke and Associates, Lusaka, Zambia.
13. Women and Law in Southern Africa (2008) Background paper for the strategic assessment of policies, programmes and research issues related to prevention of unsafe abortion in Zambia, Lusaka: Women and Law in Southern Africa (WLSA), Zambia.
14. CSO (2013-2014) Zambia Demographic and Health Survey, Zambia.



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