Radical Abortion Care in a Pandemic

Briefing Report 3, August 2021

Legislative and Policy Analysis and Related Publications within the Zambian context

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About the report: This report forms one of a series of outputs for the project Radical Abortion Care in a Pandemic (Kenya and Zambia). Other reports include: a review of the global context; a review of the Kenyan context and an overall briefing of findings from Phase 1. These can be accessed via https://pure.ulster.ac.uk/en/persons/fiona-bloomer/publications/

Section A - Background to the legal status and policy guidelines regarding abortion in Zambia

1. Unsafe abortion is a major challenge in Zambia despite an abortion law that is considered liberal. Abortions still often happen in informal, unregulated settings with complications occurring resulting in the need for further medical intervention. It is estimated that 30-50% of acute gynecological admissions in hospitals are because of abortion complications, most being from unsafe abortion[1]. The 2018 Maternal Perinatal Death Surveillance Review for instance identified 674 maternal deaths (183 deaths per 100,000 live births) attributed to causes such as obstetric hemorrhage, most often caused by unsafe medicines or foreign objects. [2]
2. Adolescent pregnancy is a major demographic and public health challenge for Zambia, with almost three in ten (29%) adolescents aged 15-19 having experienced pregnancy. The prevalence of this affected by early and illegal marriage practices which remain the norm for many Zambians.[3] Although there is evidence that abortion practices are still recognized in many traditional ethnic groups in Zambia to alleviate unwanted pregnancies and for the child survival of immediate sibling.
3. Unmet need for family planning is problematic. Whilst there is evidence of some improvement in recent years, with unmet need declining from 27% in 2009 to 21% in 2014, is estimated that only 49% of the family planning needs of married women are being met.[4]
4. At policy level the Zambian government state they are committed to addressing unsafe abortion. It has ratified regional and international agreements regarding women's health and rights including the International Conference on Population and Development (ICPD) of 1994, Beijing Platform of Action (1995), and the Maputo Plan of Action (2006). It has committed to endorsing the United Nations Sustainable Development Goals (SDG). However, Zambia remains behind in achieving the third SDG of a maternal mortality ratio of less than 70 maternal deaths per 100,000 live births.
5. The commitment to addressing unsafe abortion in the 21st century dates back to 2008 with the Ministry of Health in collaboration with WHO and Ipas Africa Alliance commissioned a strategic assessment into the problem of unsafe abortion in Zambia[5]. One of the main findings was that abortion services were being provided in a vacuum. While the law existed, it did so, on a "stand alone" basis with no clear policy framework for standards and guidelines in implementing services.
6. This led to the development of the 2009 Standards and Guidelines document, of which the Safe Abortion: technical and policy guidance for health systems document (2012) is the revised and updated version. The policy aim is to provide a holistic approach to comprehensive abortion care. The government has urged that Standards and Guidelines document should not be used in isolation but in tandem with other publications, such as the Pregnancy, Childbirth, Postpartum and Newborn Care (PCPNC): A Guide to Essential Practice in Zambia 2016. Family Planning (FP) and Post-Abortion Care (PAC) have been integrated as part of Standards and Guidelines in the hope that this gives impetus to better health outcomes.[6]

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[1] Guttmacher.org. 2021. [online] Available at: <https://www.guttmacher.org/sites/default/files/report_pdf/ib-unsafe-abortion-zambia.pdf> [Accessed 12 February 2021].

[2] Gianetti B, Musakanya KE, Ngomah Moraes A, Chizuni C, Groeneveld C, Kapina M, Hamoonga R, Mazaba ML, Mukonka V. (2018). Maternal Mortality Trends and Correlates in Zambia (2018). Zambia Journal on public health, disease surveillance and prevention and control, ZNPH Health Press.

[3] Parmar et al 2017.

[4] Fetters, T., Samandari, G., Djemo, P., Vwalika, B., & Mupeta, S. (2017). Moving from legality to reality: how medical abortion methods were introduced with implementation science in Zambia. Reproductive health, 14(1), 26. https://link.springer.com/article/10.1186/s12978-017-0289-2

[5] Guttmacher.org. 2021.

[6] Shanzi A, Chiluba BC, Zulu M., Reasons Women Request for Termination of Pregnancy at a Rural Hospital in Zambia; A Cross Sectional Study at Mansa General Hospital, Mansa District, Zambia. JPRM2021,3(2):92-100. doi: 10.21617/jprm2021.3215

7. The Zambian government has committed to reducing its maternal mortality ratio to less than 100/100,000 live births as outlined in its National Health Strategic Plan 2017 – 2021.[7] However strategic approaches to effective abortion are not well articulated within the document.[8]

8. Unsafe abortion has also been shown to have adverse economic consequences. A study conducted in 2015 found that post abortion care following an unsafe abortion can cost 2.5 times more than safe abortion care. The Zambian health system could save as much as US$0.4 million annually if those women currently treated for an unsafe abortion instead had a safe abortion.[9]

Termination of Pregnancy (TOP) ACT OF 1972 of Zambia

9. In 1972, eight years after Zambia had received its independence from British colonialism, the Termination of Pregnancy Act made abortion permissible with few stipulations. Prior to this the 1861 Offences Against the Person Act, and case law had limited abortion to restricted circumstances.

10. For the purpose of law relating to abortion, anything done with intent to procure the miscarriage of a woman is unlawful unless it is done in accordance with the provisions of Termination of Pregnancy Act 1972, later amended in 1994. Sections 151 to 153 of the penal code can then be enacted.[10]

11. Whilst the Pregnancy Termination Act 1972 is regarded as one of the most liberal abortion laws in Africa, permitting abortion for instance for health and socio-economic reasons[11], access is marked by restrictive conditions: that the operations should be performed in hospitals; consent should be given by the one seeking abortion; and that three doctors must authorize and clearly state the grounds on which termination is permitted:

BOX 1: Termination of Pregnancy Act,1972, Zambia

Termination of Pregnancy Act: Certificate A,TOP ACT, SECTION 3 (1),1972: That the continuation of the pregnancy would involve: a) (i) risk to the life of the pregnant woman; (ii) risk of injury to the physical or mental health of the pregnant woman; or (iii) 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 b) that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be severely handicapped.
NB: Law has not been reviewed yet since its inception

12. The 1994 amendment included specific consideration of girls who sought abortions, with Section 152 (2) stating 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.

Limitations to access

13. Limitations in the Act are the requirement for authorization of three doctors and the carrying out of the abortion by a doctor. This requirement is particularly problematic in rural areas,

[7] PRB. 2021. Diverse Factors Linked to Maternal Deaths in Zambia. [online] Available at: <https://www.pb.org/resources/diverse-factors-linked-to-maternal-deaths-in-zambia/> [Accessed 6 June 2021].
[8] CSO (2013-2014) Zambia Demographic and Health Survey, Zambia.
[9] Parmar, D., Leone, T., Coast, E., Murray, S. F., Hukin, E., & Vwalika, B. (2017). Cost of abortions in Zambia: A comparison of safe abortion and post abortion care. Global public health, 12(2), 236-249. https://www.tandfonline.com/doi/abs/10.1080/17441692.2015.1123747
[10] Ipas (2008) Reproductive health in Africa
[11] Laws of Zambia.1972. Termination of Pregnancy ACT.1972. Lusaka

where access to doctors is extremely difficult, which makes it impossible for the women who need to access the abortion service.[12] This barrier could be minimised if other health care workers, such as midwifery nurses were allowed to perform abortions. This would increase access due to the larger number of midwifery nurses in rural areas, particularly as the procedures are within their field of competence as set out in the provisions of the Nurses and Midwives Act.

14. Rural health centers have limited resources, hindering their efforts to support those with unwanted pregnancies. Investment is needed to provide adequate staffing, a range of abortion methods, appropriate equipment, pharmaceutical supplies, information, education and communication materials for the public.[13]
15. Currently safe abortion is available only at tertiary hospitals. There are a limited number of healthcare providers willing to provide the service and there is secrecy to provision. Women seeking safe abortion may struggle to find a willing provider. The alternative place where women can seek for the service at high cost are private clinics.
16. Advocacy is still needed to overcome information and knowledge barriers to safe abortion and to improve political will to act.[14]
17. Further barriers to access include:
    - Conscientious objections from medical professionals.
    - Public opposition to abortion on traditional and moral grounds, aside from specific exceptions. "I know that what I am doing is wrong and probably sinful, but I personally feel this is necessary. I wouldn't want people to make the same choices I have made in life. Abortion is wrong, but I have made choices that have required this".[15,16]
    - Lack of awareness of the legality of abortion.[17]
18. There have also been attempts to limit access. For instance, only low voter turnout prevented passage of a new Bill of Rights in 2016 which would have declared that "the right to life begins at conception." This followed growing influence of Christian groups at national policy level, resulting in Zambia being declared a Christian country in 1991 despite opposition from Muslim, Hindu, and some Christian groups, signaling the growing influence of religion on politics[18].

Related Policies

19. The Comprehensive Sexuality Education (CSE) Framework (2013) identified the need to reduce teenage pregnancies, and subsequently reduce the high number of illegal abortions. The Framework was to enable young people to engage in safer sexual practices. Furthermore, it aimed at equipping children and young people with knowledge, skills, attitudes and values that would empower them to realize their health, well-being and dignity; it enabled them to consider how their decisions impacted their physical and mental health and that of others; and ensured the protection of their rights throughout their lives. The Framework required teachers, of CSE, to be knowledgeable on the subject and possess the necessary skills to ensure that CSE was integrated into their subjects.

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[12] Longwe HS (2011) Identification of key Issues for improved sexual and Reproductive Health Services in Zambia. Longwe Clarke and Associates, Lusaka, Zambia.
[13] Ngoma, C., 2017. "Abortion Policy in Zambia: Implementation Challenges." JOJ Nursing & Health Care, 3(1).
[14] Fetters, T., Samandari, G., Djemo, P. et al. Moving from legality to reality: how medical abortion methods were introduced with implementation science in Zambia. Reprod Health 14, 26 (2017). https://doi.org/10.1186/s12978-017-0289-2
[15] Newafricadaily.com. 2021. *Abortion Rights in Zambia Increasingly Under Attack | NewAfricaDaily*. [online] Available at: <https://newafricadaily.com/abortion-rights-zambia-increasingly-under-attack> [Accessed 6 June 2021].
[16] Central Statistics Office. 2001. Zambia Demographic and Health Survey, Macro International Inc. Maryland
[17] Coast, E., & Murray, S. F. (2016). "These things are dangerous": understanding induced abortion trajectories in urban Zambia. Social Science & Medicine, 153, 201-209. https://www.sciencedirect.com/science/article/pii/S0277953616300806
[18] Haaland, M.E.S., Haukanes, H., Zulu, J.M. *et al.* Shaping the abortion policy – competing discourses on the Zambian termination of pregnancy act. *Int J Equity Health* **18**, 20 (2019). https://doi.org/10.1186/s12939-018-0908-8

20. To address such access to sexual reproductive health knowledge among children and young people, the Government of Zambia completed the development of a CSE curriculum and rolled it out to all schools in 2014, targeting 10–24 year olds in grades five to twelve. In 2015, a curriculum for out of school adolescents was developed and it was rolled out in 2016. CSE was included in the curriculum for the teacher training colleges and the implementation of CSE was integrated into Home Economics, Sciences, Social Studies, Civic Education, Religious Education, and languages.[19,20]
21. Also of relevance are the Zambian family planning Guidelines and Protocols (2016) Population Policy (2008), National Child Health Policy (2008), and Girl-Child Education Policy (1997); all legal instruments facilitating implementation of appropriate measures for the prevention of unintended and unwanted pregnancies.

Standards and Guidelines for Comprehensive Abortion Care in Zambia (2017)

22. This Policy sought to ensure that women prevented unwanted pregnancies and those with unwanted/unintended/risky pregnancies got appropriate services to prevent the occurrence of unsafe abortions and associated morbidity and mortality. The document was directed to health care providers, managers and policy makers involved in the provision of abortion related services. It contained guidance on what, how, by whom and in which facilities services could be provided.

Reproductive Health Policy (Draft)

23. This draft policy sought to incorporate safe pregnancy and postpartum care, safe abortion, family planning, adolescent health, STI/HIV/AIDS and gender issues, including a poverty reduction element. Some of the recommendations of the policy are concerned with access to safe abortion and adolescent policy issues which more accurately reflect their sexual health needs.

Key issues to be addressed

24. The evidence in this briefing identifies the need for:
    a. Action plans to fully implement policies to address unsafe abortions
    b. Reform of the law to remove unnecessary restrictions
    c. Investment in healthcare infrastructure to ensure access in rural areas
    d. Training of health professionals to provide abortions
    e. Increased access to contraception
    f. Increased training for and access to CSE
    g. Further research on the influence of religion on politics

Section B - Key legislative and policy publications concerning safe abortion in response to COVID-19 pandemic within the Zambian context

25. The emergency response following the Covid-19 pandemic diverted resources for sexual and reproductive health services. The Ministry of Health has recorded an increase in the number of maternal deaths, which could be attributed to an increase in home deliveries and/or delays in getting to health facilities due to fear of Covid-19, resulting in preventable complications and death.

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[19] Zulu, J.M., Blystad, A., Haaland, M.E.S. et al. Why teach sexuality education in school? Teacher discretion in implementing comprehensive sexuality education in rural Zambia. Int J Equity Health 18, 116 (2019). https://doi.org/10.1186/s12939-019-1023-1

[20] Parliament.gov.zm. 2021. [online] Available at: <https://www.parliament.gov.zm/sites/default/files/documents/committee_reports/Report-Local%20Governance%20-%202020.pdf> [Accessed 7 June 2021].

26. No further information has been published on the legislative and policy realignment on how the country seeks to deal with abortion care services after the Covid-19 pandemic as of June 2021.

Section C - Abortion Care During Covid

27. Interventions that enable pharmacies to work more closely with providers offering prescription and counselling services, for example, through telemedicine approaches or hotlines, could improve legal access to safe abortion care in Zambia[21]. However, this has not been utilised. The continuing nature of the pandemic could provide an impetus to rapidly deliver such regulatory or systemic change, since studies of other low-income countries are beginning to show that women's access to abortion in health facilities is even more restricted than before[22].
28. Information is scarce on the impact of the pandemic on SRH services. However, of note is the experience of one health professional engaging in a UNFPA humanitarian mission to Sioma District in Zambia, describing his experience of how the pandemic has affected health service delivery in his area, which covers a population of more than 7,000. He said, "We experienced low antenatal turn-up and coverage as many women avoided coming for antenatal care services in fear of contracting the virus. We also experienced low institutional deliveries as well as high rates of unsafe abortion."[23]
29. It is clear that there is a significant information gap on how SRH services have been impacted during the pandemic and in particular how this has impacted on abortion services.

[21] Endler, Margit, Antonella Lavelanet, Amanda Cleeve, Bela Ganatra, Rebecca Gomperts, & Kristina Gemzell-Danielsson. 2019. "Telemedicine for Medical Abortion: A Systematic Review." *BJOG: An International Journal of Obstetrics & Gynaecology* 126(9): 1094–1102.

[22] Riley, Taylor, Elizabeth Sully, Zara Ahmed, and Ann Biddlecom. 2020. "Estimates of the Potential Impact of the COVID-19 Pandemic on Sexual and Reproductive Health in Low- and Middle-Income Countries." *International Perspectives in Sexual and Reproductive Health* 46: 46.

[23] https://esaro.unfpa.org/en/news/midwife-inspired-health-workers-sick-child-goes-extra-mile-save%C2%A0pregnant-womens-lives-%C2%A0covid-19

Section D - Conclusion

30. In conclusion we have been hampered in our analysis by a distinct lack of information on how the Zambian government have responded to the pandemic and how SRH and abortion services have been impacted. Recommendations therefore are based on pre-pandemic conditions and evidence from other low-income countries.

Recommendations

31. Comprehensive relationship and sexuality education should be implemented across all education settings.
32. Investment is needed in the infrastructure of health services to address the SRH needs of the population.
33. Services via community providers such as pharmacists, as well as midlevel providers, must be maximized in order to increase access to safe abortion care and reducing costs of unsafe abortion.
34. Health providers require additional training to raise their knowledge of abortion laws.
35. Public awareness of abortion laws and rights must be increased, through awareness campaigns.
36. Evidence gathering is needed to assess the government response to COVID-19, and its impact on SRH services.

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