

# MINISTRY OF HOME AFFAIRS ZAMBIA POLICE SERVICE



PAPER  
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ON

POLICE AS PARTNERS IN PROMOTING ACCESS TO ABORTION IN  
ZAMBIA

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# SCOPE

- **1. INTRODUCTION**
- **2. ZAMBIA POLICE**
- **3. IPAS ZAMBIA AND ZAMBIA POLICE**
- **4. DEFINITIONS**
- **5. UNDERSTANDING THE PHENOMENA**
- **6. MYTHS AND MISCONCEPTIONS ABOUT ABORTION**
- **7. LEGAL FRAME WORK ON ABORTION IN ZAMBIA**
- **8. THE MAGNITUDE OF THE PROBLEM**
- **9. ZAMBIA'S RESPONSE TO ABORTION**
- **10. BARRIERS TO SAFE ABORTION**
- **11. POLITICAL WILL**
- **12. POLICE AS PARTNERS IN PROMOTING ACCESS TO ABORTION**
- **13. CONCLUSION**
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# INTRODUCTION

This paper highlights a number of issues on abortion in Zambia and the police as partners in promoting access to safe abortion. The paper will try to bring out salient issues about the Zambia Police, partnership between IPAS Zambia and the Zambia Police Service, Termination of Pregnancy in Zambia (Abortion), understanding the phenomena, the legal frame work on abortion in Zambia, the magnitude of the problem, Zambia's response to abortion, political will and police as partners in promoting access to abortion.

# ZAMBIA POLICE

When Northern Rhodesia became a republic of Zambia at independence in 1964, the police became the Zambia Police Force .The Zambia Police Force was brought into existence through the Zambia Police Act chapter 107 of the laws of Zambia. Part 2, section 5 of the Act clearly defines the roles and responsibilities of the police. The Zambia Police Service as it is now called is charged with the responsibility of maintaining law and order in all our communities country wide.

# **MISSION STATEMENT**

To prevent and detect crime, and enforce the law firmly and fairly in order to create a safe, secure and peaceful environment for social and economic development for all.

## **VISION**

To be "A professional and accountable Police Service that provides quality law enforcement services for a safer and secure Zambia

# IPAS ZAMBIA AND ZAMBIA POLICE

IPAS Zambia has for a long time partnered with the Zambia Police Service to conduct sensitisations and trainings in sexual and reproductive health rights with emphasis on understanding of the legal and policy frame work that governs sexual and reproductive health services in Zambia.

IPAS Zambia has so far trained all the police commissioners, District Officers commanding and Victim Support Officers of the Zambia police in reproductive health laws such as the Termination of Pregnancy Act of 1972.

With financial support from IPAS, Zambia Police just concluded the inclusion of the laws that govern the Termination of Pregnancy in the Zambia Police Training Curriculum.

# DEFINITIONS

Abortion is defined as the ending of a [pregnancy](#) by removing a [fetus](#) or [embryo](#) before it can [survive outside the uterus](#).

An abortion which occurs spontaneously is also known as a [miscarriage](#). An abortion may be caused purposely and is then called an [induced abortion](#), or less frequently, "induced miscarriage". The word abortion is often used to mean only induced abortions. A similar procedure after the fetus could potentially survive outside the womb is known as a "[late termination of pregnancy](#)".

# UNDERSTANDING THE PHENOMENA

- Unsafe abortion is a procedure for terminating an unintended pregnancy either by a person lacking the necessary skills or in an environment lacking the minimal medical standards or both. The 2009 Ministry of Health's Standards and Guidelines for reducing unsafe abortion morbidity and mortality in Zambia listed a number of consequences of unsafe abortions and reasons for the high number of unintended pregnancies, including:
- Incomplete abortions among women younger than 20 were estimated at 23 percent;
- 25 percent of maternal deaths due to induced abortions were in girls younger than 18;
- 50 percent of acute gynecological admissions were the result of abortion complications, a big proportion being from unsafe abortion;
- In 1993, over 16,000 maternal hospital admissions nationally were due to abortions performed in the communities by non-professionals;
- Unsafe abortions account for 30 percent of all maternal mortality;
- Insufficient knowledge about women's rights specifically those related to sexual and reproductive health;
- Stock-outs of reproductive products, such as family planning pills and condoms; and,
- There are often long distances to health care centers and a lack of youth-friendly services and a shortage of human resources

# **MYTHS AND MISCONCEPTIONS ABOUT ABORTION**

- **Safe abortion is a painful procedure. You will not be able to survive it.**
- **Men have no business in abortion issues- it is the concern of women and girls.**
- **The aborted 'baby' will turn into a 'monster' and the spirit will haunt that woman or her family.**
- **Easy access to safe abortion services encourages women and girls to be promiscuous.**

# LEGAL FRAME WORK ON ABORTION IN ZAMBIA

- Two pieces of legislation are important in understanding abortion provision in Zambia – namely the Termination of Pregnancy (TOP) Act, Chapter 304 of the Laws of Zambia and the Penal Code, Chapter 87 of the Laws of Zambia. However, the two have gaps and omissions that have, in some cases, encouraged women to risk unsafe abortions rather than seek safer options.
- Until 1972, the laws relating to abortion were contained in the Penal Code. Section 151 of the Penal Code provides that any person who, with intent to procure the miscarriage of a woman or female child, unlawfully administers to her or causes her to take any poison or other noxious thing or uses any force of any kind or uses any other means whatsoever, commits a felony and is liable upon conviction to imprisonment for a term not exceeding seven years. The Penal Code further stipulates that any woman who administers any poison or noxious thing or uses any force of any kind or uses any other means or permits the same to be done commits a felony and is liable to imprisonment for fourteen years. The Act even extends liability to people who supply to, or procure for, any person anything whatever knowing that it is intended to be unlawfully used to procure the miscarriage of a woman or female child and the punishment is imprisonment for fourteen years. This criminalized abortion, forces women to resort to unsafe and illegal termination of pregnancies.

# LEGAL FRAME WORK CONT'D

- Section 151 was amended in 2005 and now allows a pregnancy to be terminated in accordance with the Termination of Pregnancy Act when a female child is raped or defiled and becomes pregnant. This provision comes very close to that in Article 14 of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa. Unfortunately, this provision does not include pregnancies arising from incestuous relations, which effectively leaves women in that situation with no choice but to resort to unsafe and illegal abortions. Furthermore, while the amendment appears progressive, it only refers to girl children, and excludes women who need abortions after being raped.

# LEGAL FRAME WORK CONT'D

- In addition to the Penal Code, Zambia has had legislation on abortion since 1972 known as the Termination of Pregnancy (TOP) Act modeled upon that in the United Kingdom. The TOP Act entitles a woman to seek a termination of pregnancy on health and socio-economic grounds, when her own life and health, or the health of other members of her family, may be put at risk by the pregnancy, or when the foetus may be expected to be damaged or diseased. Therefore, Zambia's abortion law permits pregnancy termination on elective (socio-economic) and medical (health) grounds. The challenge with these provisions is that anything that is not deemed to be a socio-economic or health reason does not qualify as a justification for abortion. This does not give women full choice and control over their bodies.

# LEGAL FRAME WORK CONT'D

- Similarly, Zambia has several policies on the provision of reproductive health services that are designed to prevent unwanted and unintended pregnancies, such as the gender, population, education, reproductive health and national health policies. The most relevant are the national health policy, which addresses six key areas, including maternal and child health, family planning and HIV/AIDS/STDs, and the reproductive health policy, which raises issues related to adolescent sexual health, violence and the prevention of abortion.
- It is worth highlighting here that although these laws and policies are in place, not many Zambian women are aware of them. In some cases, women may know about the laws, but there are still challenges accessing the services for a number of reasons, some of which are highlighted later in this paper.

# THE MAGNITUDE OF THE PROBLEM

- Unsafe abortions remain a major concern and cause of maternal deaths in Zambia despite the existence of the Termination of Pregnancy Act No. 26 of 1972 and several other policies and guidelines that are intended to prevent unwanted and unintended pregnancies. While these are all regarded favorably by the people who know about them, the fact is that very few Zambians are aware of them. Therefore, it is shocking, but not surprising, that the 2006 University Teaching Hospital facility based data showed that unsafe abortions accounted for 30 percent of all maternal deaths in Zambia.
- Information on women who obtain abortions in Zambia generally comes from health care facilities. Women who induce abortions themselves or go to a lay provider and do not seek post abortion care at a hospital are therefore not included. A 1993–1994 study of four facilities in Zambia, found that an average patient seeking care for abortion was aged 24–26 and the mother of two children. Another study showed that women presenting at the University Teaching Hospital(Zambia) in 1990 with complications from unsafe abortions were generally 15–19 years old (60 percent), had some secondary education (55 percent), were unmarried (60 percent), had experienced no previous pregnancies (63 percent) and were students who wanted to continue their education (81 percent). The study found that compared with women who obtained legal abortions, women who opted for illegal procedures were older (55 percent were aged 20–29) and a higher proportion of them were mothers (71 percent had children).

# MAGNITUDE CONT'D

- women and girls from all sectors of society and this can be attributed to the non-availability of information on safe and legal abortion services.
- The challenge of unsafe abortions arises from a combination of factors such as age of sexual debut for females; teenage pregnancies; premarital sexual practices; early marriages; sexual violence against women; fragmentation of the family; media influence; and unmet needs of family. Meanwhile, Zambian women and girls continue to face a challenge to access safe and legal abortions due to provider bias, limited information among women and girls about the Termination of Pregnancy Act, legal requirements, the limited number of sites that perform the procedure, and social and religious sentiments against abortion – all of which lead an unknown number of women and girls to opt for unsafe and illegal abortions at the hands of untrained people in unsanitary and unsafe conditions.

# MAGNITUDE CONT'D

- National data on abortion in Zambia, which includes hospital records, offers some clues as to the incidence of safe and unsafe abortions. According to data from five major hospitals across Zambia, a total of 616 women obtained safe induced abortions between 2003-2008. In contrast, the number of women admitted to hospitals with abortion-related complications (including complications from spontaneous abortion) increased from about 5600 in 2003 to more than 10,000 in 2008 – and totalled 52,791 over the six years. In other words, about 85 times as many women were treated for abortion complications as underwent safe, legal abortions in those five key hospitals. At least half of reported complications were attributable to unsafe abortions. Increasing access to safe abortion would likely decrease the rate of complications and mortality attributable to abortion, a trend that has been noted in other countries, for instance in South Africa and Zambia.

# ZAMBIA'S RESPONSE TO ABORTION

In responding to the magnitude of the problem, Zambia has put in place a number of intervention measures. Some of the intervention measures put in place are ,developing of some policy documents and legal frame works to address the problem such as

- Reproductive Health Policy
- Standards and Guide lines on Safe Abortion
- Enactment of the TOP Act in 1972
- Documentation of cases
- Public Sensitisations programs
- Stake holder engagement

Zambia has one of the most liberal abortion laws in sub-Saharan Africa, allowing abortions to be carried out on broad health, as well as socioeconomic grounds. The Termination of Pregnancy Act of 1972 permits an abortion to be performed if three registered medical practitioners are of the opinion formed in good faith.

# BARRIERS TO SAFE ABORTION

- Although abortion is legal in Zambia, access to safe abortion services is severely limited as a result of provider biases, limited information among women about the TOP Act, legal requirements, the limited number of sites that perform the procedure, and social and religious sentiments against abortion. Since safe abortion is permissible in Zambia (again on condition), increasing access to safe abortion by reducing the number of doctors' signatures required and allowing mid-level providers to perform abortions would be both feasible and useful. To deliver on this, there is need for Zambia to have an effective and adequate healthcare delivery system, with sufficient personnel and resources to supply safe and timely services. This scenario is receiving a lot of attention from the policy makers and the government in general. Plans are underway to increase the numbers of service providers and health centers through repealing and amendments of legislations and policy documents on termination of pregnancy. To deliver quality abortion services the health care system should have adequate and trained staff, adequate and accessible health units, affordable services, clear guidelines, a range of abortion methods, appropriate equipment, pharmaceuticals and supplies, information, education and communication materials for the public, and be efficiently run.

# BARRIERS CONT'D

- In addition, the attitude of the personnel is critical. The Ministry of Health guidelines stipulate that health workers treat women who have undergone induced abortion in a sensitive and humane manner and inform women about the possibility of legal abortion. When the law is explained, many people think that requiring the consent of three doctors is unacceptable given the shortage of doctors in most parts of the country. Meanwhile, some express interest in being trained to provide legal abortions.
- However, some health care providers are personally uncomfortable with the issue of abortion or hold judgmental or conservative attitudes towards patients seeking abortions. Providers with negative and discriminatory attitudes towards women trying to terminate their pregnancies normally give women lower quality care. Providers' negative attitudes towards abortion and other types of sexual and reproductive health care may also affect adolescents disproportionately.
- The rural–urban divide is another dynamic that affects women's access to safe abortion, despite the legal and policy framework that is available. In rural areas, most health centers have serious staff and equipment shortages and are unable to provide a basic package of primary healthcare services or provide 24 hours coverage. Some rural health centers are inadequately staffed with no nurse or midwife and services are delivered by untrained staff. This has serious implications for access to safe abortion, especially if the untrained personnel have negative attitudes towards abortion.
- Even though the curriculum for midwives has been expanded in line with the Nurses and Midwives Act to enable them to provide essential reproductive health services, acquiring the skills needed to terminate a pregnancy is still optional for doctors at medical school. This is in line with the right of health care staff to conscientious objection. However, it also reflects the view that abortion is not a priority area and strengthens the belief that it is wrong, further stigmatizing and discouraging women from seeking legal abortion.
- Other major barriers to accessing safe abortion are administrative problems. Although the TOP Act permits pregnancy termination on health and socio-economic grounds, its implementation is hampered by stringent legal and

# BARRIERS CONT'D

- **administrative requirements and definitional issues. Whereas the World Health Organization defines health as a state of complete physical, mental and social wellbeing and not merely the absence of disease infirmity, the terms physical and mental health and reasonably foreseeable environment are not defined in the Act. It is thus unclear whether mental health includes psychological distress caused by rape or other sexual assault or detrimental socio-economic circumstances or diagnosis of fatal impairment, which leaves the current law subject to manipulation by those who may be opposed to abortion.**
- **The requirement that three medical practitioners must authorize an abortion also creates serious legal barriers to women's access to safe abortion. In rural areas where clinics are far away and may not even have three medical practitioners, this is a virtually impossible requirement to comply with. The requirement that one of the medical practitioners must be a specialist in the branch of medicine that the pregnant patient needs to be examined in – for example, mental or physical health – is another serious barrier. In particular, it is not clear how many mental health specialists are available in the country and where they are located, although mental health specialists are included in the minimum staffing requirements for primary health care delivery.**

# BARRIERS CONT'D

- **The law also restricts the cadre of workers allowed to perform abortions to registered medical practitioners – and gives medical practitioners the right to conscientious objection. It further restricts the kinds of facilities where abortion can be done to government run and approved hospitals.**
- **However, the stringent rules have been relaxed. The Nurses and Midwives Act was revised in 1997 to expand the range of health care providers who can terminate pregnancies to include nurses and midwives. The Standards and Guidelines for reducing unsafe abortion mortality and morbidity in Zambia also provides that where trained and registered medical practitioners are unavailable, the Permanent Secretary in the Ministry of Health shall make provision for all trained and skilled health providers to administer drugs for termination of pregnancy in accordance with the TOP Act and Midwives and Nurses Act. The guidelines further provide that with appropriate training, health care providers who are not doctors (mid-level providers) can provide first trimester abortions as safely as doctors can and that all the providers performing termination of pregnancies must receive training in the performance of abortions and in the preparation, recognition and management of complications.**

# BARRIERS CONT'D

- In line with the implementation guide for the place for termination of pregnancy, the guidelines provide that hospital means public health facility and or private clinic registered with the Medical Council of Zambia with adequate requirement to perform safe procedures (with trained personnel, equipment, supplies and with hygiene conditions.) However, the guidelines further provide that a termination of pregnancy can be carried out in any other 'place' regardless of level of care, or health facility, if the termination was an emergency one necessary to save the life or prevent grave permanent injury to the physical or mental health of the pregnant woman. But despite all these more lenient guidelines, only a very limited number of women can access safe abortion services.

# BARRIERS CONT'D

- It is also important to note that although Zambia has ratified a number of International and regional instruments that promote safe abortion, domestication of these instruments has not been a priority so recognizing abortion as a human rights issue has not yet acquired legal significance. For example, the Convention of the Rights of a Child has not been domesticated and therefore Article 3 of the Convention, which is very relevant to the issue of access to safe abortion for young girls, has not been implemented. And there is still no specific provision in Zambia to assist young girls to access safe abortions in hospitals. Instead, young girls opt for unsafe abortions because of the fear that their parents will be informed and asked to give their consent. This scenario however will soon change as a lot of intervention measures are being put in place.

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# POLITICAL WILL

- Abortion and post-abortion care do appear to be government priority in Zambia. In 1994, Zambia produced an Integrated Reproductive Health (**IRH**) package. Although the focus was on safe motherhood, the **IRH** plan of action did include the production of information, education and communication (**IEC**) materials on unsafe abortion. Abortion services and post-abortion care were among the services envisaged for the community, health post and health centre packages. Post-abortion care services were incorporated into the district and provincial health packages.

# POLITICAL WILL CONT'D

- In the 2000-2005 Intergrated Reproductive Health( **IRH**) action plan, even though one of the specific objectives was the provision of quality reproductive health care services, there was an activity in the work plan relating to safe abortion on the implementation of the Nurses and Midwives Act.
- And even though the Integrated Reproductive Health package plan of action indicated that Information, Education and Communication materials on unsafe abortions would be produced, this information is not available in local languages. Therefore, only a few women and girls are aware of the dangers of unsafe abortion or the provisions of the TOP Act.

# **POLICE AS PARTNERS IN PROMOTING ACCESS TO ABORTION.**

- **While the police have a responsibility for public safety and security and for enforcing the law, they also play a key role in promoting public health and human rights. Police do serve as key partners in promoting public health and human rights particularly given the recent trends of increased community involvement through community policing models. Police do refer women to safe providers or trained health professionals who can provide care for complications of unsafe abortion. Police also do educate communities about laws and dangers of abortion from unsafe providers.**
- **Police officers can be important allies in efforts to improve women's access to safe abortion care.**
- **Even in countries where abortion is legal, a woman's ability to get an abortion may depend on the response of police.**
- **Police may harass, bribe or arrest women or girls who are seeking services or they may arrest the health professionals providing the care.**

# POLICE AS PARTNERS CON'D

- **Laws that criminalize abortion presume that the threat of arrest or imprisonment will prevent women from having abortions. The reality is women and girls will always need abortion. But criminal abortion laws do little to reduce the number of abortions, if anything; they just make abortion more likely to be unsafe. Ultimately, criminal abortion laws do grave harm to women's health and human rights and further stigmatize abortion, a safe and common medical procedure. Laws should not be used to scare, shame or imprison a woman for ending a pregnancy. In Zambia, the government is making efforts to repeal laws to conform to the minimum acceptable standards.**
- **In Zambia, Lombe Kamukoshi, the Central Province Commissioner of Police, recently spoke to the media about the important abortion issues police learned about in Ipas trainings. "When police are more informed about the legal status of abortion, it will ultimately contribute to women seeking out safe, legal care, rather than clandestine, unsafe services", she said.**
- **"As police officers, we have pursued [abortion providers] without understanding their role," Kamukoshi said. "This has discouraged most of the doctors in helping out for fear of being arrested. This in turn has forced women to seek services in secretive places where their lives end up being lost and this can be prevented."**

# POLICE AS PARTNERS CON'D

- **Through pre-service and in-service training, police and cadets have gained a better understanding of women who seek abortion and the legal and human rights framework for abortion services. Police then identify their own role in promoting abortion access as a matter of health and human rights. Officers go on to educate communities about abortion, refer women to abortion providers, or even speak out on the need to reform laws.**
- **Most of the Police Officers in Zambia are well equipped with knowledge on sexual reproductive health issues and are using the knowledge gained to promote easy access to reproductive health services with a bias towards abortion.**
- **Abortion is in the criminal law in many countries Zambia inclusive. Because abortion is criminalized, police can use the law to scare, shame or imprison women and girls seeking abortion or those who help in ending the pregnancy.**
- **In many instances, police have harassed, bribed and arrested women who seek abortion and the health workers, family members or other individuals who help those women and girls.**

# POLICE AS PARTNERS CON'D

- **Police may be the only law officials involved in a particular case as incidents involving abortion and the police often do not reach lawyers or courts. As authority figures, police can also perpetuate misconceptions about the law and may not understand the legal difference between post abortion and safe abortion services.**
- **Police can also reinforce abortion stigma which is a major contributor to the social legal and medical marginalization of abortion worldwide. Stigma in itself limits access to safe abortion. Because of the stigma that may be perpetuated by police action or inaction, health professionals may be reluctant to provide services and women and girls may be reluctant to seek the health care they need.**
- **With information, police gain professional development skills, following the trainings by IPAS to police officers. Police in Zambia have taken steps to improve abortion access through the knowledge gained. There is a strong link between police stations and health facilities which is resulting in additional referrals to health facilities.**
- **As one of the three pillars of criminal justice system, the police have a primary responsibility of law enforcement. With the shift by police from the traditional way of policing to community policing, with a lot of collaboration with agencies, police in Zambia have become tools of improving lives and connect people to services, including health care.**
- **With the inclusion of the reproductive health (Termination of Pregnancy Act) in the Zambia Police training curriculum, with the financial support from IPAS, it is envisage that all police officers in Zambia will be equipped with the information and be able to promote access to safe abortion services to the communities they save.**

# CONCLUSION

**Much as unsafe abortion is a public health issue in Zambia, it is also a human rights issue, and can be better addressed by conducting a human rights needs assessment, which would involve assessing the scope, causes, and consequences of unsafe abortion in particular communities and nationally. The assessment should identify laws, including the language of enacted laws and the decisions of the courts, and the policies of the government, health care facilities, and other influential agencies, which facilitate or obstruct the availability of, and access to, abortion services. The extent to which laws that would facilitate access are actually implemented or how they might be should be determined.**

**Laws and policies that limit women's autonomy and choice regarding their health in general and abortions in particular should also be identified, along with laws that facilitate women's empowerment, and laws that obstruct such empowerment. Only then can we begin to talk of Zambia creating a progressive environment that allows for women and girls to fully enjoy reproductive health, including abortion.**