REPORT OF THE COMMUNITY AND POLICY DIALOGUE ON UNSAFE ABORTION IN KENYA

The Center for Reproductive Rights in partnership with the National Gender and Equality Commission (NGEC), the Kenya National Commission on Human Rights (KNCHR) and the Kenya Parliamentary Human Rights Association (KEPHRA) convened a Community and Policy Dialogue on Unsafe Abortion in Kenya on 19th and 20th May 2016. The dialogue, held in Nairobi, brought together 150 participants including women from six informal settlements in Nairobi[1], policy makers and implementers, medical and legal practitioners and civil society representatives to deliberate on and design strategies to counter the legal, policy, practical and socio-economic challenges to addressing unsafe abortion in Kenya.

Below is an outline of discussions and key recommendations emerging from the convening.

A. Themes on Unsafe Abortion Emerging from Stories from the Communities

i. **Circumstances that lead to unwanted pregnancy** :Rape, inability to negotiate protected/safe sex, stigma associated with single motherhood, unemployment, where women were in living in situations of violence and fear, school age girls who got pregnant, failed contraceptives, husbands/boyfriends insisting on terminations, husbands/boyfriends refusing to use contraception, myths about breast feeding, misplaced resources, religion, lack of access to family planning, or information on family planning.

ii. **Methods used to procure unsafe abortion:** plants, using the morning after pill for termination by taking double the dose, white vinegar, bleach, sticks, knitting needles, seeing traditional doctors, going to unregistered clinics, most advice on procuring unsafe abortions was obtained from friends, relatives, or spouse and often resulted in long term health and mental complications or death from the use of crude tools and improper care.

iii. **Reasons for seeking unsafe abortions** perception that abortion is illegal in Kenya**,** prohibitive costs of Kshs. 6000 for safe abortion services, treatment in the facilities particularly for young and unwed women, lack of confidentiality, stigma associated with procuring an abortion, harassment and arrests of women who are accused of procuring abortion.

[1] Kibera, Mukuru, Majengo, Kariobangi North, Mathare and Kiambu

B. Emerging Themes from Policy Makers and Implementers:

i. Kenya Medical Practitioners and Dentists Board (KMPDB)

Challenges:

- Strong division between practitioners willing to perform abortions and those that refuse to perform abortions for cultural and religious reasons.
- Perceived grey areas on the Kenya abortion laws, lack of clear laws on abortion ties KMPDB's hands with regards to advising practitioners on whether or not to perform abortions
- Confusion amongst practitioners regarding the legality of abortion, interpretation of legality is often left to the discretion of the practitioner who can then chose whether or not to perform an abortion.
- KMPDB is not mandated to prosecute 'quacks', there is rarely proper follow up by the authorities.
- Lack of ongoing training on safe abortion means practitioners are out of touch with advancements in the field of medical abortions and are therefore a danger to women.
- Failure to budget for contraception or even prioritize reproductive health the national budgetary process.
- Inadequate facilities, KMPDB oversees 10,000 medical facilities however has limited staff and is therefore unable to perform its accountability role adequately.

Recommendations

- Developed of laws to provide clarity on article 26 (4) of the constitution
- Reinstatement of/development of standards and guidelines on abortion
- Education for medical practitioners on patient's rights with regards to abortion

ii. Legislators

Challenges

- Strong campaigns by religious bodies against contraceptives and abortion to and within the national assembly
- The bias religious and cultural bias in parliament
- Party politics
- Lack of knowledge of the topic
- The reproductive health bill (naming issue)
- When life begins remains a controversial issue
- Terminations done by unqualified person done in an unhygienic place

Recommendations

- Creating awareness on safe abortion outside Nairobi/the need for community dialogues outside Nairobi
- The need for more Community Dialogues as a method of advocacy to change mind sets of legislators at county and sub county level
- Petition to have the Standards and Guidelines reinstated should be brought to the national assembly as the parliament has ability to summon the Cabinet Secretary on the withdrawal on of the Standards and Guidelines.
- There is a need for the legislature to give life to the Constitution 26 (4) to remove ambiguity with regards to the legality of abortion.
- Educate parliamentarians on the issues surrounding unsafe abortion.
- Development of policy guidelines on reproductive rights – to inform the legislation that is going to be made,
- Penal code reform is necessary particularly with regards to abortion to align it to the Article 26 (4)

iii. Article 59 Commissions: National Gender and Equality Commission (NGEC) & Kenya National Commission on Human Right (KNCHR),

Issues

- Standards and Guidelines on safe abortion do exist however they have revoked by the Ministry of health there is currently ongoing litigation to compel the Director of Medical Service to reinstate the S&Gs
- NGEC is currently working on standards on the health including reproductive rights
- There is currently a reproductive health bill on the floor of the senate, several amendments suggested, and suggestion of the bill being withdrawn have been made, there is skepticism that the bill will pass in before the elections

Recommendations

- Public enquiry on SRHR in Kenya by NGEC or KNCHR

iv. Civil Society Organizations: Trust for Indigenous Culture and Health (TICAH)

Challenges

- *Widespread impression that abortion is illegal. This results in pushing abortion underground, raising cost, making it more dangerous.*

Recommendation

- *Education on legality of abortion, information regarding the safe abortion options.*
- *Hotline on safe reproductive services 0727101919.*

C. AREAS FOR ACTION:

Health Bill (2015)	• Health Bill does not align to the Constitutional provisions on abortion • The Ministry of Health (MoH) is not prepared to use human rights language, informed consent, confidentiality, which will affect women's ability to legally access safe abortion services
Standards and guidelines for reducing morbidity and mortality from unsafe abortion (S&Gs)	• If the guidelines are broadly interpreted then there will be access to widespread safe termination • However the S&Gs were withdrawn by the Director of Medical Services by way of memo • However recent changes at the MoH may provide an opportunity to advocate for their reinstatement
Reproductive Health Care Bill (2014)	• The Bill provides a framework for the protection and advancement of reproductive and health rights for the women. However the Bill has been the subject of several revisions and amendments particularly with regards to section 6Revisions to the reproductive health bill and particularly with regards to section 6, the need for more advocacy around the bills and policies

D. ACTION POINTS

Action	Things to Note	Responsibility
1. *Sharing the Health Bill with Partners*	*There is likely to be a call for public participation in June or July*	*KELIN*
2. *Individual Submissions when call for public participation is made on the Health Bill*		*All CSOs (KELIN/CRR can lead)*
3. *Preparing the MPs for when the Health Bill appears before parliament*		*Not assigned*
4. *Reproductive Health Care Bill*	**Timeline for the enactment of the bill is short given the elections* ** The bill has stagnated in the senate* **however it is possible for the bill to originate in both houses*	*Not assigned*

	and for MPs to start moving it in the National assembly	
5. *Advocacy Taskforce to lead on messaging and follow up*		*(PHR, NGEC, IPAS, HIVOS, KELIN, Katiba, TICAH, KNHCR, BLWM) Final Taskforce leadership: CRR, IPAS, KELIN, Article 59 (advisory*
6. *Engagement with the Ministry of Health on reinstatement of the S&Gs*		*TICAH*
7. *Write advisory to the Cabinet Secretary for Health on the need to reinstatement the S&Gs*		*NGEC*
8. *Mobilize parliament at least 40 MPs to engage in the reproductive rights discourse*	*Petitions in parliament with clear prayers, could potentially move reproductive health bills & S&Gs forward*	*KEPHRA (Hon. Ameso and Ken)*
9. *Community Engagement - young women, schools, social media*		*HIVOs, TICAH, YWLI*
10. *Engage the editors on language and the effect of poor reporting on reproductive rights*		*CRR, TICAH, IPAS, AWCFS*
Engagement with KOGs & KMPDB on S&Gs and training practioners on safe abortion	**Conservative board, therefore would prefer a more conservative approach to issues of abortion*	*KMPDB, KOGS (Dr. Bosire), Kenya Medial Association (Dr, Nayame)*
11. *Engagement of artist, art and celebrities*	**Consider how this would happen* **Consider Community groups Campaigns* **Survivors as celebrities*	*TICAH, BLWM*
12. *Collating evidence on reproductive rights, releasing a report on the cost of unsafe of abortion to the women, to the community, and to the health care system (Date: 1 July)*		*Africa Population Health Research Center (APHRC)*