

Religion, Ethics and Public Health: Access to safe abortions in Kenya

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“Don't allow rape victims to abort, says Catholic doctors

The Catholic Doctors Association has defended the church's stand on abortion, arguing that women who conceive after being raped should not abort. The doctors further argue that abortion should not be allowed, even in emergency situations where the mother's life is in danger. Stephen Kimotho Karanja told a five-judge bench of the High Court that the only way to help a rape victim was to punish the rapist.

“A woman who has been raped and impregnated has been dangerously humiliated and you cannot humiliate her again by subjecting her to abortion, which is like a second rape. You cannot kill the baby because the father is a rapist or punish a child because of the rapist father's sins,” said Dr Karanja.”(1)

This was reported by *The Standard* (a Kenyan daily newspaper) on 6th December 2018. Dr Karanja was appearing as an expert witness in a court case filed by the Federation of Women Lawyers (FIDA-Kenya), Centre for Reproductive Rights and three women who are seeking orders to compel the government through the Ministry of Health to publish guidelines on safe abortion with an aim to protect the reproductive rights of girls and women in Kenya.(1) This was barely three weeks after the government, through the Medical Practitioners' and Dentists' Board (MPDB) banned Marie Stopes International (MSI) Kenya from “providing any form of abortion services and advertising their services” which includes “messages about confidential assistance to pregnant women in distress” on any media platform.(2) This move is seen as unconstitutional and detrimental by women's and sexual and reproductive health (SRH) campaigners, leading to the court case where Dr Karanja testified.(3,4)

Abortion has been a contentious issue in Kenya for a long time. It was one of the main controversies considered during the revision of the Constitution of Kenya which was adopted in August 2010. Article 26 of the Constitution states that “life begins at conception” and “abortion is not permitted unless, in the opinion of a trained health professional, there is need for emergency treatment, or the life or health of the mother is in danger, or if permitted by any other written law”. Article 43 states that “every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care” and that “a person shall not be denied emergency medical treatment”.(5) Despite this, there were an estimated 465,000 induced abortions in Kenya in 2012 (about 48 per 100,000 women aged 15 to 49 years) as a result of unintended

pregnancies. Many of these were unsafe abortions.(6,7) The World Health Organization (WHO) defines unsafe abortion as that which “occurs when a pregnancy is terminated either by persons lacking the necessary skills or in an environment that does not conform to minimal medical standards, or both”.(8) The direct costs (i.e. medical supplies, equipment and personnel) of treating complications of unsafe abortions in public health facilities in Kenya ran to about US\$ 5.1 million in 2012. This figure does not include the cost of long-term morbidity (adjusted quality of life due to post-abortion infections, infertility, mental anguish and others) and mortality attributable to unsafe abortions.(9) About 2,600 women of reproductive and economically-productive age die annually as a result of unsafe abortions.(7,10,11)

Religion in Kenya is a complicated concept and practice. Both Christianity and Islam were introduced by colonialists and conquerors, with colonialists using the gun to subdue the indigenous communities, while using the Bible and secular education to make them subservient.(12) About 97.5% of Kenyans identify themselves as religious, with about 80% identifying as Christians and about 12% as Muslim.(13) Although Kenya is a secular state, the Constitution recognises the sovereignty of God and gives Him precedence.(5) As such, principles of ethics in Law are largely based on religious precepts.(12,14) However, on a personal level, the practice of these religious precepts varies greatly among the citizens. Ethics is defined as a set of principles that is accepted by a given community as right. In healthcare, ethics helps medical professionals handle the moral dilemmas of everyday medical practice.(15)

Religious organisations have been involved in the provision of healthcare in Kenya since colonial times. Presently, health facilities supported by Christian organisations are under the umbrella organisations Christian Health Association of Kenya (CHAK) and the Kenya Episcopal Conference (KEC) for Protestant and Roman Catholic sponsored facilities respectively. Together, they support about 15% of all health facilities in Kenya and account for about 40% of all healthcare services provided in the country.(12,16,17) These facilities are vital in providing access to quality healthcare for some marginalised communities and are also involved in preventive activities including immunisation, malaria prevention, antenatal care and provision of free maternity services. Of utmost concern is the extent to which they abide by the principles of their parent religious organisations on matters concerning provision of SRH services, like family planning, HIV testing for key populations, and abortion and post-abortion care. There have been reports of patients being denied emergency contraception as part of post-rape care, and emergency evacuation for incomplete abortions at Catholic sponsored facilities. Refusal by the Catholic sponsored

health facilities and schools to participate in national immunisation programmes aimed at reducing the incidence of neonatal tetanus by vaccinating women of reproductive age is well documented.(18,19) All this is done in the name of abiding by the rules and regulations of the Catholic Church, which by extension govern the health facilities that they own and sponsor.

According to the Kenya Demographic and Health Survey (KDHS) 2014, about 18% of teenage girls have begun childbearing before their 18th birthday, with 15% having had their sexual debut before 15 years of age.(20) With the prevailing legal and societal morality codes, which also hinder access to sex education and information about safe sex for adolescents, it is no wonder that these vulnerable young women are exploited by unscrupulous health professionals, who provide them with abortion services.(2) However, many of these are ill-qualified and ill-equipped to provide safe abortions, resulting in complications and sometimes deaths. It is this situation that creates the need for organisations such as MSI, who provide a safe space and, according to their website, “provide access to a wide range of SRH services like family planning, crisis pregnancy counselling, pre- and post-natal care, post-abortion care, voluntary counselling and testing for HIV, and cervical cancer screening”.(21) With the current ban being enforced, many people fear that girls and women from the lower socioeconomic classes will suffer the consequences of unsafe abortions, while the rich can afford to pay premium prices to access safe abortions services at private hospitals and clinics. (1,2,4,22)

As several policy documents and women’s rights activists state, it is of paramount importance to create policies that continue to promote life and health of all members of society, including girls and young women who find themselves in difficult situations. While the life of the unborn baby is important, the life of the mother should also be put into consideration.(6,8–10) It should not be acceptable for health providers and healthcare professionals to impose their own beliefs on the patients under their care. It should not be acceptable, as proposed by Dr Karanja and the KCDA, that a woman who has been raped and gets pregnant is coerced to carry that pregnancy to term and deliver the baby so as to preserve the baby’s life, as though her own physical and mental health are not important.(1) Both secular and religious views are important in the provision of healthcare to the community and should be respected.(17) In this case, a middle ground should be found where both the woman and the unborn baby are considered. Such women should have access to proper counselling which allows them to make informed decisions. As it stands currently, there are no established policies on giving up babies for adoption and the adoption process has been described as a quagmire. The safe abortion care guidelines that have

been prepared by the Ministry of Health are yet to be published. Yet the costs of dealing with complications of unsafe abortion are too high and subsequently impact negatively on other areas of healthcare provision. In view of the public health implications of such spending, the provisions of the Constitution, and the responsibility of doing the maximal good while preserving and promoting health in the society, it is imperative that the Ministry of Health publish the safe abortion care guidelines as a measure to preserve the lives girls and women who account for half of the country's population and have the right to live the best life possible.

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