



Education, Empowerment and Access to Justice for Women and Girls

Criminalisation of Abortion in Sierra Leone - Women's Lives at Risk

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BACKGROUND

The Safe Abortion Act 2015 was passed by Parliament in December 2015 but is yet to be signed into law by the President due to concerns by religious leaders in Sierra Leone. The President has referred the bill back to Parliament for discussion with stakeholders.

Many of the debates so far in Sierra Leone against this law come from a moral or theoretical perspective. There has been little consideration about how the current law actually impacts women and their experiences of the justice system.

Sierra Leone has one of the highest maternal mortality rates in the world. World Health Organization data shows the 2015 maternal mortality ratio in Sierra Leone is an alarming 1,360 deaths per 100,000 live births.¹ Unsafe abortions — often resulting from restrictive laws and poor access to sexual and reproductive health services, information, and education — is one of the main factors contributing to maternal deaths in Sierra Leone.²

The existing Offences Against the Person Act of 1861 criminalizes abortion, possibly except in cases where the woman or girl's life is at risk.³ The existing law denies legal abortions in all other cases, forcing women and girls to carry on unwanted pregnancies, or to resort to an illegal abortion. Illegal abortions—often performed in clandestine, unsafe conditions by unqualified practitioners – may have serious short and long-term health effects and often result in injury, disability or death. The current multiple restrictions on abortion can mean that even those women and girls who might qualify for a legal abortion may not be able to find a healthcare provider who is willing to provide one.

¹ World Health Organization, *Sierra Leone statistics summary (2002 - present)*

<http://apps.who.int/gho/data/node.country.country-SLE> (accessed 1 February 2016)

² United Nations Office of the High Commissioner for Human Rights (OHCHR), *UN and African experts urge Sierra Leone's President to save millions of women's lives by signing the 2015 Safe Abortion Bill* Press Release. 28 January 2016

³ Center for Reproductive Rights, Letter to CEDAW Secretariat (OHCHR), *Re: Supplementary Information on Sierra Leone, scheduled for review by the U.N. Committee on the Elimination of Discrimination against Women during its 57th Session (February 2014)*. 24 January 2014

CASES OF WOMEN DETAINED

Over its 10-years of operation, AdvocAid has provided legal aid through its Paralegals and Lawyers, to women who have been arrested under section 58 of the Offences Against the Person's Act 1861⁴ and for murder/manslaughter.

Below is a selection of cases, starting from as far back as 2007, where women and girls have been arrested, charged or, in two instances, convicted for having an abortion or providing abortion services that have resulted in the death of the woman. All of the names of the women have been changed to protect their identities.

JENNEH'S STORY

Jenneh was accused of aborting her five-month old pregnancy. The report was made by her boyfriend to the police in the South Eastern region of Sierra Leone in September 2015. He alleged that Jenneh had initially told him she was pregnant, but four months later, she stated that she was not. Jenneh was detained at the police station. After all necessary investigations it was confirmed that Jenneh had not been pregnant. AdvocAid's Paralegal advocated for her to be bailed and it was granted. The family then had to negotiate with the boyfriend to return all costs spent by him on the purported pregnancy. Jenneh was granted police bail, and the case was eventually disposed of.

LILLY'S STORY

In August 2015 in the South East region of Sierra Leone, Lilly, a 16-year-old schoolgirl, was arrested for allegedly causing the death of her friend, a young girl who was five months pregnant.

The girl was allegedly given medicine by Lilly and the medicine caused the girl to abort her pregnancy and later the girl also died. Our Paralegal spoke to the investigating officer and made the case for bail but it was not granted. Lily spent close to a month in custody before she was finally released, after advice from the State Counsel.

YEBU'S STORY

Yebu is a traditional birth attendant, who was arrested in December 2014, in Freetown, for providing abortion services to a lady who became seriously ill after the abortion. Yebu was later released from police custody, and left for the provinces.

JATTU'S STORY

This case happened in November 2014, in Sierra Leone's Western Rural district. Jattu is a petty trader - one day she travelled outside of the Western Rural Area to get products for sale and in her absence her neighbor reported Jattu's daughter-in-law for having committed an abortion in the house. Jattu was arrested as a co-suspect and taken to the police station. AdvocAid's Paralegal quickly engaged with all parties on the matter - he talked to the police, complainant and the suspect party and eventually a compromise was reached and the matter settled, without it being charged to court. Jattu was released from police custody.

⁴ Section 58 is entitled "Administering drugs or using instruments to procure an abortion"

MARIAMA'S STORY

This case occurred in December 2012 in the East End of Sierra Leone's capital, Freetown. Mariama is a midwife and a woman came to her for an abortion, but she later died. Mariama was charged with manslaughter and a preliminary investigation took place at the Magistrates Court. Mariama was put on bail – eventually, her matter was discharged by the court, for lack of prosecution as the relatives decided to drop the matter.

SALLY'S STORY

Sally was arrested in December 2013 in Sierra Leone's Western Rural District. Sally is a traditional birth attendant, who assisted a girl to get an abortion. The girl was taken ill following this, and Sally was arrested. Sally was later bailed and released from police custody a few weeks later, after the girl recovered.

JOAN'S STORY

Joan is a nurse who was convicted in July 2009 of the manslaughter of a young schoolgirl, who allegedly came to her for abortion services in March 2009 but who later died. Joan was sentenced to 6-years imprisonment in the High Court. She denies the allegation and the autopsy report was inconclusive to show that Joan's actions led to the death of the schoolgirl. She has now served her prison sentence. AdvocAid attempted to lodge an appeal for Joan but her High Court file was missing and by the time the matter was ready for hearing, Joan had served her sentence.

SEDIA'S STORY

Sedia is a nurse who was convicted in October 2007 of the manslaughter of a schoolgirl who had come to seek her assistance for an abortion in July 2006. Sedia states that the schoolgirl was accompanied by her boyfriend, after the schoolgirl had already sought to have an abortion through traditional medicine, but she began to experience complications. Sedia was found guilty and has now served her eight-year sentence.

CONCLUSION AND RECOMMENDATIONS

The above cases clearly show the harmful impact of the outdated current law which criminalises abortion and the risks that young women are taking to obtain abortion services. They also demonstrate the negative impact on traditional birth attendants and nurses who try and assist these women without the necessary medical support, or in circumstances where the woman is having complications after other attempts at procuring an abortion.

In November 2015, 838 doctors, midwives and health professionals from 44 countries signed an open letter calling on governments to stop interfering with health professionals' ability to provide care, warning that criminalising abortion puts women and girls' health and lives at risk. The letter states that the criminalisation of abortion prevents healthcare providers from delivering timely, medically indicated care in accordance with their patients' wishes. It impedes and disregards sound medical

judgment and can undermine the professional duty of care and confidentiality that doctors bear towards their patients.⁵

Sierra Leone's current legal restrictions on abortion contravene numerous international and regional commitments the country has made, including through the ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. That protocol requires states to take all appropriate measures to protect the reproductive rights of women and girls, including by authorising abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the woman or the life of the woman or the fetus. In January 2016, the African Commission on Human and People's Rights launched a continent wide campaign for the decriminalisation of abortion.⁶

AdvocAid joins many other international and Sierra Leonean civil society organisations as well as experts from the United Nations and African Commission on Human and People's Rights⁷, in urging the President to sign the Safe Abortion Bill into law in order to enhance the rights of Sierra Leoneans and prevent needless deaths.

For further information about AdvocAid, please visit www.advocaidsl.org.

⁵ <https://www.amnesty.org/en/latest/news/2015/11/abortion-is-not-a-crime-doctors-warn-governments/>

⁶ <http://www.achpr.org/press/2016/01/d287/>

⁷ See for example, letter by Human Rights Watch, Amnesty International, 50/50, AdvocAid, CARL and IPAS Sierra Leone: <https://www.amnesty.org/en/documents/afr51/3391/2016/en/> as well as letter by several United Nations and African Commission on Human and People's Rights experts: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16994&LangID=E