

DESK REVIEW OF SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS LAWS AND POLICIES THAT REFERENCE ABORTION IN KADUNA STATE

Kaduna State is one of the northern states of Nigeria with its location in the North-West geopolitical zone of the country. The state has recorded a significant progress in their health sector in recent times. The state currently has over 1,000 primary healthcare facilities dispersed across the state. Among other duties, these facilities also cater for the sexual and reproductive health of the Kaduna residents.

A recent advocacy visit, to Kaduna in March 2020 enabled our team to interact with some of the residents of the state on sexual and reproductive health and rights issues with special focus on abortion. We learned that in some parts of the state, young girls are forced into unwanted marriages which exposes them to unplanned/unintended pregnancies and then unsafe abortion in many cases. In 2017, UNFPA in a report, pointed out forced and unwanted marriages as a driver of unsafe abortion, STIs and HIV/AIDS among young girls. The prevalence of early marriage is on the increase in Nigeria with more than 80% of married adolescent girls that gave birth in an unhygienic, poor condition and uneducated (Erulkar and Bello, 2007). Inadequate awareness and resistant behaviour towards knowledge and acceptance of contraceptive methods in parts of the state also contribute to childhood marriages and pregnancy which is a driver of unsafe abortion.

From our interactions with respondents, marriages before age 18 happen in the state, mostly in the rural part of the state. Rahman et al. (2009) is of the view that pregnancy before the age of 20 can lead to maternal mortality and infant mortality and morbidity.

World Health Organization defines sexual and reproductive health as, a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters and process (WHO, 2017).

Sexual reproductive health have components of: ‘Safe motherhood, family planning, prevention and management of infertility, abortion, and STI, and HIV/AIDS, promotion of healthy sexual maturation, elimination of harmful practices like female genital mutilation, child marriage, gender violence against women, and management of non-infectious reproductive system conditions like genital fistula, cervical cancer and health problems associated with menopause (FMoH, 2013).

The benefits of SRHR to man cannot be overemphasized as a critical component of fundamental human right, promoting freedom of sexuality. According to a statement by Amnesty International, accessibility to health information and sexuality rights are basic human

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obligations. These rights provide for free sexual violence, healthy timing and spacing of pregnancy and being free from all forms of discrimination and torture.

Religion

There are two main religions in Kaduna State; Christianity and Islam. The Christian religious people in the state see abortion and some other sexual and reproductive health topics as against their religion. For the Muslims, sexual and reproductive health and rights have a bias based on morality and tradition. Islam opposes the practice of abortion and any form of family planning.

Culture

In some of the villages in Kaduna State (Adara, Sanga, Kaje), abortion is a taboo. In these places, it is seen as absurd to openly discuss issues of sexual and reproductive health and rights which has led to lack of information on sexual and reproductive health and rights for inhabitants of the area. Our findings show that cultural factors are vital in determining the core activities of sexuality.

Healthcare

Kaduna state exercises the provision of the law to terminate pregnancies to save the life of the pregnant person; like in cases of an ectopic pregnancy.

An interaction with a health worker in the state revealed that people procure sex-selective abortion services where a pregnancy is terminated based on the desired gender of foetus the pregnant person or expectant family.

Also, the state has good facilities that medically take care of victims of rape and abuse. This care may involve the termination or prevention of any growth in the uterus as a result of rape/abuse.

Nevertheless, Kaduna State is guided and abides by the Penal Code provision for abortion in the Nigerian Law. The Penal Code can be found in Sections 232, 233, 234, 235 and 236 of the Laws of the Federal Republic of Nigeria. This is what is contained in the Penal Code:

Section 232: Causing miscarriage.

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Whoever voluntarily causes a woman with child to miscarry shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.

Section 233: Death caused by act done with intent to cause miscarriage.

Whoever with intent to cause the miscarriage of a woman whether with child or not does any act which causes the death of such woman, shall be punished-

(a) With imprisonment for a term which may extend to fourteen years and shall also be liable to fine, and

(b) If the act is done without the consent of the woman, with imprisonment for life or for any less term and shall also be liable to fine.

Section 234: Causing miscarriage unintentionally.

Whoever uses force on any woman and thereby unintentionally causes her to miscarry, shall be punished-

(a) With imprisonment for a term which may extend to three years or with fine or with both, and

(b) If the offender knew that the woman was with child, he shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

Section 235: Act done with intent to prevent child being born alive or to cause it to die after birth.

Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth and does by such act prevent that child from being born alive or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.

Section 236: Causing death of quick unborn child by act amounting to culpable homicide.

Whoever does any act in such circumstances that, if he thereby caused death, he will be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment for life or for a less term and shall also be liable to fine.

Key Points/Recommendations

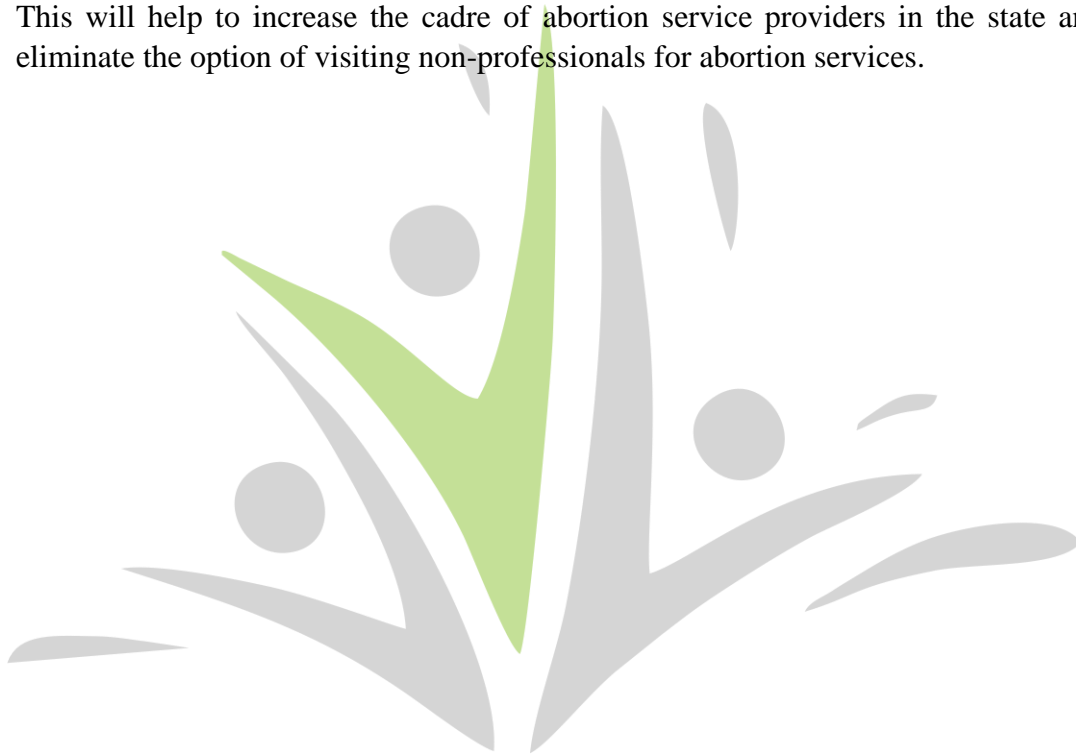
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1. Kaduna state should consider reviewing the legal restriction on abortion. Abortion should be made open like every other health care service. People who want to procure abortion should be able to walk into health facilities in the state to discuss their position and possible options with a healthcare professional. This will eliminate the option of procuring unsafe abortions from substandard service providers.
2. The state government can support by providing more facilities in the state with standard abortion care infrastructure to encourage women and girls to access these services. This will go a long way in further reducing maternal death rate in the state.
3. YNCSD can identify the abortion service providers in the state and potential service providers to be engaged in Quality of Care trainings to provide standard services to clients. This will help to increase the cadre of abortion service providers in the state and will eliminate the option of visiting non-professionals for abortion services.



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