



INTERNATIONAL  
CAMPAIGN  
FOR WOMEN'S  
RIGHT TO SAFE  
ABORTION

## Using human rights principles to realize sexual and reproductive health and rights in The Gambia

National Coalition-Building Meeting, Banjul, 4 May 2019

### I. Key aspects of the legal, health service and advocacy landscape on abortion (safe and unsafe)

The Gambia has one of the most restrictive abortion laws in Africa. Abortion provisions which have never been repealed are found under Chapter XV of the Criminal Code of 1934 under offences against morality. The Criminal Code follows the abortion law as provided in the English Offences against the Person Act 1861, permitting abortion only to save the life of the pregnant woman. Unlawful abortion is subject to 7 years imprisonment for the woman.

At the same time, the Women's Act of 2010, domesticated legislation based on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), allows for the right to medical abortion under Section 30(1), but only where the pregnancy endangers the life of the mother or the foetus.

Data on the incidence of abortion remains scanty due to the restrictive environment. The majority of cases go unreported or undocumented. From anecdotal evidence, abortion in The Gambia is a common experience, as women seek care for abortion complications.<sup>1</sup> There are currently no national estimate of abortion incidence and its consequences.<sup>2</sup>

The consequences of unsafe abortion in The Gambia remain unknown, though it is likely to be a major contributory factor to the high incidence of maternal mortality, at a ratio of 443 deaths per 100,000 live births, and morbidity. Maternal deaths account for 50 percent of deaths among women age 25-29 and 36 per cent of all deaths among women age 15-49 (DHS, 2013). The Gambia's contraceptive prevalence rate is a meagre 9 percent (8 per cent modern methods and 1 per cent traditional methods),<sup>3</sup> which is among the lowest in Africa.

The advocacy landscape on abortion is non-existent. While there are a number of organizations that work on SRHR issues, none work on abortion. A public campaign for abortion law reform has never been launched. There is a no public discourse on abortion and a dearth of publications.

With the change of leadership in 2017, however, resulting in the drafting of a new constitution and review of the Criminal Code, comes a new opportunity for policy engagement for liberal legislation. However, little is known about entry points and strategies for fostering supportive

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<sup>1</sup> M Bittaye. 'Consequences of criminalization of abortion: public health perspective' presentation at the National Coalition Meeting on Sexual and Reproductive Health & Rights, 4 May 2019.

<sup>2</sup> S Nabaneh. 'The unspoken: Unsafe abortion in The Gambia and the necessity for legal reform,' *AfricLaw* 13 March 2018, <https://africlaw.com/2018/03/13/the-unspoken-unsafe-abortion-in-the-gambia-and-the-necessity-for-legal-reform/> (accessed 21 May 2019).

<sup>3</sup> Ministry of Health and Social Welfare, National Family Planning Policy 2019-2026 (2018), 15.

abortion laws and policy or for promoting access to safe abortion and post-abortion care.

## II. Organisation and work on abortion

The Sexual and Reproductive Rights Network (SRRNet) is a Gambian movement-building initiative advancing sexual and reproductive health and rights as essential to women's empowerment. Its goals are achieving gender equality and accelerating progress toward the Sustainable Development Goals (SDGs), the African Union Agenda 2063, national development agendas and universal health coverage (UHC). SRRNet is committed to using human rights principles to realise sexual and reproductive health and rights for all, with a focus on investing in and improving the quality of life for women and girls in The Gambia.

The group Think Young Women (TYW) initiated the national coalition-building meeting. One of the group's objectives is to advocate for legal and policy frameworks that support sexual and reproductive health and rights, including promoting gender equality and women's autonomy.

## III. Aim, programme and speakers

The aim of the meeting was to build a critical mass of support on decriminalization of abortion in The Gambia, particularly among gender and human rights experts, women's and youth groups and health professionals. See Annex 1 for the Agenda. The 41 participants were lawyers, health professionals, and representatives of civil society, international organizations and government. See Annex 2 for the list of participating organizations.

The opening ceremony was chaired by Musu Bakoto Sawo, Co-convener, SRRNet, who welcomed participants and gave a brief overview of the project and why it was important to have such a meeting. Other speakers included Ms Phebian Ina Grant Sagnia, Principal Health Researcher (MCH & RH), Directorate of Health Research, Ministry of Health; Ms. Satang Nabaneh, Co-convener, SRRNet, and the Hon Mrs Fatou Kinteh, Minister for Women's Affairs, Children and Social Welfare. In delivering the keynote speech, the Minister focused on "The role of government in advancing the rights of women and girls in the context of reproductive health and rights".



This was followed by presentations. The first presentation was on "Sexual and reproductive health rights of women" by Mr Mamadi Jarjou, Nova-Scotia, The Gambia. The second presentation was on the "Consequences of criminalisation of abortion: a public health perspective" by Dr Mustapha Bittaye, Lecturer, University of The Gambia & Consultant Obstetrician & Gynaecologist, Edward Francis Small Teaching Hospital. Ms Satang Nabaneh, Co-convener, SRRNet, then spoke on how constitutional and human rights law, guaranteed by national constitutions and international human rights instruments, can be applied to address the consequences of criminalization of abortion. Mr Bakary Tijan Jargo, National Professional Officer, WHO The Gambia, presented on "Using the WHO Strategic Approach to assess and reform abortion law, policy and services, and the importance of WHO guidelines". The final

presentation was by Mr Madi Jobarteh, Country Representative, Westminster Foundation, on a human rights-based approach to attaining SRHR.

The afternoon consisted of two parallel discussion workshops with recommendations for future action:

- Developing a National Action Plan for holding government accountable for its SRHR obligations. Is there interest in creating a network/campaign to push abortion reform? Priorities, goals and proposals.
- How do we build a national movement and coalition for legal and social decriminalization of abortion? What strategies are needed?

#### **IV. Outcomes of the meeting and lessons learned**

The consensus from the meeting was that the focus of a new coalition/alliance should be on abortion liberalization. This is mainly because there are many other stakeholders working on other SRHR issues but none on abortion rights. The abortion-related work of some stakeholders is limited to the context of post-abortion care.



The specific outcomes of the workshops included the following:

- Development of a national action plan on how to promote abortion reform.
- Enhancement of the knowledge of key stakeholders on the international, regional and national human rights frameworks that guarantee SRHR of women and girls in The Gambia.
- Formalisation of the SRRNet to influence legal and policy development on SRHR in The Gambia, including safe, legal abortion.

Lessons learned and proposals arising included:

- Constitutionalizing reproductive rights in the new constitution is crucial. It was proposed that such a constitutional right, which is inclusive of a range of SRHR issues, will make it easier for a progressive and purposive interpretation and application of the current restrictive abortion laws before law reform.
- The majority of the group said they would opt for gradual liberalization with a focus on

expansion of the limited grounds to include rape and incest. On seeking to make all abortions permissible at the request of the woman, the group agreed that this would not be feasible at present. They also agreed that it would be easier for Gambian society to accept abortion when it is linked with contraceptive use and while addressing the high maternal mortality ratio.

The transition from an authoritarian regime to a democratic dispensation provides opportunities for addressing critical rights issues such as the reproductive health rights of women and girls. However, evidence-based research is needed to strengthen movement-building, support advocacy strategies and work with a wide variety of actors. Also, the utilization of the experience, resources and expertise of regional networks and many others is crucial.



## **V. Future priorities and follow-up activities**

– One of the follow-up activities that the meeting proposed was for the SSRNet co-conveners to meet the UNFPA Country representative Mr Kunle. This meeting took place on 7 May 2019 at the UNFPA Gambia office. The meeting focused on how SSRNet can influence the constitutional reform process and how UNFPA can support the work of the network.

-- Another was to organize a follow-up meeting to finalise a plan of action in June 2019.

– SSRNet will develop a position paper for the Constitutional Review Commission (CRC) on inclusion of reproductive rights in the new constitution

– Fundraising will be undertaken to do abortion-related research, specifically to conduct the first-ever study on the incidence and consequences of unsafe abortion in The Gambia. The findings will improve knowledge on policy implementation gaps that could trigger better policies and targeted investments.

– Awareness raising: Given the lack of knowledge on the right to safe, legal abortion and the current abortion regime, the importance of people knowing what is in the law was stressed – especially women and health professionals. The network will focus on raising awareness and kick-starting a conversation on abortion through blogs, videos, factsheets and the use of traditional and social media.



Participants at the meeting

## **Annexes**

### **Annex 1: Agenda**

### **Annex 2: Participating institutions**

## **Annex 1: Agenda**

### **Welcome and opening statements: goals, process, purpose of the gathering**

Speaker: Musu Bakoto Sawo, Co-convener, SRHRNet

Speaker: Satang Nabaneh, Co-convener, SRHRNet

### **Opening inspirational speech**

– A transformative framework for women, girls and gender equality in the context sexual and reproductive health and rights: What will it take to get there?

Speaker: Phebian Ina Grant Sagnia, Principal Health Researcher (MCH& RH), Directorate of Health Research, Ministry of Health and Social Welfare

### **Keynote address:**

– The role of government in advancing the rights of women and girls in the context of reproductive health and rights

Speaker: Hon Fatou Kinteh, Minister for Women's Affairs, Children and Social Welfare

### **Plenary Session 1**

#### **Sexual and reproductive health and rights of women and girls**

Speaker: Mr. Mamadi Jarjou, Nova-Scotia, The Gambia

#### **The consequences of criminalization of abortion: a public health perspective**

Speaker: Dr. Mustapha Bittaye, Lecturer, University of The Gambia & Consultant Obstetrician & Gynaecologist, Edward Francis Small Teaching Hospital

### **Plenary Session 2**

#### **Historical development of abortion laws: national and regional, constitutional and human rights**

Speaker: Satang Nabaneh, SRRNet Co-convener

#### **Using the WHO Strategic Approach to assess and reform abortion law, policy and services and importance of WHO guidelines**

Speaker: Mr Bakary Tijan Jargo, National Professional Officer (NPO), WHO Representative- The Gambia

#### **Introducing a human rights-based approach**

Speaker: Mr Madi Jobarteh, Country Representative, Westminster Foundation

### **Parallel Discussion Workshops**

#### **Developing a National Action Plan for holding government accountable for its SRHR obligations**

Facilitators: Njundu Drammeh & Musu Bakoto Sawo

#### **How do we build a national movement and coalition for legal and social decriminalisation? What strategies are needed?**

Facilitators: Ms Oumie Sissokho and Ms Phebian Grant

### **Closing Plenary**

Reflections on the Future of the Network (Priorities, goals & proposals)

Closing and acknowledgments

## Annex 2: Participating groups and institutions

Proactive Youth for Social Economic and Health Rights
Nova Scotia Gambia Association
He for She
National Youth Council
Child Protection Alliance
Ministry of Health
Society for the Study of Womens Health
The Girls Agenda
Think Young Women
Public Health Professional
Lawyer
Sexual and Reproductive Rights Network
World Health Organization
Nurses Association
Activista The Gambia
Afriyan
Edward Francis Teaching Hospital
City University Of London
Gambia Association of Resident Doctors
Safe Hands for Girls
Ministry of Women's Affairs, Children and Social Welfare
Your Change for a Change
Gambia Press Union
Bundung Hospital
CSO Gender Platform
National Human Rights Commission
Westminster Foundation for Democracy
University of the Gambia
University of the Gambia, Faculty of Law
Female Lawyers Association
Ministry of Health
Action Aid
Gambia Family Planning Association
BAFROW

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