

Universal Periodic Review of Rwanda

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Executive Summary

1. This submission provides information about Rwanda's restrictive abortion law. It explains why the government needs to eliminate judicial and administrative barriers that not only prevent women from accessing legal abortions, but that also contribute to the high rates of arrest and imprisonment of women and girls. Restrictions on abortion also contribute to the high rates of maternal mortality in the country. Only with the government's attention and support for reform of abortion laws can Rwanda comply with its international treaty obligations and the Human Rights Council's previous recommendations to the State.

Introduction

2. International human rights treaties require that governments take steps to alleviate high rates of maternal mortality by addressing unsafe abortion. Because of lack of access to safe and legal abortions, abortion is one of the leading causes of preventable maternal mortality in Rwanda. Abortion is highly restricted; a woman can only be exempted from criminal liability if the abortion is performed in cases of rape, incest, forced marriage or for therapeutic reasons. Abortion for any other reason is criminalized in Rwanda, which means women are liable to arrest, prosecution and imprisonment for illegal abortions. In the limited cases where it is permissible, barriers to abortion access are insurmountably high. Few, if any, legal abortions are performed in the country. A woman who wants a legal abortion in Rwanda first needs certification from a "competent Court" that her pregnancy resulted from rape, incest or forced marriage. She then needs authorization from two doctors. In a country where the ratio of doctors to population is 0.6 : 10,000,¹ getting a legal abortion is, for all intents and purposes, impossible.

Unsafe abortion in Rwanda

3. In June 2012, Rwanda approved a new penal code,² expanding the list of circumstances under which abortion is permissible.³ While the 2012 penal code reform demonstrates the willingness of the Rwandan government to address unsafe abortion and maternal mortality and morbidity, it does not go far enough. Until restrictions on access to the health service are removed, rates of death and injury from unsafe abortion will remain high and women and girls will continue

¹ <http://kff.org/global-indicator/physicians/> 1:16,000 [<http://www.newtimes.co.rw/news/index.php?i=15121&a=58535>] 1:20,000 to 5:100,000 [<http://www.africapedia.com/DOCTOR-TO-PATIENT-RATIO-IN-AFRICA> accessed on 10th March 2015.

² The Rwandan Penal Code of 2012, No 01/2012/OL of 02/5/2012

³ Under the previous 1977 penal code, abortion was highly restricted and permitted only to preserve the physical or mental health of a woman.

being arrested and sent to prison. Over half of all abortions in Rwanda are performed in high risk settings by untrained individuals. Complications resulting from abortion disproportionately affect the most marginalized women, especially poor and young women.⁴

4. The World Health Organization (WHO) reports that banning or restricting abortion does not reduce abortion rates,⁵ but instead impacts the safety of the procedure. Abortion incidence is estimated to be higher in regions with restrictive abortion laws as compared to countries with liberal abortion laws. In Africa and Latin America, where abortion is either illegal or very highly restricted under most circumstances,⁶ the abortion rates are 29 per 1,000 women of childbearing age and 32 per 1,000, respectively. In Western Europe, where abortion is generally permitted on broad grounds, the rate is 12 per 1,000.
5. Abortion is one of the lead causes of maternal mortality in Rwanda. A recent Guttmacher study reports that approximately 22% of all unintended pregnancies in Rwanda end in an induced abortion, that is, approximately 60,000 abortions annually.⁷ Of these, 24,000 women and girls suffer complications requiring emergency medical treatment. Virtually all abortions occur outside of the formal health system where safety cannot be assured. Unsafe abortion places a heavy burden on Rwandan women and the health care system, which in turn undermines Rwanda's ambition to attain the 5th Millennium Development Goal (MDG) of reducing maternal mortality by 2015 by 75%.
6. When abortion is performed unsafely and women are injured as a result, they turn to the public health system for post-abortion care. It is estimated that in Rwanda 50% of obstetric complications are a consequence of spontaneous and induced abortion.⁸ As in many other countries, poor Rwandan women, in urban and rural areas, are far more likely to experience complications (54-55%) than wealthier women in both rural (38%) and urban areas (20%), as well as young women.⁹
7. The Rwandan penal code requires women seeking abortions for health reasons to first obtain authorization from two doctors, who in turn must send written confirmation to the head of the hospital. In rural Rwanda, most health centres have only one doctor and few nurses and midwives. These health personnel are tasked with attending to normal deliveries and do not or cannot prioritize women

⁴ <http://www.guttmacher.org/pubs/FB-Abortion-in-Rwanda.html>

⁵ WHO Safe Abortion: Technical and policy guidance, pg 17

⁶ Sedgh G et al., Induced abortion worldwide in 2008: levels and trends, *Lancet*, 2012 available at : http://www.guttmacher.org/pubs/fb_IAW.html accessed on 4th March 2015.

⁷ <http://www.guttmacher.org/pubs/FB-Abortion-in-Rwanda.html>

http://www.sph.nur.ac.rw/IMG/pdf/Abortion_Incidence_in_Rwanda_March_2011.pdf

⁸ Guttmacher. Unintended pregnancy and Induced abortions in Rwanda, available at <http://www.guttmacher.org/pubs/FB-Abortion-in-Rwanda.html>

⁹ Guttmacher above.

coming in for complications from unsafe abortions. There is an urgent need to increase the number of doctors in the country. The government must also expand the cadres of healthcare workers who may provide legal abortion services to include those who have appropriate skills, including nurses and midwives.¹⁰

Women and girls in prison

8. Under the current penal code a woman prosecuted for an illegal abortion can face a prison sentence of one to three years and a fine of 200,000 Rwandan francs (approximately US\$300.) The average income in Rwanda is US\$1 per day.¹¹
9. State sanctioned criminalization of a reproductive health service creates a climate of fear and stigmatization. This often leads to harassment, surveillance, extortion and sometimes even violence against women or girls who get abortions. And when laws are enforced, human rights violations are likely to take place. In Rwanda this often happens when local community members report girls and women who they suspect of having abortions to the police.¹²
10. A 2011 study¹³ of four prisons in Rwanda found 152 women in prison for abortion. Eight were arrested when they were still minors (under 18 years old). According to the 2011 study, **90% of the women in prison for abortion in Rwanda are 25 years old or younger.**¹⁴ Young women are particularly vulnerable to violations of their rights when they face an unwanted pregnancy.
11. Data from the Rwanda Correctional Services, as of April 30th, 2014, shows that 7,220 women were incarcerated nationally.¹⁵ Of these, 220 were in prison for abortion and 248 were incarcerated for infanticide.¹⁶ Many women interviewed for an Ipas study on the criminalization of abortion reported that the prosecution and courts had wrongly qualified their abortions as infanticide. Infanticide carries a higher penalty than abortion.

¹⁰ <http://www.kigalikonnnect.com/.../number-of-midwives-in-rwanda-low-4fa787> accessed on 6th March 2015.

¹¹ UNDP development Index, Rwanda 2013. Eight out of 10 Rwandans (76.8%) live with an income that is below \$1.25 a day, this is the third worst globally, behind Liberia (83.7%) and Burundi (81.3). For more information: <http://www.jambonews.net/en/news/2011111111-human-development-rwanda-on-the-back-of-the-pack/> accessed on 20th January, 2014.

¹² ARBEF and IPAS research on impacts criminalization of abortion in Rwanda, 2012.

¹³ ARBEF, Research on Abortion Incidence in 2009, <http://www.rutgerswpf.org/sites/default/files/YAM%20booklet%20of%20personal%20stories%20on%20abortion.pdf>

¹⁴ ARBEF, Research on Abortion incidence in 2009.

¹⁵ Rwanda Correctional Services. Data as of 30th April 2014. Figures might change as some are detained and others leave prison after serving their sentences or are acquitted by the courts of law.

¹⁶ Rwanda Correctional Services, data as of 30th April 2014.

12. A review of available data sourced directly from five Rwandan prisons, from July 2013 to April 2014, shows that there were 313 women and girls incarcerated for illegal abortions in five prisons in Rwanda. In each prison this is approximately 25% of the female prison population. In one prison the percentage was closer to 30%.
13. It should be noted that data collected directly from the five prisons did not match the national data made available by the Rwandan Correctional Services (RCS). Because individual prisons have more accurate record keeping than at the national level, it is likely that cases of abortion and infanticide were underreported or inaccurately reported by the RCS.
14. Of the 313 women in prison,¹⁷ findings from indepth interviews with 20 inmates show that:
- The majority of the women interviewed were unable to access a lawyer, either because of lack of resources or lack of knowledge about the law. Only 5.6 % of the detainees said they had lawyers and only 27.8 % of respondents said that they were aware that the law entitled them to a lawyer.
 - None of the women eligible for a legal abortion followed the guidelines for requesting the procedure, which includes obtaining a court order and for cases of risk to health, approval of two doctors. This is because they were not aware of the guidelines.
 - Interviews revealed that most imprisoned young girls and students are there without their parents' knowledge;
 - All the detained women declined to provide information about their close relatives, friends and those who knew their stories because of the stigma associated with abortion and the fear that they too might be arrested;
 - All women interviewed were poor or low income, most had none or little formal education;¹⁸
 - In most cases women were reported to the police either by someone they knew (38.4 %), a neighbor (53.9 %), or a family member or the person who got them pregnant (7.7 %);
 - Several women got pregnant by men who were paying for their school, clothing, and food;
 - Uneven sentencing—one abortion case, which was prosecuted as infanticide, received 2 years, while in another abortion case, a woman was sentenced to 15 years;¹⁹

¹⁷ As of July 2013 when the interviews were carried out.

¹⁸ 14.3 % of respondents had no schooling at all, 42.8 % were in P6, 28.5 % were in P3 and 14.3 % in S3.

¹⁹ 5 years in 9% of cases, 15 and 20 years in 9% of cases. 18.2 % of the responded said that they were sentenced 10, 2 and 0.5 years while those sentenced 0.4 and 1.2 years of jail were counted to 9 % of the respondents.

- 94.4 % of the women interviewed said they were orphans and unable to count on family for support. Many of these women were orphaned as a result of the 1994 Genocide.

Community policing mechanisms

15. Community Policing Committees (CPC) are a key component of the Rwandan National Police's (RNP) strategy to address local problems, in particular gender-based violence. Many local residents and neighborhoods have been trained to participate in community policing committees and to report criminal activities.²⁰ Almost every incarcerated women interviewed stated that she was reported to the police by a neighbor. This is because neighbors fear being charged for not cooperating with law enforcement agents. This is especially so in cases where a woman is injured from an unsafe abortion; witnesses to these events may be charged with failure to assist someone in danger.²¹
16. While the RNP claims to have trained 80,000 CPC members, this study shows that when the community reported women to the police for illegal abortions, they and the police often **violated the women's right to privacy, to autonomy and to health**. In Rwanda, when women are arrested for getting an abortion, personal information about their reproductive health is often reported in newspapers, **this is in clear violation of their right to confidentiality**.

IMPLEMENTATION OF 2011 UPR RECOMMENDATIONS TO RWANDA

The following UPR recommendations were supported by the Rwandan government. The section highlights what has been achieved and where progress still needs to be made.

17. *Accelerate the legal reform process in order to ensure that all discriminatory provisions in the legislation are abolished.*²² In 2012, after lifting the country's reservations on Article 14 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Rwanda adopted a new penal code that modified the grounds for abortion, as provided for under the Protocol. However, the 2012 penal code includes burdensome administrative and legal barriers that prevent women from accessing the service. This includes, in cases of

²⁰ Rwandan National Police, *Community Policing Committees undergo training*, available at: http://www.police.gov.rw/news-detail/?tx_ttnews%5Btt_news%5D=,accessed on 30th December 2014.

²¹ Article 570 of the Penal Code of Rwanda, Official Gazette no special of 14 June 2012. http://www.police.gov.rw/uploads/tx_download/Official_Gazette_no_Special_of_14.06.2012-4.pdf; "Any person who has knowledge of a felony about to be committed or that has been committed and fails to inform security organs, judicial or administrative authorities while this information could help prevent or limit its consequence, shall be liable to a term of imprisonment of two (2) years to five (5) years... Any person who neglects to assist a person in great danger when there is no risk for him/her or others while in a position to do so or to seek assistance shall be liable.

²² http://www.upr-info.org/sites/default/files/document/rwanda/session_10_-_january_2011/rwanda-a_hrc_wg.6_10_l.2-eng.pdf

risk to the health of the woman, the requirement of doctor authorization, and in cases of rape and incest, a court order.²³ Rwanda has a scarcity of doctors and court cases take months to process; obtaining judicial authorization is a tremendous barrier for women and girls who have been raped and require immediate medical attention.

18. *Accelerate the process of legal reform and ensure that all discriminatory provisions in the legislation, especially those regarding women, are abrogated and continue its efforts to improve the guarantees on the rights of women through the revision of all discriminatory laws.*²⁴ *Continue and even accelerate its law review process and ensure that all gender and other discriminatory provisions in the legislation are repealed.*²⁵ Given that the penal code articles on abortion discriminate against women, in particular young, poor and marginalized women, this calls for a review and reform of these penal code provisions.
19. *Design plans and strategies to ensure sustainability in protecting the rights of women and children.*²⁶ These include policies and strategies to protect women from being reported and arrested or going to jail for unsafe abortion. The government has not fulfilled this recommendation as the rate of women and girls being arrested, prosecuted and imprisoned for abortion has not decreased with the new penal codes. The government is called upon to implement policies to ensure gender equality by removing legislation that renders women vulnerable to human rights violations and abuses.²⁷ Community policing mechanisms need to uphold the human rights of women. The provisions of the current penal code of 2012 continue to violate women's and girl's rights to privacy and to confidentiality.
20. *Continue to apply programmes and measures to improve the enjoyment of the right to health, and the rights of women and children.*²⁸ Rwanda's 2012 penal code imposes severe legal and administrative costs on access to abortion. This creates insurmountable barriers for women to access safe abortion thereby negatively impacting and preventing women's realization of the right to health.
21. *Continue to focus on maternal and child health.*²⁹ Abortion remains one of the leading causes of maternal mortality in Rwanda; criminalization of abortion undermines commitments put in place by the government of Rwanda to achieve the Millennium Development Goals (MDGs), especially the reduction of maternal mortality.
22. *Accelerate the legal reform process in order to ensure that all discriminatory provisions in the legislation are abolished.*³⁰ The administrative and legal barriers

²³ Article 165 of the Rwanda 's penal code.

²⁴ Recommendation -78.6 (Morocco and Burkina Faso)

²⁵ Recommendation 78.2 (Slovenia)

²⁶ Recommendation 78.4 (Egypt)

²⁷ Recommendation 77.11 (South Africa)

²⁸ Recommendation 77.7 (Cuba)

²⁹ Recommendation 77.16 (Singapore)

³⁰ Recommendation 79.5 (Moldova)

imposed under the 2012 Penal Code to obtain a legal abortion are discriminatory to women and girls. The Rwandan government must undertake legal reform, including removing the medical and judicial authorization requirements.

23. *Continue to address the issue of gender discrimination; explicitly prohibit discrimination against women, in line with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women.*³¹ Rwanda has failed to remove restrictive barriers to safe abortion, which perpetuate gender discrimination and are against the provisions of CEDAW that prohibit discrimination against women.
24. *Respond, as soon as possible, to the outstanding communications from the treaty bodies, including those from the Human Rights Committee.*³² The following paragraphs discuss key communications from the CEDAW Committee³³ that have not been addressed by the Government of Rwanda.
25. Paragraphs 31 and 32 of the draft concluding observations of the CEDAW Committee called on the Government of Rwanda to reduce early school drop out rates because of early pregnancies. Many women imprisoned for unsafe abortions are young girls who were expelled from school once it was clear they were pregnant. They have little knowledge about contraceptives and preventing pregnancy, and resort to unsafe abortion out of fear of being expelled from school. Although the government has put in place mechanisms for providing contraceptive information to young girls in schools, as a matter of educational policy, condoms are not allowed in schools.
26. Paragraphs 37 and 38 called on Rwanda to empower rural and poor women with little access to justice, health care and few economic opportunities for survival. Abortion affects mostly rural and poor women, who need community services like health, employment, education and information and where necessary, a lawyer in case they come in conflict with the law.
27. Paragraphs 23 and 24 on post-genocide reconstruction acknowledged that women and girls were victims of sexual torture and recommended ensuring access to justice mechanisms. Ipas' report on the criminalization of abortion found that 94.4% of those imprisoned were orphaned due to the Tutsi Genocide in Rwanda.³⁴ Most of the imprisoned girls had little access to justice mechanisms as they did not have a lawyer during their court proceedings, either because they did not know they were entitled to one or because of the high cost of retaining a lawyer.

³¹ Recommendation 78.7 (Japan and Hungary)

³² Recommendation 77.9 (Republic of Korea)

³³ Convention on Elimination of all forms of Discrimination. CEDAW/C/RWA/CO/06, 8 September, 2009

³⁴ Ipas, *when abortion is a crime* : Criminalisation of Abortion in Rwanda, 2014.

28. Paragraphs 35 and 36 noted the high numbers of maternal mortality due to lack of access to obstetric services. The Committee raised concerns that abortion is illegal and punishable by law yet illegal and unsafe abortion constitutes the major cause of maternal mortality. The Committee called on Rwanda to remove punitive sanctions imposed on women who undergo abortion in accordance with the committee's general recommendation 24 on women and health and in line with the Beijing Platform for Action. Research by the Guttmacher Institute indicates that 2 out of 5 abortions have complications and there are few doctors with post-abortion care training.³⁵

Recommendations to Rwanda

29. Remove the restrictive legal and administrative barriers to abortion that are included in articles 165 and 166 of the 2012 penal code.
30. Ensure that the 2012 Rwandan Penal code is in conformity with the African Women's protocol, particularly Article 14 (c), by removing all legal and administrative barriers, specifically the requirement of a court order and permission OR medical authorization of two doctors in order to obtain an abortion.
31. Ensure all Rwandan laws are in conformity with CEDAW's recommendations on the elimination of all forms of discrimination against women, including removing penal provisions that target only women.
32. Provide more information on and access to sexual health and reproductive health and rights, including information on the existence and correct use of contraceptives. This must extend to adolescents in schools and rural communities.
33. Revise the penal code³⁶ on safe abortion, contraceptives and health care service providers.
34. Broaden the law to permit nurses and midwives to perform abortions. This will contribute to reducing maternal mortality.
35. Provide human rights training, especially on sexual and reproductive health and rights, to the medical sector, the judiciary and to the Rwandan police force. The police must understand that their role is to protect the sexual and reproductive health and rights of women, not to arrest and incarcerate them.

³⁵ <http://www.guttmacher.org/pubs/FB-Abortion-in-Rwanda.html>, accessed on 30th December 2014.

³⁶ Article 165 of the penal code mentions that abortion services can be authorized by a "A doctor" yet there are a few doctors per ratio of the population. Trained midwives and nurses offer maternal services in Rwanda.