

The situation of Unsafe Abortion in Malawi: A Feminist analysis and Position Paper

Abstract:

6-18% of Malawi's maternal deaths are attributable to abortion related complications because governments, development partners and societies continue to neglect or inactively address the issue. This paper explores the issue of unsafe and illegal abortions from a feminist perspective, arguing that the implications of colonial constructions of African women's sexualities as promiscuous, permissive and deviant juxtaposed with highly conservative imported Victorian and religious sexual norms deny women's access to abortion and other sexual and reproductive health services and rights their importance and ascribe to women the status of invisibility. The feminization of poverty is also examined, with this paper arguing that the double victimization of Malawi's rural dwelling women to abject poverty and the government's inability to broaden the policy framework for reproductive care as it relates to women's access to safe illegal abortions. This paper further discusses the dangers of an over-reliance on the language of western dominated empirical research process to paint an accurate picture of the situation of unsafe abortions in Malawi and argues that this negates the importance of women's worldviews and knowledge systems that have been stunted by colonialism. Key recommendations include the need to prioritize a multi-sectoral and multi-disciplinary approach that places women and girls at the center of abortion debate and places renewed importance on the "personal as political" and the need to adopt a language of sexual and reproductive health that demystifies African women's sexualities and sheds the shroud of moralism, shame and humiliation that hinders all progressive debate on safe abortion as a women's health and human rights issue.

Introduction:

Malawi is a democratic republic in Southern Africa with a population of 19 million. Self-identified as a "Good fearing nation", Malawi is a former British protectorate with a majority Christian population alongside a significant Muslim minority. The population is mostly rural dwelling and it is considered a low-income country with a significantly high maternal mortality ratio.

Maternal mortality from abortion-related complications

According to the Guttmacher institute, 141,000 abortions occurred in Malawi in 2015 at an annual rate of 38 abortions per 1000 women of reproductive age (Polis, et al. 2017). A majority of these procedures were performed under clandestine and unsafe conditions that often resulted in complications. According to these estimates, 6-18% of maternal deaths in Malawi are caused by unsafe abortions. This research further indicates that in 2015, an estimated 60% of women who had an abortion experienced complications that required medical treatment in a health facility—approximately 1 in 3 women who experienced such complications did not receive the post-abortion care they needed.

Malawi has one of the highest Maternal Mortality Ratios (MMR) in the world, which is even higher than the rest of the continent at 574 maternal deaths per 100,000 live births in 2014 and 349 in 2017 according to estimates from the WHO (World Health Organization 2019). The probability that a 15-year-old Malawian girl will eventually die from maternal mortality is 1 in 29. Other more recent MMR estimates from a Global Burden of Disease (GBD) report estimated 1150 maternal deaths and an MMR of 211 (Global Health Data Exchange 2019). In 2021, Malawi re-opened the debate on whether the country should liberalize abortion law by expanding the legal grounds under which an abortion can be legally obtained with those arguing in favor of the reform arguing under the grounds that contrary to popular belief, restrictive abortion legislature does not lower abortion rates but women in countries with restrictive laws are more likely to experience morbidity and mortality resulting from unsafe abortions (Polis, et al. 2017). The impact of anti-abortion law on maternal mortality is no better illustrated than by data showing the prevalence of unsafe abortion and abortion mortality in countries with restrictive abortion laws compared with those with liberalized abortion laws. Prevalence of unsafe abortions is highest in countries with restrictive laws with up to 23 unsafe abortions per 1000 women of reproductive age, while countries that allow abortion on demand have a median abortion rate of 2 or less per 1000 women. Case fatalities from unsafe abortions is also highest in countries where abortion is legally restricted: In such countries the median ratio for unsafe abortion mortality is 34 deaths per 100,000 live births, compared with one or less per 100,000 live births in countries that allow abortion on request (Berer 2005).

However, arguments for the liberalization of abortion laws in Malawi on the grounds of significantly lowering maternal mortality rates have not gone unopposed. Miller (2021) argues that

these figures cannot entirely be attributed to legal reform and builds a case for the 6-18% estimate of maternal deaths attributable to abortion-related complications as outdated and commonly inflated by popular media and international development agendas (Miller 2021). According to Miller, many organizations make reference to the most common estimates for maternal mortality from abortive outcomes of 6-18% of maternal deaths in Malawi which is often misrepresented as referring only to illegally induced abortions. Miller goes on to conclude that with the recent global health data estimates of a MMR of 1150-2100 maternal deaths annually, only 69-378 of these are attributable to abortion-related complications with no clear distinction of those attributable to spontaneous and induced abortion respectively (Miller 2021). Furthermore, global trends pointing to a reduction in MMR following the liberalization of abortion laws cannot solely be attributed to legal reform without considering the role of safer illegal abortions and improvements in the delivery of post-abortive care over the years. The latest evidence put forward by the Guttmacher institute, argued to be outdated by 15-20 years, suggests that at the time, only 6-7% of maternal deaths are attributable to abortive outcomes and these proportions are likely to have decreased over the years as post-abortive care has improved and safer methods of illegal abortions have become available (Miller 2021).

However, as Berer (2005)'s cumulative study of 160 countries reveals "a clear pattern can be observed that indicates that where legislation allows abortion on broad indications, there is a lower incidence of unsafe abortions as compared to legislation that greatly restricts abortion". The data also shows that most abortions become safe mainly when women's reasons for abortion and the legal grounds for abortion coincide: Pointing to a need to respond to women's needs and experiences (Berer 2005).

Furthermore, Miller's insistence on the use of empirical data to build a case for abortion law reform alludes to the need to address key evidence gaps but also questions the centrality of written (read western) data sources in the interpretation of the experiences of African women. Historical power considerations have privileged a written culture at the expense Malawi's vigorous and largely oral culture: Because most of the significant statements about African women within African communities exist and are sustained in vernacular and largely oral cultures and traditions, the researcher engaged in the interpretation of African women's experiences based on a western-oriented academic discourse neglects those that do not fit within this framework. Malawian

women's experiences with sex, sexuality and reproductive health are alive and maintained in song, dance, oral literature and the hushed exchanges of women in women's secret and privileged spaces: sources that are often excluded from the language of mainstream research. In this way, a knowledge of and engagement with these knowledge systems is an often overlooked and undervalued element that serves as a fundamental precursor for a complete understanding of the burden of unsafe abortion in Malawi.

A colonial hangover: The Construction of African Women's Sexualities

In an essay retracing the key historical developments in researching and theorizing sexualities in Africa, Tamale (2011) traces the earliest written records of studies on African sexualities to those archived by colonial explorers and missionaries in the latter half of the 19th century. These narratives, as Tamale (2011) outlines, equated black sexuality with primitiveness, with African sexualities being portrayed as exotic, immoral, bestial and lascivious. The western imperialist construction of African sexualities, as part of a broader mission to control, exploit and colonize the black African race was effected through force, brutality and humiliation and the bodies of African women were especially weaponized (Tamale 2011). The colonial experience severely condemned the sexuality of African women and African women were reasoned as having no sexual morals at all. With this came conservative Victorian sexualities (thought to be the standard of modernity) that juxtaposed the sexualities of African women and became the yardstick against which all who acted otherwise were immediately branded as promiscuous and immoral and the mission of the colonial enterprise became to civilize and improve the morals of the African woman (Omer 2018).

One way to address the perceived immorality of African women was to give men more control over women's sexualities and a new script defined by Victorian moralistic body politics was inscribed on the bodies of African women, and with it came an elaborate system of control and exploitation. The colonial legacy of African women's sexuality can still be felt today through structural and institutionalized violence upheld by statutory, customary and religious laws. Here structural violence is defined as "...a form of suffering structured by historically given processes and forces that conspire to constrain agency..."

No better is this legacy of structural violence better espoused than in Malawi's archaic abortion laws. Malawi's legal provisions for abortion are preserved in the colonial penal code that prohibits abortion unless obtained to save the life of the pregnant girl or woman.

Section 149 of Malawi's penal code states:

“Any person who, with intent to procure a miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, shall be guilty of a felony and shall be liable to imprisonment for fourteen years”

While section 243 of the penal code outlines that:

“A person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon any person for his benefit, or upon an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time, and to all the circumstances of the case”

The structural violence espoused in these colonial laws exists alongside a number of international treaties and conventions that Malawi is signatory to including the International conference on population and development (ICPD), the Maputo protocol and the fourth world conference on women (1995) that view access to safe abortion as a public health imperative. This is further complicated by the lack of clear guidelines for healthcare providers and women and girls on the legal grounds on which a legal abortion can be obtained. The fundamental question of what constitutes legal abortion, who is eligible and what are the medical conditions under which it can be performed are those that have been left unanswered from the enactment of the penal code in 1930 and questions forcing legally eligible girls and women to carry medically risky pregnancies to term, or 'forcing' them to seek clandestine and unsafe abortions (Kangaude and Mhango 2018).

The colonial constructions of African women's sexualities, reproduced by African patriarchy, are further felt in contemporary society through the continued demonization of women's sexuality that has left Malawian women without voice and agency. The yardstick of Victorian moralism continues to define the value assigned to African women's bodies and to define women who openly speak of experiences with sex, family planning and abortion as taboo. Women who speak of or openly admit to abortion are met with humiliation brandished as immoral, sexually permissive and

sinful. This not only makes abortion a difficult phenomenon to research and advocate for, but it contributes to the cycle culture of silence and shame that pushes some women and girls towards clandestine and unsafe abortions.

This question of unsafe abortion and agency is further complicated by the feminization of Poverty: More than 80% of the Malawian population are rural dwelling and living in abject poverty, with poverty disproportionately affecting women. Rural dwelling women living in poverty are not only less likely to have access to healthcare centers and information to prevent complications arising from unsafe abortion and receive lifesaving post-abortive care, but are more likely to be excluded from national debate on abortion law reform due to knowledge and information gaps: They are also less likely to have access to safe illegal abortions due to various economic impediments.

The Situation of Unsafe Abortion in Malawi: A feminist position

In July 2015, Malawi's special law commission on the review of the law on abortion released a draft termination of pregnancy bill that aimed to liberalize abortion law in Malawi by expanding the grounds on which a woman can legally obtain a safe abortion as an important step towards safer abortions in Malawi and as part of the broader initiative to reduce maternal mortality from abortion-related complication. However, in March 2021, the motion to debate this bill was unanimously rejected and the bill subsequently withdrawn. This paper argues that the 6-18% of maternal deaths in Malawi attributable to abortion related complications is one death too many and women and girls have the right to obtain safe abortion and abortion-related services under the confines of the law. However, the country remains viciously reluctant to liberalize abortion law and to shake the colonial legacies of women's subjugation thrust upon the continent by Eurocentrism and upheld by African patriarchy.

Malawian women continue to occupy a subaltern position whereby questions of women's sexuality and sexual and reproductive health remain steeped in the moralistic agenda to civilize (and control) the black African woman's body and abortion, whether safe or unsafe, as a direct product of African women's sexuality remains yoked with sexual immorality and sin. This paper also asserts the position that where we regard the question of the situation of unsafe abortion in Malawi solely through the lens of written western empirical research, we lose access to women's traditional knowledge, worldview and value systems that are fundamental for painting a clearer picture of women and girls' experiences with unsafe abortion. Furthermore, the institutionalization of

women's subjugation by the patriarchal state through the upholding of archaic colonial laws leaves little room for women's agency and the realization of women's sexual and reproductive health and rights (including the right to access safe abortion) as an inalienable human right.

Liberalizing abortion law in Malawi and improving women and girls' access to safe abortion will only be made possible through the combined efforts of researchers, legal practitioners, activists, advocates and development partners that address and redress historical power imbalances and prioritize the voice of the voiceless (women).

Recommendations

It is through language and narratives that knowledge is produced and hence through which power is produced. It is only through the experiences and narratives of women and girls, in the language through which they are experienced, that the situation of unsafe abortions in Malawi may truly be analyzed. All efforts to research and gather knowledge on women's experiences with unsafe abortion in Malawi must employ a multidisciplinary approach that accounts for the nuances of women and girls' experiences and stories. Similarly, the support and capacity building of key campaigners is a necessary component of the knowledge and narrative process as it is only armed with the right information (i.e. What does the law say? What are the gaps? What services can I access safely and legally?) that key campaigners may empower the masses and begin to build a political case for the liberalization of abortion law. This approach would further entail the expansion of the language of SRHR to not only demystify the notion of women's sexualities as immoral and sinful but to expand the discussion of SRHR beyond family planning and the act of sex. This would mean privileging an approach that creates spaces for the exploration of women's sexuality beyond the humiliation, shame and taboo and allow for the emergence of real stories and experiences that will in turn inform advocacy and campaign efforts and provide platforms for women's support and access to information and services.

The personal as political:

The disconnect between the personal and the political is a very common condition of the modern capitalist society. This divide occurs when members of a society do not regard personal experiences, joys, disappointments and suffering as being political, and are merely seen as part of the individual experience or the reserve of the private domain. Any efforts to initiate social change

and challenge the vehicles of social, economic and political oppression requires that the two be brought together. This is a notion that is best articulated by feminist writers who emphasize that “the person is political”: The personal experiences of women have to be understood in terms of politics, particularly the discourses and structures of power and patriarchal oppression that apply across the public and private divide. These processes of consciousness raising must prompt the regard of personal experiences within the broader socio-political structural context, just as broader structural issues must be seen in terms of their impact on the lives of people. In this way, continued advocacy that is focused on empowering women and girls, who bear the brunt of restrictive abortion laws, are empowered to connect their personal experiences with the broader political and policy debate and able to create the political will needed to expand the legal grounds on which abortion can be obtained.

It is also worth noting that lessons from neighboring countries such as Mozambique and Zambia demonstrate that access to abortion services remains poor, regardless of liberalized law and policy. It then becomes apparent that addressing the barriers to women’s access to safe abortion requires a multi-sectoral and multi-disciplinary approach that addresses the misconceptions, information gaps and stigmatization of women and providers that serve as obstructive factors and this can only be achieved through the involvement and empowerment of women themselves.

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