

MAKING CHANGE HAPPEN: A REVIEW OF PROGRESSIVE ABORTION POLICY CHANGE IN AFRICA



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Ipas is a non-profit, nongovernmental organization that works around the world to increase women's ability to exercise their sexual and reproductive rights, especially the right to safe abortion. We seek to eliminate unsafe abortion and the resulting deaths and injuries and to expand women's access to comprehensive abortion care, including contraception and related reproductive health information and care. We strive to foster a legal, policy and social environment supportive of women's rights to make their own sexual and reproductive health decisions freely and safely.

The Ipas Africa Alliance works to reduce maternal deaths from unsafe abortion; to expand the availability of high-quality comprehensive abortion care; and to advocate for policies that advance women's reproductive health and rights across the continent. Established by Ipas in 2000, the Alliance works with inter-governmental, state and non-state actors at the regional and national level to enhance women's access to safe, legal abortion.

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ACKNOWLEDGEMENTS

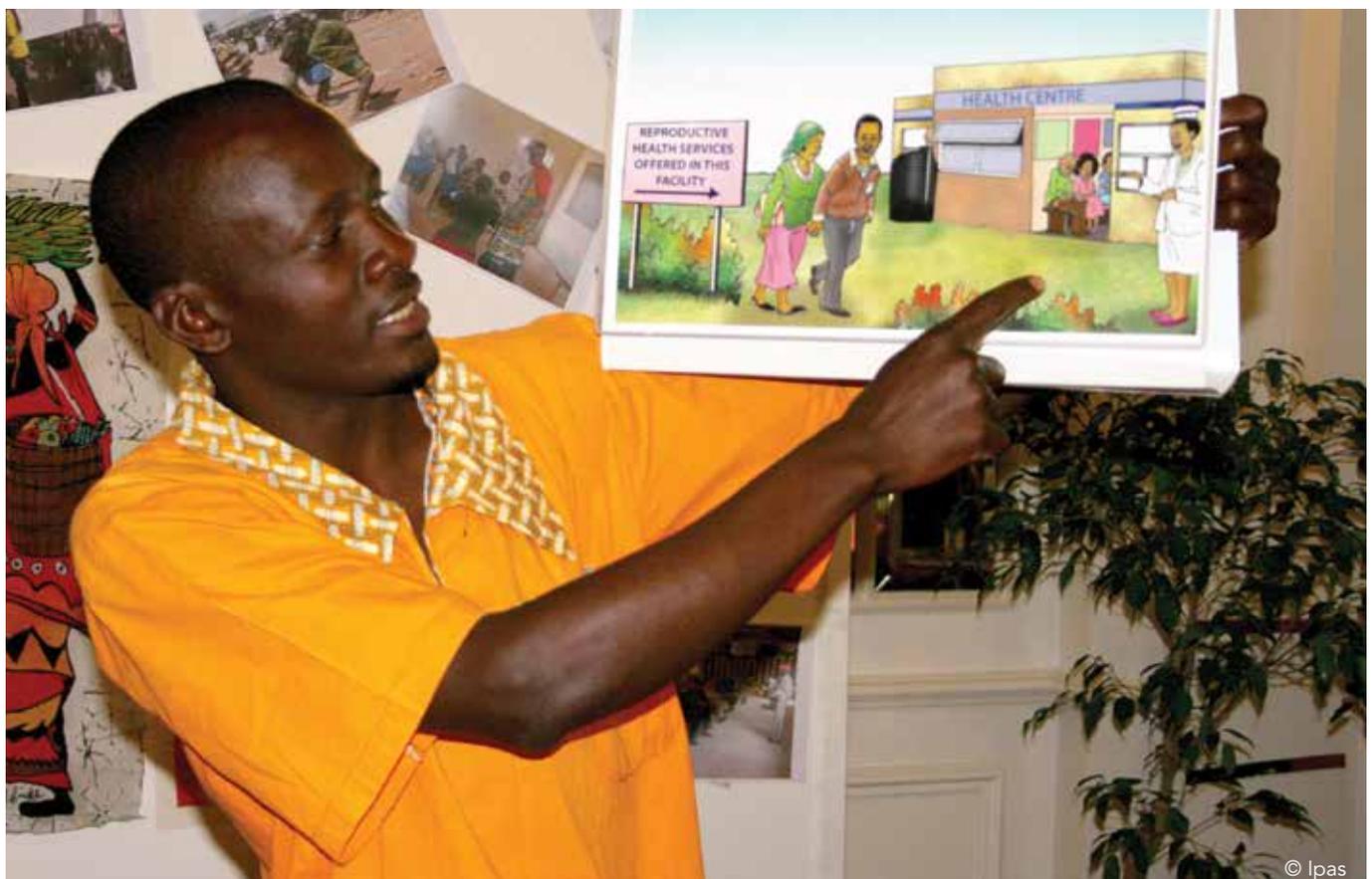
The approaches and successes highlighted in this report have been a collective effort.

We first recognize the many skilled and dedicated Ipas policy staff who have spent countless hours over the years to build and sustain a movement for abortion policy change in the Africa region.

We acknowledge and greatly appreciate the critical role played by partners at the highest political levels of the African Union and several of its agencies, in national governments, in civil society, in inter-governmental institutions, in the medical and legal fields, and in communities and youth organizations.

We also would like to acknowledge the contributions of Awino Okech for compiling the information that formed the basis of this report.

Finally, we gratefully acknowledge the immense contributions of Ambassador Dr. Eunice Brookman-Amisshah, who skillfully guided Ipas's regional policy programme in Africa for 15 years. Much of the progressive change in support of safe abortion in Africa today can be traced to her leadership and vision.





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“Preventing unintended pregnancies and unsafe abortions requires States to adopt legal and policy measures to guarantee all individuals access to affordable, safe and effective contraceptives and comprehensive sexuality education, including for adolescents; to liberalize restrictive abortion laws; to guarantee women and girls access to safe abortion services and quality post-abortion care, including by training health-care providers; and to respect the right of women to make autonomous decisions about their sexual and reproductive health.”

– General Comment on the Right to Sexual and Reproductive Health, UN Committee on Economic, Social and Cultural Rights, 2016

AN IMPERATIVE TO ACT

The right of every woman and girl to make her own individual decision about whether and when to have a child, and to have the means to exercise that right, has been recognized and reinforced by the global community for more than two decades. Yet in far too many African communities, policymakers have not yet acknowledged that access to safe, legal abortion is the fundamental missing piece in a woman's ability to make decisions about her own body.

Unsafe abortion remains a leading cause of death and illness for women and girls in Africa¹—a tragedy that is completely unacceptable, primarily because it is almost entirely preventable.

The long legacy of Africa's restrictive abortion laws and resulting clandestine unsafe abortions have stigmatized both the issue of abortion and those who dare discuss it. The negative results are clear:

- Abortion services are often not recorded formally in health records, leading to poor data and understanding of how big the problem really is.
- Health systems lack training in safe abortion for providers, and policies and programmatic plans for improving women's health often purposely omit any discussion of abortion.
- The news media further sensationalise the issue, airing stories about women arrested for having sought illegally to terminate a pregnancy, rather than exploring the damaging health consequences of unsafe abortion or the role safe abortion can play in improving women's health and life options.

All of this makes abortion even more difficult to address in policy settings, where policymakers are public figures, often elected or appointed, and subject to rapid changes in public opinion.

The creation of the African Union and desire by member states for a united continental approach to governance and development make influencing policy at the regional level particularly relevant in Africa. Policy and programmatic agreements from the African Union provide influential guidance for countries and benchmarks for measuring change at the national level.

STIGMA AND ABORTION

Stigma negatively affects women's ability to obtain safe abortion care. Reducing stigma requires action at many levels:

- Restrictive laws hinder access to safe abortion and entrench stigma, even when services are applied within the letter of the law.
- Even where abortion laws are liberal, they are often misrepresented or misunderstood, and regulations to guide effective service delivery may be non-existent.
- Women seeking abortion self-stigmatise because of social, cultural and religious influences.
- Fear of prosecution affects medical health professionals and limits willingness to provide care.

¹ World Health Organization. 2015. Maternal mortality: Fact sheet N°348. <http://www.who.int/mediacentre/factsheets/fs348/en/>. Last accessed 14 April 2016

THE IPAS APPROACH TO POLICY CHANGE

Ipas has worked regionally in Africa for more than 15 years in partnership with a diverse group of organizations and advocates for women's health and rights to support development and dissemination of progressive policies and laws on safe abortion.

When this work began around 2000, regional actors and institutions paid very little attention to the urgent needs related to unsafe abortion. Bringing about change has required a steady and sustained focus on documenting the problem, identifying and uniting passionate champions who are willing to speak out on the issue, and being present consistently in the arenas where policies and programmatic directions are discussed and determined.

While we recognize that policies alone do not bring about action, they can be fundamental building blocks for providing both pressure and guidance for governments to act. Through our policy work we aim to strengthen the capacity and commitment among governments, civil society and regional agencies to fully incorporate safe abortion into policy and programmatic guidance documents, official resolutions and working strategies, and evaluation frameworks at the regional level. Ultimately, we want to influence application of these policies at the national level, where real change happens for women.

Reducing stigma and normalising abortion as part of women's health is a key objective, and work with the media has helped build public understanding of the importance of safe abortion to women's health in public spheres.

Through collaboration with government and institutional research partners, the Ipas programme also works to establish a concrete evidence base about the problem of unsafe abortion and its possible solutions.

EVIDENCE OF POSITIVE CHANGE

As a result of work by Ipas and our partners over the years, we see progressive abortion policy change in a number of African countries. Tunisia, South Africa, Ethiopia and, most recently, Mozambique, have removed punitive laws and expanded access to safe abortion care. Other nations, including Ghana, Kenya and Zambia, have interpreted their existing laws in ways that recognize the importance of safe abortion for women's health and well-being. Many countries have recognised and acted on the clear evidence that midlevel health providers such as midwives can play effective and important roles in providing safe abortion and postabortion care. Still other countries have registered and made available drugs for abortion and have allocated budgets for abortion commodities and services.

"In 2001, when Ipas Africa Alliance began engaging Ministers of Health in Africa, maternal mortality and unsafe abortion as a driver of women's and girls' mortality and morbidity was not central to the health conversations."

– Dr. Eunice Brookman-Amisshah, former Ipas Vice President for Africa

Civil society has taken on the issue of safe abortion and is actively advocating for progressive change at national levels and in regional policy forums. Health-care professionals are using their personal experiences as witnesses to the deaths and misery from unsafe abortions to advocate for change, and law enforcement agencies are recognising and removing the barriers in national and local legal systems. The African human rights system is openly recognising the violations inherent in punitive and restrictive abortion laws and policies and the maternal deaths resulting from unsafe abortions — and increasingly holding governments accountable to their obligations in this area.

This report outlines the main strategies in Ipas's regional policy work and provides an overview of progressive abortion policy changes and trends in the region, primarily between 2010-2016.

SETTING DIRECTION AT THE REGIONAL LEVEL

The core approach of the Ipas regional policy programme is to identify the key actors, initiatives and venues where policy is debated and to advocate directly, or through champions, for abortion to be included in the debate.

Significant opportunities to **influence policy on women's health and rights** have arisen through civil society advocacy coordinated by the Gender is my Agenda Campaign (GIMAC) at African Union summits, at the Pan African Parliament, at the NGO Forum to the African Commission on Human and Peoples' Rights (ACHPR) and other important venues.

The growing impact of advocacy by Ipas and partners is visible in the **strong statements** issued in support of expanding access to safe abortion and reviewing restrictive laws in a number of key policy venues (see box on the following page for examples).

Perhaps the most significant recent result of Ipas's advocacy is the launch by the ACHPR of a regional **Campaign for the Decriminalization of Abortion in Africa** in line with the African Union's recognition of 2016 as the "Year of Human Rights with Special Focus on the Rights of Women." The campaign aims to bring attention to the problem of unsafe abortion and highlights the importance of States taking concrete action to remove legal and other barriers that prevent women and girls from realising their sexual and reproductive health rights, including access to safe abortion services. Commissioners have brought the campaign's clear call for policy action to various high-level regional and international venues since its launch, and civil society engagement is increasing.

At the programmatic level, Ipas has provided support to the African Union in reviewing progress of member states on the **implementation on the Maputo Plan of Action for Sexual and Reproductive Health**—a common continental plan for government action. Ipas staff and champions are playing a strong role in advocating that access to safe abortion be maintained as a priority approach in the plan, despite opposition from some member states. Member states agreed to extend the time frame for achieving the plan's goals to 2030 to align with the Sustainable Development Goals and approved the updated plan in mid-2016.

Partnership with and technical support to the AU Directorate of Social Affairs has also resulted in **strong programmatic guidance documents** on abortion for use by member states. Recognising that every country in Africa should be ensuring that safe abortion is available at least to save a pregnant woman's life, *Interpreting and Implementing Existing Abortion Laws in Africa* was released in 2014 to provide clear direction for governments on how to take concrete steps to expand access to safe abortion for all legal indications. The 2012, 2013 and 2014 African Union status reports on Maternal, Neonatal and Child Health for the region also included information on the influence of unsafe abortion on maternal morbidity and mortality and urged countries to review restrictive abortion laws and address abortion stigma.



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KEY REGIONAL DECLARATIONS OF SUPPORT FOR SAFE ABORTION

African Ministers of Gender urged countries to authorize abortion in accordance with the African Union Women's Protocol (Addis Ababa Declaration from the Ninth African Regional Conference on Women, December 2014)

The Pan African Parliament (PAP) at its 2014 Women's Conference recommended that member states *"provide services under existing abortion laws in order to reduce the high rates of maternal mortality and morbidity from unsafe abortion, and that parliamentarians review restrictive laws in order to align with the minimum standards of Article 14 of the Maputo Protocol."*

Ministers of Gender, senior representatives of AU and UN organs and leaders from women's rights organizations on the continent in January 2015 made the following recommendations to the AU Heads of State: *"Member States should ensure that sexual and reproductive health and rights of African women in the existing commitments to women's reproductive health and rights, as adopted by African Heads of State in the AU Protocol on the Rights of Women (Maputo Protocol) in 2003, and the Maputo Plan of Action on Sexual and Reproductive Health Rights in 2006, are implemented and mutual accountability of those existing commitments, without renegotiating their content."* This was the first time a strong message has been sent to African diplomats that gender equality advocates on the continent are concerned by the failure to abide by human rights commitments. (Stakeholders' Consultation Joint Communique from the 25th Pre-AU Summit Consultative Meeting on Gender Mainstreaming in the African Union)

The NGO Forum to the ACHPR in April 2015 called on members states to *"... protect and safeguard women's and girls' sexual and reproductive health rights, including but not exclusive to providing safe abortion services to women;" and to "review and repeal punitive laws relating to abortion..."* This strong statement results from Ipas's sustained participation in and sensitization of the semi-annual NGO Forum participants, who make influential recommendations to the Commission. (25th Pre-AU Summit Consultative Meeting on Gender Mainstreaming in the African Union)

UNITING FORCES AND STRENGTHENING OUR COLLECTIVE VOICE

A key strategy for achieving positive results in abortion policies has included **providing learning opportunities through capacity-strengthening workshops and sharing technical expertise** with specific groups of stakeholders, who are often champions and allies in key policy institutions or organisations. Through this approach, expertise is being built on a number of topics, such as how to draft an abortion law from a human rights perspective; which common aspects of abortion service delivery create barriers to access and how to justify removing them; and how to advocate effectively in regional and international spaces.

Workshops include individuals from multiple countries, thus creating opportunities for participants to network and to learn from one another. This approach has contributed to normalising abortion among these committed activists and has assured them that they are not alone in caring about the importance of eliminating unsafe abortion.

Ipas also has organised numerous capacity-building events on abortion for NGOs and networks such as the World YWCA, whose 2013 strategy called for girls to be allowed to make safe choices for their bodies, and with FEMNET (African Women's Development and Communication Network) and FAMSA (Federation of African Medical Students' Associations), both of which have since incorporated a focus on abortion into their organisational strategic plans. Following engagement with Ipas, the Solidarity for African Women's Rights (SOAWR) Coalition incorporated into its membership criteria the requirement that applicants should not be opposed to and/or have reservations on Article 14 of the African Union Women's Protocol, which calls for governments to ensure safe and legal abortion to protect women's reproductive rights.

Key policymakers including Ministers of Health and Gender, members of the Permanent Representatives Council to the African Union and the African Commission on Human and Peoples' Rights have been provided technical support by Ipas. Many have gone on to champion abortion law reform in individual countries and across the region, including development of crucial guidance for governments reporting on their compliance with the reproductive health and rights provisions of the AU Women's Protocol (*see box on General Comment 2*).

"Ipas Africa Alliance has brought in experts on different subjects, to speak about discrimination against women, on the legal dimension of women's rights, and sexual and reproductive issues. Ipas Africa Alliance workshops led to the continuous upgrading of knowledge of commissioners."

– Commissioner Soyata Maiga, Vice Chair African Commission on Human and Peoples' Rights (ACHPR)

GENERAL COMMENT 2 ON THE AU WOMEN'S PROTOCOL: A KEY COMPLIANCE TOOL FOR GOVERNMENT ACCOUNTABILITY

Ipas partnered with the African Commission on Human and Peoples' Rights—the AU organ charged with ensuring the promotion and protection of human and peoples' rights throughout the African continent—to engage the commissioners on the human rights aspects of unsafe abortion. Over the course of several years, Ipas and invited experts offered technical support to the Commission to develop General Comment 2 to the Maputo Protocol, a major milestone adopted by the commission in 2014.

The Maputo Protocol is the main legal instrument for the protection of the rights of women and girls in Africa. Article 14 of the Protocol guarantees women's right to health, including sexual and reproductive health.

General Comment 2 provides interpretive guidance on the obligations of governments towards domesticating and implementing Article 14 and provides a gauge by which to measure government compliance under the Charter.

INVESTING IN CHAMPIONS

“The Ipas Africa Alliance strategy of working with champions within institutions has been great. Building the capacity of key office holders and policy influencers has been critical to enabling the work on unsafe abortion at the ACHPR and at the national level.”

– Commissioner Winfred Osimbo Lichuma,
Chairperson, National Gender Commission,
Kenya

The success of the Ipas regional policy strategy is due largely to partnerships with key allies in positions of influence from government, civil society organizations and networks, health and legal professional associations, youth movements and others. As these champions move throughout their careers—from private sector to public sector, from NGO to government, from technocrat to policymaker—they find new ways to address the issue of unsafe abortion and help to expand the network of support for safe, legal abortion.

Institutional leadership from health, legal and rights associations also plays a critical role in influencing progressive policy change because of the credibility these leaders bring in their areas of expertise. Ipas’s **partnerships with regional professional associations**, including the new African Federation of Obstetrics and Gynaecology (AFOG), the Confederation of African Midwives’ Associations (CONAMA), Kenya’s Judicial Training Institute, and

others have allowed us to support **the development of institutional abortion-related expertise**. These relationships have flourished through open dissemination of the latest evidence, supporting speaking opportunities for individuals to share their policy or programmatic experiences at regional or global events, and by tailoring the information each group needs to meet their professional interests and style.



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BUILDING YOUTH CHAMPIONS FOR SAFE ABORTION

Nearly half of Africa’s population is between the ages of 15 and 25. Young African women are disproportionately affected by the impact of unsafe abortion—and face barriers to care including prohibitive costs, lack of youth-friendly services and limited legal capacity to consent to reproductive health services. They also bear the burden of unresponsive policy frameworks that do not reflect their lived realities.

In acknowledgement of these multiple challenges, Ipas works with young people to strengthen their capacity to infuse their perspectives in policy formulation at the regional and national level. We engage them as partners at regional and global policy forums, work with them to increase their advocacy skills, and support their country-level actions. Young leaders are advocating effectively on the issue, including ensuring that access to safe abortion was included in the final 2014 outcome statement adopted by the Gender is my Agenda Campaign at the African Union Joint Pre-Summit on Gender, and comprehensive sexuality education was included in the 2016 statement.

NATIONAL POLICY CHANGE

The ultimate goal for policies set at the regional level is to provide direction and guidance for action at the national level. At the same time, regional policy-setting depends on inputs and evidence gathered at the country level. Maintaining a close link between the two levels is critical to ensure that action results from policy pronouncements.

National policy change usually begins with documentable evidence of the problem and clear articulation of solutions. Since the establishment of a regional abortion research network in 2006, Ipas and others have worked with governments to expand the evidence base significantly, with studies estimating **magnitude of unsafe abortion and the incidence of abortion** in Ethiopia, Kenya, Malawi, Nigeria, Rwanda, Sierra Leone and Uganda. Studies documenting **the costs to the health system** of managing complications from unsafe abortion have been conducted in Ethiopia, Kenya, Malawi, Nigeria, Rwanda and Uganda.

Research has been carried out in Uganda and Ghana to document and measure the **stigma related to abortion** in communities and health facilities in order to find effective ways of lessening it, and numerous countries have explored ways to make **medical abortion** safe and more useable for women within their own settings. Results from these studies have been critical in local debates about the need for law reform in several countries or ways to expand access to safe abortion care.

In Ghana, Malawi, Senegal, Sierra Leone and Zambia, Ipas has partnered with governments to conduct **strategic assessments of abortion needs**. Strategic assessments are a WHO-designed qualitative research approach to gather input from a broad range of individuals from all walks of life, and in the process, build political will among policymakers—who participate directly in the process—to identify and act on solutions. In each of these countries, the assessment process resulted in direct action by government to develop or refine policy guidance on abortion and take steps to make safe services more accessible.

In Rwanda, Ipas worked with local partners to document the situation of women **in prison for abortion** and raised awareness of how the penal code includes provisions that result in nearly universal barriers to access for most women.

“Working with regional bodies to develop recommendations and plans provides an easier entry point at a national level.”

– Dr. Joachim Osur, Director, Regional Programs and Field Offices, Amref Health Africa

A study by Ipas and the Great Lakes Initiative for Human Rights and Development (GLIHD) on the enforcement of criminal abortion laws in Rwanda revealed that almost one quarter of the women in five Rwandan prisons are incarcerated on abortion-related charges.

The study called on the Rwandan government to take steps to release all women, girls, health-care professionals and others unjustly imprisoned on abortion-related charges and to take action to remove the legal barriers that make it “nearly impossible” for Rwandan women to get safe, legal abortion care.

Rwandan government officials immediately took steps to review the existing abortion articles in the penal code to identify ways to remove existing barriers.



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SERVICES BEING
PROVIDED AT AREA 25
HEALTH CENTRE.

- O.P.D. SERVICES
- MATERNITY
- YOUTH FRIENDLY HEALTH SERVICES
- A.N.C. SERVICES
- FAMILY PLANNING
- P.M.T.C.T.
- ART SERVICES
- STI SERVICES
- UNDER FIVE CLINIC
- H.T.C. SERVICES
- NUTRITIONAL SERVICES
- DENTAL SERVICES
- OUTREACH CLINICS
- LABORATORY SERVICES
- HOME BASED CARE
- REFERRAL SERVICES
- ENVIRONMENTAL HEALTH SERVICES

EVIDENCE THAT ADVOCACY IS LEADING TO POSITIVE CHANGE IN MANY COUNTRIES

Abortion law reform to decriminalize the procedure and provide a legal framework that supports expanded access is an active goal in a number of countries:

- **Mozambique's** new abortion law, approved in 2015, permits abortion on request and will allow that country to tackle the enormous number of health problems caused by complications from unsafe abortion.
- **Sierra Leone's** parliament ratified the AU Women's Protocol and several months later unanimously passed the Safe Abortion Bill of 2015. As of July 2016, the President has twice failed to sign the bill into law due to pressure from anti-abortion religious groups.
- **Malawi and Uganda** also have active efforts underway for abortion law reform, with engaged networks of civil society and strong support from key government actors.
- **Rwanda's** Ministry of Justice has pledged to review the abortion provisions in the penal code with an eye toward removing existing barriers and expanding access to safe care.

These legal reform efforts are challenging, long-term goals that will require sustained energy, advocacy and resilience in the face of opposition and stigma.

Legal reform, however, is not the only way to improve policy at the national level. A number of countries have clear policy frameworks in place to implement existing laws, which allow abortion in certain circumstances. National standards or guidelines have been in place in a number of countries for a decade, and following the 2012 second edition of the WHO's seminal *Safe Abortion: Technical and Policy Guidance for Health Systems*, Ministries of Health in **Ghana and Ethiopia** updated existing guidance to meet the new standard of evidence. The African Union's guidance document on implementing existing abortion laws can also help identify ways to make progress.

National policy debates have also benefited from the increasingly connected networks of experts on abortion issues in the region, allowing for multi-country exchanges and study tours to learn from each other. The Special Law Commission formed in **Malawi** to review the need for abortion law change was able to visit three countries in the region—Ethiopia, Zambia and Mauritius—to learn from their experiences with law change and service implementation. Parliamentarians from Sierra Leone, Malawi and Mozambique visited Ethiopia to study that country's law reform process. Equality Now, the secretariat for the Solidarity for African Women's Rights (SOAWR) coalition established to advocate for full ratification of the AU Women's Protocol, supported local advocacy in Sierra Leone that resulted in passage of the Maputo Bill in 2015, which ratified the AU Women's Protocol.

And yet, inevitably, opposition to abortion remains. Sierra Leone offers a stark example of **efforts to thwart progress** by citizens and lawmakers in addressing the reality of unsafe abortion. Despite a unanimous vote by the country's parliament in favor of law reform, the national Inter-Religious Council intervened in the lawmaking process, causing delays in adoption of the law and encouraging the President to require changes that will make access to safe and legal services virtually impossible.

Similar actions in Kenya and Uganda have stalled progress in improving women's access to legally permitted services (see box *Religious opposition to safe abortion harms women's health*.) Where abortion is concerned, policymakers at all levels in Africa are still feeling forced to choose between making good public policy that benefits women's lives and by extension the lives of their existing children and families, and bowing to pressure to reflect religious doctrine in policymaking. Building a strong public voice in favor of safe abortion may be the only way to ensure that national policymakers keep women—rather than a particular ideological viewpoint—at the forefront of their agenda.

RELIGIOUS OPPOSITION TO SAFE ABORTION HARMS WOMEN'S HEALTH

In Kenya and Uganda, religious opponents to women's rights have interfered with each country's Ministry of Health's issuance of service delivery standards and guidelines related to legal abortion care. Despite widespread consultative processes to develop each country's guidelines, both based on the best global evidence available, some religious leaders pressured policymakers to withdraw the guidelines, leaving health-care professionals with no direction about their responsibilities or protections when providing legal abortion services — and women with no options other than unsafe abortion.

EVOLVING LANDSCAPE

The future for safe abortion access in Africa is encouraging, despite occasional setbacks. There is a **clear increase in knowledge, information access and accountability** through evidence-generation across the region. Positive policy change can be seen in examples of national law reform, updated standards and guidelines, access to comprehensive public health services, vocal commitments by policymakers and a progressive normative environment that contributes to changing attitudes. The **integration of safe abortion into regional strategies** and action plans on sexual and reproductive health and rights (SRHR) is a significant milestone in measuring policy shifts.

“Making the abortion question an African cause counters the ‘it is a western agenda’ claim. Knowledge is not bound to a certain region of the world. It is a holistic agenda.”

– Professor Charles Ngweni, Centre for Human Rights, University of Pretoria, South Africa

In countries where restrictive laws remain, arrests and threats against service providers continue. Policymakers are threatened by ideology and the potential to lose their positions, despite the clear evidence that should compel them to act to support expanded access to safe abortion.

Yet the trends are clearly in favour of women's health and rights, and safe abortion is increasingly recognised as a clear component of that picture. Ipas's commitment to working through and supporting partnerships at all levels has been critical to our successes in the region. Passionate individuals who believed they were alone in caring about safe abortion have found allies in other countries and are building a movement together.

A strong legal and policy environment alone is not enough to solve the problem of unsafe abortion, but is an essential foundation for driving long overdue changes.

Obtaining a safe abortion can be the key that unlocks a woman's or girl's opportunities for a fulfilling and productive life. Right will prevail. Ipas's regional policy work will continue until it does.





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