

# Reflections on Our Countries [Special Edition]

*in Commemoration of the International Safe Abortion Day*

## State of Abortion in Africa: Egypt - Senegal - Rwanda

September 2016



*Every month RESURJ members will collectively share and reflect on some news highlights affecting sexual and reproductive, environmental and economic justice from the different regions and countries we work in...*

### The Egyptian government needs to acknowledge and amend its outdated and restrictive law

*Dalia Abdel-Hameed, Gender and Women's Rights Officer, Egyptian Initiative for Personal Rights*

Abortion was first criminalized in Egypt under the Penal Code on November 13, 1883 in the era of Khedive Tawfiq, which followed in the tracks of the French Penal Code. The provisions on abortion are in Chapter 3, on the termination of pregnancy and the manufacture and sale of hazardous, adulterated potables in Articles 239, 240, 241, and 242. These articles are still in force today under Law 58/1937, with the exception of the statute that provides for no punishment for attempted abortion, which was added to the Egyptian Penal Code (Law 4/1904). This demonstrates the colonial roots of the criminalization of abortion, in contrast to the widespread belief that the proscription is linked to religion; to the contrary, the criminalization of abortion in Egyptian law is inspired by French culture, which at the time was in turn influenced by canon law. French law prior to the French Revolution considered abortion on par with murder, regardless of when the abortion was carried out.

French abortion law has been amended numerous times since then however. The most recent amendment in 1975 made abortion permissible under certain conditions within the first ten weeks of pregnancy and allowed a medical exception for abortion at any stage of pregnancy if necessary to save the mother's life or health, or if the fetus had an irremediable terminal illness. But Egyptian abortion law has remained unchanged since the 1930s.

Furthermore, Egypt has one of the most restrictive countries in the world and even in the region. Several Arab states have more liberal abortion laws, allowing it if the pregnancy poses a danger to the life or physical health of the woman, as in Algeria. Sudan permits abortion in pregnancies resulting from rape, while Tunisia allows abortion on numerous grounds, including to preserve the woman's mental health. Egyptian law on the other hand, does not permit abortion on any grounds, and it does not allow survivors of rape or incest to exercise their right to terminate unwanted pregnancies resulting from rape. The law also punishes women who intentionally abort a pregnancy with imprisonment. The sole exception to this is in the physicians' Code of Ethics, which permits doctors to conduct an abortion in the case of threats to the mother's life or her health. This exception, however, represents only a moral, not a legal duty. These legal provisions constitute a serious restriction of women's right to access safe abortion in many cases and a grave violation of their right to life, health, sexual integrity, and

privacy, as well as their right to make decisions about their bodies.

We believe it is time to reconsider the provisions in the Penal Code on abortion. As part of the global campaign on safe abortion, the Egyptian Initiative for Personal Rights and RESURJ are making use of the opportunity to call on the Egyptian legislator to amend legal provisions on abortion to guarantee women's access to safe abortion in cases where pregnancy constitutes a threat to the woman's life or health or if the pregnancy is the result of rape.

### Senegal: Using religion, health and even poverty alleviation arguments to oppose abortion rights

*Diakhoumba Gassama, anti-FGM activist and member of RESURJ*

As there is a growing voice to recognize 28 September as an international day for women's right to abortion, in Senegal we are still struggling with the obsolete state of our laws and the monopoly of the public debate by archaic and oppressive socio-cultural values which use religion, health and even poverty alleviation arguments to continue to express fierce opposition to Senegalese women's right to choose if, when and how to become mothers.

Although a signatory to all of the regional and international treaties guaranteeing women's rights, including SRHR, Senegal has one of the most restrictive anti-abortion law and policies in the world. The 2005 Law on Reproductive Health provides that abortion is prohibited and has been made a criminal offence for all those involved in the procedure. The only exception envisaged by the legislator in the *Code de Deontologie Medicale* is when "abortion is the only means to safeguard the life of the mother". This is a provision that not a single woman in Senegal has been able to benefit from, as the law requires three doctors to provide a certificate and notify the president of the national medical board. In the total absence of a public health system, all the costs involved are to be born by the woman and her family and usually are equivalent to 20% of the median monthly salary in Senegal. To make matter worse, doctors have the right under law to invoke their conscience not to participate in the certification or the abortion procedure.

The result is a country where survivors of rape or incest, women pregnant with fetuses with malformation or whose "life" is at risk or can cause harm to the women, who would want to have an abortion, are forced to carry out these unwanted pregnancies. A very established

consequence is the ever-growing number of [infanticide](#) and clandestine [abortions](#) practiced by unskilled persons becoming very common in all spheres of Senegalese society. Alarming, we see the shifting of the societal debate which now views medicalized abortion as a possible means to stop the loss of lives to unsafe abortion and infanticides but still refusing to acknowledge the very fundamental, innate and regionally and internationally recognized right of Senegalese women of all ages, class, marital status, to freely choose how to enjoy, protect and decide over their bodies and sexual and reproductive health and rights.

## Rwanda's baby steps to abortion decriminalization

*Chantal Umuhiza, WICBT Project coordinator, PRO-FEMMES and member of RESURJ*

In Rwanda, sexuality in general has always been rarely publicly discussed. Christianity has played a big role in shaping social conceptions of sexuality and restricted it to married life. As a result, there's high stigma in society for sex before and/or outside marriage. Abortion is also largely stigmatized and widely perceived as a "wrong thing to do" mostly from a Christian perspective.

Abortion was formally made illegal under the criminal code (Ordinance 43/Just. of 18 May 1970), which was based on the 1940 Penal Code of the Belgian Congo, which contained no stated exceptions. Rwanda's revised code of 1977 (Law 21-77 of 18 August 1977) liberalized abortion to a certain extent by [allowing abortion](#) in case continuance of a pregnancy could seriously endanger the health of the pregnant woman. Still, at least two state physicians were needed to confirm the necessity for an abortion and it had to be done in a public hospital. In addition, induced abortion was punished for up to 15 years in prison.

In 2012, as part of the general penal code reform, the law on abortion was revised, resulting from international pressure to comply with the African Charter on Human and People's rights on the Rights of Women in Arica, in its article 14.2c and mostly due to the great role played by a group of [youth advocates](#), who, since 2009 brought the issue of the impact of unsafe abortion to public debate for the first time in Rwanda's history. The same year, the

first ever study on abortion was published, highlighting a high abortion [incidence](#) in Rwanda (60,000 abortions annually).

The current law as revised in 2012 reduced prison time for induced abortion from 15 years to 3 years, extended grounds for exemption from criminal liability for cases of unwanted pregnancies resulting from rape, forced marriage, incest and when the life of the mother or the unborn are in danger. However, the law adds conditions that require the above exempted cases, to get a court approval and for the abortion to be approved by at least 2 doctors. Generally the law still puts barriers for access to safe abortion for cases exempted from criminal liability and still criminalizes women who seek abortion on grounds not exempted by the law (which is mostly the case), it also doesn't clarify procedures to seek an abortion for minors and it violates women and girl's right to privacy as they go through costly and lengthy court processes.

Activists for abortion decriminalization haven't given up. As of August 2016, part of the Rwandan penal code is again being [revised](#) and it being an opportunity presenting itself, activists and researchers from a few Civil Society Organizations have submitted proposals to revise the current law. Proposed [amendments](#) to the current law, along with other law projects will be presented before parliament early next year.

Even though the proposed amendments are to ensure reduced barriers to access safe abortion for the cases currently accepted by the law, we understand that the big number of unsafe abortion are not majorly from the exempted cases (rape, incest, forced marriage). A recent [study](#) shows that in Rwanda, unsafe abortion affects mainly young and poor women and girls, who are less informed about sexual and reproductive health and have limited access to services to ensure prevention of unwanted pregnancies.

However, due to the sensitivity of the issue, total decriminalization is a long desired goal that is still being pursued but in due time. Upcoming opportunities include the 2017 presidential elections, where activists see an opportunity to demand support from politicians for more progressive women's rights laws and policies including decriminalization of abortion. For now, Rwandan activists and researchers are strategically linking with regional and global movements to continue advancing this cause.