

My fertility was stolen from me

In Namibia, HIV-positive women are being tricked into sterilisation. Is this a country desperate to curb Aids, or just a blatant human rights violation? Marion Stevens of the Women and HIV/AIDS Gauge, Health Systems Trust, came across this recent article, which exposes the reality of what's happening in Namibia's state hospitals.



Fertility of HIV-positive women remains a complex issue for many health workers. I wonder what DENOSA members think of what is taking place in Namibia. It would be good to discuss these issues in your branches and with your gender structures.

To give you some background, here is a copy of an article which appeared in the Huffington Post in November 2009 (sourced from http://www.huffingtonpost.com/pritipatel/namibia-women-face-forced_b_356245.html).

The article

Ten years ago, Susan* was admitted to a public hospital in Namibia for an emergency surgery. She was 20 years old and was unaware that she was pregnant. When she woke up from surgery, she was told by a nurse that they had "taken her womb because [she] had

HIV". She has no children and now it is unlikely she ever will.

Susan's story is far from unique. The International Community of Women Living with HIV/AIDS in Namibia (ICW-Namibia) and the Windhoek-based Legal Assistance Centre (LAC) have documented the stories of dozens of HIV-positive women who were sterilized – against their will – in public hospitals. Fifteen of these women are suing the Namibian government. They argue that the medical personnel violated their right, under the Namibian constitution, to be free from discrimination and inhuman and degrading treatment; their right to dignity; and their right to found a family. The 15 cases have been consolidated and are expected to go to trial in early 2010.

Like Susan, none of these 15 women gave their informed consent prior to being sterilized. In some cases, medical personnel obtained the women's consent under duress (these women were

asked to sign consent forms while they were in labour or on their way to the operating room). In other cases, the women had to agree to be sterilized if they wanted other medical procedures, such as an abortion or caesarean section.

And in yet another type of coercion, medical staff included sterilization consent forms in a pile of “routine” forms women were told to sign prior to giving birth; no explanation was provided on the nature of the forms. Shockingly, some women did not realize they had been sterilized until several months later.

The impact on the women has been devastating. In a society that prizes motherhood, having that ability stripped from them makes it even harder for women to negotiate already treacherous personal relationships. Some of the women have lost their husbands or partners because of the sterilizations. Others have opted not to inform their partners for fear of retaliation.

Susan told us she has had many offers of marriage, but the men all leave after she tells them that she is unable to have children. At age 30, she fears she will never find a husband.

Unfortunately, coerced sterilization is but one of the many abuses that women living with HIV experience while trying to access reproductive and other medical services. HIV-positive women who become pregnant endure blatant discrimination and verbal abuse at health centres.

In an interview by ICW, a Namibian doctor justified the ill treatment of HIV-positive women by claiming they were “dirty”. Given the stigma and discrimination they face at health centres, many pregnant women will stay away from hospitals – putting themselves and their children at risk.

Up to now, even with the initiation of the 15 legal cases, the government has refused categorically to end the practice of coerced sterilization. Health officials refuse to investigate women’s claims and have taken no action to enforce and promote policies to prohibit sterilization without informed consent.

As its first step, the government should provide justice to women who have been coercively sterilized. When possible, the sterilizations should be reversed. The government must take disciplinary action against any medical personnel involved in coerced and forced sterilizations to send a clear message that such abusive and discriminatory treatment will not be tolerated.

To put pressure on the government, the ICW, LAC, the Southern Africa Litigation Centre (SALC) and several other local and regional organisations have launched a campaign to end forced sterilization in Namibia. The campaign also seeks to educate women diagnosed with HIV that, with proper treatment, they will be able to give birth to healthy children if they so choose.

Like many others, Susan will be closely following the outcome of the sterilization trials in Namibia. She hopes to one day find a doctor who can reverse her sterilization. Without the ability to have children, she feels she will never be whole again. **NU**

** Name has been changed to protect her privacy, and prevent further discrimination.*



Update

Norman T Jombe, the director of the Legal Assistance Centre (LAC), published this update on 16 December 2009:

The High Court today agreed with the Legal Assistance Centre (LAC) that the Public Service Act does not apply to the forced sterilisation cases, in which the LAC is representing several women suing the government of Namibia for damages. Earlier, the government raised a legal point that the LAC’s clients did not comply with the Public Service Act of 1995, which requires that a person wishing to institute legal action against the government must do so within 12 months of the action arising, and only after written notice of one month has been given to the government.

The LAC argued that the Public Service Act does not apply as that law only regulates the employment affairs of the public servants, and not to delictual or contractual disputes of non-public servants against the government. As a result, no such notice was given, and in some of the cases, the legal action was only instituted after 12 months after the sterilisation was done. The High Court, in a judgement of today, agreed with the LAC’s arguments. The cases will now continue on the merits of whether or not the clients – all women who are HIV positive – were unlawfully sterilized without their consent when they were in labour. The women are each suing the government for over N\$1 million in damages.

Please, take note that the clients have obtained an order from the High Court that their identities should not be revealed as they fear further discrimination and stigmatisation