Hospitals face legal action over sterilisation of 13 women

By STANDARD ON SATURDAY TEAM

Controversy has erupted over claims by 13 HIV-positive women that they were sterilised against their will or without their knowledge.

At least one public facility has threatened to sue a non-governmental organisation that published the claims.

Women reported being bullied, blackmailed or tricked into having their uterus tubes tied to permanently prevent them from having any more children. Another 27 said they were talked into having tubal ligations because they had - HIV - the virus that causes AIDS.

The claims were made last year, two weeks after a group of NGOs held an "education forum" on the issue.

They came to light last week after the release of a booklet by Choice, a report prepared by members of the African Gender and Media Initiative (GEM). The allegations have sparked war of words among activists, people living with HIV/AIDS and Government officials.

The Government has ordered an investigation into the claims that could see doctors charged with criminal offences and reprimanded for obtaining consent in healthcare.

"Investigate matter"

"The act is robbery with violence," Public Health Minister Beth Mugo said and urged the Office of the Director of Public Prosecutions to investigate the matter. How can one sterilise a patient because she is HIV-positive? This is a criminal act and that is why it should be prosecuted immediately."

An official at the Kenya National Hospital (KNH), one of the institutions accused of allegedly conducting forced sterilisations, welcomed the probe saying it will help clear their name.

"We are ready to be investigated," said Dr John Onyech, the KNH assistant director who heads the Gynaecology and Obstetrics Department. "I assure you our records are clean. We want the investigation to be carried out as soon as possible. If not, we shall sue African Gender and Media Initiative."

Sterilisation is a permanent form of contraception that usually involves cutting or blocking a woman's fallopian or uterus tubes. The minor operation, is 99 per cent effective and is usually performed on women who do not want any more children.

Since HIV-positive women usually have Caesarean sections to reduce the risk of passing the virus to their babies, doctors can easily perform tubal ligations during the same procedure without informing the patient. The incidents in the GEM report go as far back as a decade ago and involve public and private facilities in Nairobi and Nakuru.

Due to limitations in the way the study was conducted, however, it is not clear how prevalent or widespread the alleged abuses are.

Recent demographic and health surveys have found that about 63 per cent of Kenyan adults aged 15-49 - about 1.5 million people - are living with HIV. A large number of these are women of childbearing age.

These are concerns that forced sterilisation could see more women avoid reproductive health facilities. Fears of being labelled HIV-positive have already led to more home births and

Family planning

Victims consent was not sought before procedure

Forced sterilisation of women living with HIV (WTHV) is not happening. The procedure is considered a 99.9 per cent permanent method of family planning.

A report, Robbed of Choice: Forced and Coerced Sterilisation Experiences of WTHVs in Kenya, comes as a shocker as 33 women shared their horrific experiences before, during and after the operation.

The report revealed that consent was routinely sought from the patient when they are in a vulnerable position, while in labour pain and just about to go for a caesarean section and in some instances incentives such as food and milk were offered.

"This is not an emergency procedure it is what I call elective procedure," said Kenya Obstetricians and Gynaecologists Society vice-chairperson Anne Kihara.

Dr Kihara said that any woman should be free and well informed so as to choose when to have their babies, whom to have them with, and when to deliver as they have rights on their reproductive power.

"Our practices should be ethical, strive for quality, and professionalism," she added.

Personal Initiative for Positive Empowerment programme co-ordinator Teresa Njoki has been working with the WTHV and has been speaking for these women.

She interviewed 48 women who had undergone the procedure. Thirteen said they were forced. "We had heard and attended seminars of these cases in other parts of Africa, but here in Kenya it came as a shocker, I thought the number would not exceed two. The 13 are just the ones I interviewed," she said.

Kenya Legal and Ethical Issues Networks on HIV/AIDS Allan Maleche said they would file cases before the constitutional courts to seek declaration that what happened in the health facilities were human rights violations.

He said they will also seek for declarations and directions from courts to have Government officials involved stopped and circulars issued by Minister for Medical Services. Anya Ng'ang'a, on the matter.

This is a human rights violation: because the psychological suffering they have faced as human beings and we shall be seeking damages," said Maleche
to stem the tide of children born with the virus — currently at 13,000 a year.

Facilities implicated

- KNH, Marie Stopes International, Med- 
cine San Frontières' Blue House are among the health providers that allegedly per- 
tformed tubal ligation on the victims.
- Although KNH verbally denied the char- 
ge, Medicine San Frontières' Blue House 
said they would look into it.
- Marie Stopes gave a written response 
saying they do not engage in such unethi- 
cal activities.
- Tubal ligation is considered 99.9 per cent permanent family planning method.
- Reported health complications caused by the post-tubal ligation included severe ab- 

dominal and back pains, inability to con- 

tinue work, and heavy menstrual flow or none at all.
- Sterilisation is a permanent form of con- 

traception that usually involves cutting or blocking a woman's fallopian or ster- 

ile tubes.
- The minor operation, is 99 per cent ef- 
ficacious and is usually performed on wom- 

en who do not want any more children.

Consented freely

He says one case involving KNH concerns a woman who consented freely to a tubal ligation after a Caesarean section. (Women who undergo multiple C-sections often develop scar tissue and higher risk of complications in further surgeries). Ong'e said her claims of being coerced or not being properly in- 
formed, were found to be false.

Doctors and other health workers 

could be pressuring HIV-positive women into sterilisation in an at- 

tempt to stem the tide of children born with the virus — currently at 13,000 a year.

Reports indicate that HIV-posi- 
tive women fail to take ARVs when 

pregnant and opt to deliver their ba- 
bies at home. Claims of forced ster- 
ilisation could make the problem worse, as more women stay away from hospitals.

Meanwhile, activists insist the 

claims are true and plan to sue the 

Government. "We had already heard 

about forced sterilisation and at- 
tended seminars in other parts of Af- 
rica," says Teresa Njoki, an activist 

who interviewed 40 women who have had tubal ligations and says 13 of 

them were coerced.

"But here in Kenya, it came as a 
shocker. I thought the number would 

not be more than two (of the 40)," she 
said.

Similar cases have been reported 

in Swaziland, South Africa and Na- 
mibia. Last month, three HIV-posi- 
tive women claiming $122,000 each 

for "physical and mental pain" won a 
significant victory in a court in Na-
mibia when a judge ruled they were 

forced into sterilisation without in- 
formed consent. The tubal ligations 

were performed as part of Caesarean sections meant to protect their ba-
bies.

The court decision is expected to 

trigger a flurry of similar litigation 

across the continent. The conse-

quences for access to reproductive healthcare that will result, however, 

are not yet clear to anyone on either 

side of this new battle.

- Additional reporting by Loana 
Kibet

Reproductive health

Women recount pain in doctors hands

Some of the more disturbing 

claims in the 'Robbed of Choice' re-

port involve illegal sterilisations 

performed without the patient's 

knowledge.

For example, Selina, a mother of 

two claims she was forced to sign a 

form approving her C-section and tubal 

ligation. It is not clear if she was 

aware the sterilisation was to be per-

formed since he later left her 

when she could not have any more 

children.

Jane, a mother of four who was 

allegedly sterilised at the Kakamega 

General Hospital in 2004, says her 
husband talked a doctor into per-

forming tubal ligation to punish her 

"for not giving birth to daughters".

However, she admits that she 

kept her HIV status a secret from 

him and he only found out when a 

doctor at the hospital told him.

Other women sterilised at public 

hospitals say doctors or other 

health workers either threatened 

to withhold C-sections or used other 

forms of pressure to get the men to 

sign the forms.

Some say the forms were 

brought to them when they were in 

advanced stages of labour and 

could not give informed consent.

The stories told by Pamela An- 

deka, 42, and Ruth Acheng, 30, 
suggest some of the women gave 

uninformed consent or were steril- 

ised during emergency surgery fol- 

lowing pregnancy complications.

This puts question some claims of 

coercion.

Andeka is a widowed mother of 

two from Nairobi’s Mathare slum. 

She had her first three children in 

1988, 1992 and 1995 before her 

husband died of HIV-related complica-


tions in 2002.

The eldest of the three is HIV-

positive and, like Andeka, on anti-

retroviral medication provided by 

the Blue House Clinic, a Medicins 

Sans Frontières (MSF) facility in 

Mathare.

Two years after her husband’s 

death, Andeka had unprotected sex 

with a man she met and got preg-

nant. She turned for help at Blue 

House, which specialises in prena-

tal care and prevention of mother-

to-child transmission.

Nine months later, she delivered 
a healthy set of twins at the Pum-

wani Hospital.

She further claims that when she 
took her children to Blue House, she 

was told they would not get medical 

attention or food supplements un-

less she could prove her tubes were 
tied.

MSF, the group behind Blue 

House, says it is investigating claims 

by Andeka and other women. "In-

stead of my children suffering and 

not getting milk (in a free feeding pro-

gramme) I decided to have the 

operation done by Marie Stopes In-

ternational," she said. Andeka says 
she regrets having had the pro-

cedure.

"That pain is something I would 

not want any woman to undergo," 

she says. "He added that meeting 

and talking to other HIV-positive 

women who have had tubal ligation 

has been therapeutic. She can now 

openly speak about her status and 

encourage others like her to take 

charge of their reproductive health.

Consequences

"Women living with HIV can have 

healthy, virus-free children," she 
says. "I am proof of that. I have two 

healthy twins as living proof." She 

warns pregnant HIV-positive women 

not to be pressured into getting 

their tubes tied. "The doctor or 

health worker should be clear about 

the consequences of the operation," 

Achengo, who lives in Kibera, got 

to know she was HIV-positive shortly 

after having her first child at 19.

Her HIV-status was confirmed 

during pre-natal care and she was 

put on a seven-month course of 

antiretrovirals to prevent infection 

and raise her CD4 (white blood cell) 

count high enough that she could 

carry a baby.

Achengo conceived in 2004 but 

did not tell the doctors or seek 

treatment to prevent HIV transmis-

sion to the child.

The pregnancy ended in a mis-

carriage and she conceived again. 

This time the pregnancy almost ran 

the full term. But one day, late in 

her pregnancy, she passed out and 

was rushed to KNH.

Achengo says she regained con-

sciousness one week later, having 

lost the baby. Three days after she 

woke up, a doctor asked her wheth-

er she was aware of her HIV status.

"I told him I was positive and he 
said it was not right for me to give 
birth given my condition," she 
says. "He told me that I would 
give birth to a HIV positive baby and 

that is why they had closed my womb.

- a victim, Ruth Acheng

The doctor said in my condition I would give birth to a HIV positive baby and that is why they had closed my womb.