



### SAVING WOMEN'S LIVES

## POST LEGALIZATION CHALLENGES AND INITIATIVES TO ENSURE ACCESS TO SAFE ABORTIONS IN NEPAL

Nepal is a unique example where persistent advocacy efforts by women's reproductive rights activists supported by research and public opinion polls have significantly influenced the government to consider positively about reforming its existing abortion law. The strength on which the advocacy messages are built were based on the premises that '*...existing high level of maternal mortality in the country is due to unsafe abortions*' and '*...maternal mortality levels can be reduced drastically, once women have access to legal and safe abortions*'.

The House of Representatives passed the 11<sup>th</sup> amendment of the *Muluki Ain* (Civil Code) on March 14, 2002, six years after it was registered in the Parliament. The Bill becomes an act after it gets Royal Assent. The new law will provide wider grounds for women to terminate unwanted pregnancies (See Box).

As in many countries where abortion laws were revised from a highly restrictive to liberal ones, the demand for abortion in Nepal is bound to increase initially for some years and then stabilize. Nepal has a high level of mistimed and unwanted pregnancies (37% MOH, 1997) and a moderate level of contraceptive use (39%) among currently married women of reproductive age (MOH, 2001). In the changed (legalized) context, it is likely that a substantial proportion of the women with unplanned pregnancies would seek to terminate their pregnancies in public and private sector health facilities. Moreover, the proportion

of women approaching unqualified practitioners for abortion is not likely to drop immediately.

#### Features of the New Abortion Law

When Abortion Bill receives the Royal Assent, the abortion laws in Nepal will be liberal than in countries of South Asia.

The new abortion law will allow abortion in the following grounds:

- ◆ Up to 12 weeks of gestation for any woman
- ◆ Up to 18 weeks of gestation if the pregnancy results from rape or incest,
- ◆ At any time during pregnancy, with the recommendation of an authorized medical practitioner, if the life of the mother were at risk, if her physical or mental health were at risk or if the foetus was deformed.

Abortion will be punishable in the following conditions:

- ◆ Sex selective abortion.
- ◆ Abortion without consent of pregnant woman.

#### Challenges ahead

Studies show, demand for safe termination of pregnancies through private medical professionals is increasing in urban areas. At the same time sex determination tests and sex selective abortions has also started to emerge in terai (lowland) belt of the country (Tamang & Nepal, 2000). Women visiting unqualified provider for unsafe and clandestine abortions continue to take the lives of many innocent women. Women in villages delay seeking medical care for abortion complications due to fear, shame, lack of knowledge and lack of access to medical facility, or lack of money.

Studies show that between 20% to 60% of the obstetric and gynec patients in major government hospitals of the country are abortion complication cases (CREHPA 2000). The nature of treatment required by these patients include high doses of antibiotics, blood transfusions, IV fluids and sometimes laparotomy operations, while some of them even required prolonged hospitalization (over one week).

**Legalization of abortion has created new paradigms and challenges for Nepal.** The challenges range from access to quality (safe) abortion service, skilled human resources and advocacy. Safeguarding

women's rights to abortion and protecting innocent women from false accusation for illegal abortion or infanticide are potential challenges. Broadly, all these challenges can be group into :

## 1. Medical and Health Related Challenges

- a) Lack of adequate trained doctors and nurses, and a high concentration of OB&GYNE in few major cities;
- b) Lack of sufficient space, equipment and clinicians at district hospitals and at lower facility levels (PHC/HP);
- c) Limited hospitals equipped with MVA units; and non-specification about medical abortions;
- d) High prevalence of quacks.

## 2. Socio-legal Challenges

- a) Ignorance of rights and criteria for legal abortion;
- b) Lack of clarity between spontaneous and induced abortions from the perspectives of informer (accuser) and persecutor;
- c) Possibility of falsely accusing the woman of terminating the pregnancy of beyond legal gestation limits for abortion.
- d) Inadequacy or absence of legal aid for low income women accused for illegal abortion; and
- e) Negative social attitude to women seeking abortion;
- f) Attempt for sex selective abortions.

### Bridging the Gaps and Challenges-1 Prevention and control of illegal and unsafe abortions

- Imposing legal penalties to unauthorized persons conducting abortions;
- Training and expansion of certified institutions to increase access to safe abortion and post abortion care;
- Ensuring sustained supply of equipments, surgical supplies, and drugs essential for safe abortion at all levels;
- Setting a limit for service fee of private clinics;
- Promoting private nurses, paramedics and chemists for contraceptive information, services and for pre and post abortion counseling and referral;
- Involving NGOs and CBOs “Watch Dogs” against illegal and/or unsafe abortion practices.

### Bridging the Gaps and Challenges-2 Advocacy & awareness campaigns about abortion law and against unsafe abortion practices

- Use of *electronic* and *print media* for creating awareness about the new abortion law, the safety net or gestation period for legal abortion, pre- and post abortion counseling and risk of unsafe abortions;
- Conducting district and village level advocacy workshops and talk programs on above issues;
- Involving frontline health workers including, VHWs, FCHVs and TBAs for awareness and education campaigns among communities.

### Bridging the Gaps and Challenges-3 Protection of innocent women from victimization

- Conducting community based legal and health awareness campaigns about abortion rights;
- Disseminating research results (including case history) on women in prison who were falsely accused for induced abortion/infanticide;
- Providing legal aid to women charged for illegal abortion and rehabilitating the victims.

### Bridging the Gaps and Challenges-4 Prevention of sex selective abortion

- Making sex determination tests (SDT) and sex selective abortion (SSA) strictly illegal;
- Involving NGOs in monitoring of SDT and SSA at local levels.

### Bridging the Gaps and Challenges-5 Research

- Updating data base on hospital admission of abortion complications and post abortion care;
- Demand for contraception and abortion in public and private sector health institutions;
- Quality of pre- and post abortion counseling and quality of care from providers and clients perspectives;
- Population based surveys for estimation of unwanted pregnancies, induced abortion and decision making in abortion care.

### The Initiatives

CREHPA is committed to support government efforts to prevent unsafe abortions in the country. As a member of abortion task force formed by the Family Health Division, Ministry of Health, CREHPA is actively contributing the government in designing policies and programs to address the post legalization needs and challenges. Besides, CREHPA and its 27 partner NGOs (NGO Alliance) have initiated developing strategies and communication materials to strengthen Public Education and Advocacy campaigns at district and community levels to create awareness about new legislation, modify social attitude, discourage unauthorised providers and to encourage use of contraceptives.

### References

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