

ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST A GIRL CHILD INCLUDING SEX SELECTIVE ABORTIONS ARE IMPERATIVE FOR GENDER EQUALITY

THE CONTEXT

As in many Asian countries, Nepal has long been characterized by wide gender disparities and strong preference for sons. These have provoked serious prejudicial practices towards young girls and women, with negative impacts on their status, wellbeing and advancement.

Son preference manifests from the higher value put on the male gender roles over female gender roles both in economic and social norms. These stem from the patriarchal traditions in society that are upheld by religious institutions and socio-cultural norms. Married women are often forced to bear children until they produce a son irrespective of how many daughters they may have. For the majority of the women, daughters are desirable only when they have either a surviving son, two or more sons or no daughter. Limited studies that have focused on gender selection, desired sex composition of children and contraceptive use have revealed that the son preference has been very strong in Nepal when compared to other countries around the world (CREHPA, 2007; Puri, M and Tamang, A., 2015). These studies have shown that pressures on women to bear a son lead to frequent conceptions at short birth intervals; non-use of contraception; sex determination tests, abortion and physical and mental tortures for the women and negligence of the daughters.

BACKGROUND

Nepal is in the phase of demographic transition and has begun showing signs of disturbing sex ratios for population below 1 year of age (SRB1) (106 or more males per 100 females) as indicated in the 2011 Population Census which is a reflection of persistent gender discrimination that undervalues girls, high son preference, declining fertility and sex selective abortion. A longitudinal study by Center for Research on Environment Health and Population Activities (CREHPA) among 360 currently pregnant women indicated that women having two or more daughters (89%), women who had no son (84%) and women with just one daughter (73%) desired a son from their current pregnancy. Prevalence of discriminatory norms and harmful practices during pregnancy, delivery and during neonatal and post-neonatal stages on the basis of sex of the newborn was evident (CREHPA/EC, 2016 and CREHPA/EC, 2017).

Nepal has been a signatory of several international human rights treaties which guarantee women's rights to equality and non-discrimination. The Convention on the Elimination of Discrimination against Women (CEDAW) and Convention on the Rights of Child (CRC) requires states parties to "condemn discrimination against women in all of its form" and "to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices



which are based on the idea of inferiority, or the superiority of either of the sexes or on stereotyped roles for men and women” (CEDAW, *Supra note 38, articles 2, 5a*). Likewise, the Sustainable Development Goal 5 (SDG5) which Nepal is a signatory, call on the nations to achieve gender equality and to empower women and girls.

Nepal’s political will to tackle and bring about an end to gender based violence is strong. The Constitution of Nepal ensures equal rights to both son and daughter. The Children’s Act (1992) and Regulations (1995), Children’s Act 2011 of Nepal directly negates any form of discrimination between girls and boys. The 2002 law that legalized abortion in Nepal expressly prohibits sex determination and sex selective abortion. The raise of the legal age at marriage at 20 for girls (at par with boys) and the development of the *National Strategy on Ending Child Marriage 2016* demonstrates concrete commitment and action by the Government to ensuring gender equity and safeguarding the rights of every girl to fulfil their aspirations. Despite the legal provisions and commitments, discrimination against a girl child, early, child and forced marriages and the practice of sex selective abortion exist in many Nepalese societies.

DETERMINANTS/DRIVERS

Declining fertility, easy access to sex determination technology (e.g. ultra-sonogram) and high son preference are the three determinants for imbalanced or skewed sex ratios (Guilmoto, 2009). The country’s total fertility rate (TFR) has declined from 3.1 in 2006 to 2.3 in 2016 (MoHP et al, 2017). Son preference is strong especially for couples where the first born was a girl. Ultra-sonography (USG) has become more available over the past decade and costs around US dollar 6 and the technology is often misused for determining the sex of the fetus. In some societies, the practice of dowry has encouraged early, child and forced marriages, despite the government ban on this practice. Weak enforcement of the law relating to disclosure of

the sex of the foetus and the increasing practice of gender-biased sex selection continue to be a challenge. Though very limited, studies indicate that the practice of sex selection is more prevalent among relatively rich, educated, urban women and in areas bordering with India (Frost et al. 2013; Lamichhane et al. 2011).

Nepal legalized abortion in 2002. The law allows Nepalese women to seek abortion on any grounds up to 12 weeks of uterine gestation (pregnancy); up to 18 weeks in case of rape or incest; and on any stage of pregnancy if the pregnancy is likely to affect the health including mental health of the woman or the fetus is deformed/undeveloped. Pre-natal sex determination and sex selective abortion is illegal. Though programmes aimed at promoting girls’ education and school retention of female students are being implemented in the country, there has been no focused government policies or programme that addresses gender-biased sex selection. Studies show that the practice of sex selective abortion is increasing in certain districts and among educated and urban based couples (Puri, M. and Tamang, A., 2015).

SOLUTIONS

High son preference, discrimination of a girl child and sex selective abortion will continue to persist unabated in our society unless there are coordinated and consolidated efforts from local authorities, policy makers, service providers, civil society organizations (CSOs), and communities in effectively addressing the issues of violence against women and girls (VAWG) and sex selection, safeguarding the rights of the girl child through quality education for all girls, introducing social and economic measures for vulnerable girls and their parents such as conditional case transfer schemes to ensure that every girl child born in our society are valued.

Policies and programs to eliminate GBSS should be holistic in nature and encompass women’s and girls’ economic empowerment, control over resources they own and to address patriarchy

and strengthen monitoring mechanisms to prevent technology misuse, without jeopardizing women's legal right to safe, free and legal abortion. The following are the plausible solutions to the above issues:

A. Empower women and girls

- i) **Quality education for girls:** The first and the most important solution is to invest in quality education for every girl. Education and training will eventually create opportunities and further enhance economic empowerment. Placing social workers in schools and providing secondary school scholarships or stipends may go a long way to prevent girls from dropping out and thereby make them vulnerable to child marriage. Increased investment in social protection will ultimately pay off. Improvement in quality of education and employment opportunities for girls will enhance the gender equality and empowerment.
- ii) **Gender friendly curriculum from primary level** ensures gender equality and girl friendly environment among the children and helps children to combat against possible abuses. Investment on gender friendly curriculum programs should be encouraged. The curriculum should reflect upon economic, cultural and social aspects of gender issues and should encourage them to deal with these issues with just and fairness. Gender friendly teaching methodology should be applied to introduce gender sensitive issues.
- iii) **Enhance and promote young women leadership** in various levels of planning and development and further their mobilization will be a long term investment and benefit not only to the family and community but country as whole.

- iv) **Media sensitization:** Media sensitization on laws and policies and on ethical aspects is necessary for generating public awareness on gender equality, laws on harmful practices affecting women and girls; and on women's rights. Media should be sensitive to reporting various incidences on violence against women and girls by masking the appearance of the survivors and not disclosing any of their possible identifiers about the survivors of violence in the media. Good themes, which condemn violence, expose perpetrator, and glorify safety and rehabilitation of the survivors should be projected.

B. Implement existing laws against sex determination and sex selective abortion

- i) The Abortion Law strictly prohibits the disclosure of the sex of the fetus and sex selective abortion. However, enforcement of the law is still unclear and no person has been penalized for the act as revealed by anecdotal information. Efforts should be made to introduce effective monitoring mechanisms against the sex selection practice and the perpetrators penalized.
- ii) Women's right to reproductive health care and right to decide freely about her pregnancy as guaranteed by the abortion law should be ensured. As per the law, any person coaxing, misleading or forcing a pregnant woman to undergo an abortion without her will is punishable. It should be the responsibilities of all stakeholders and the society to effectively monitor the illegal abortion practice and identify law violators.
- iii. Alternative accountability mechanisms: Civil society organizations can act as the watch dog and provide feedback to the

government at all levels regarding the barriers to or violation of the law and policies implementation.

C. Expand evidence base

Undertake research studies including intervention research studies to understand in-depth the socio-cultural drivers of son preferences, sex selective abortion and other harmful practices those affect the survival, development, protection and participation of a girl child and use the evidences to inform the policy.

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