



GENDER INTEGRATED GOVERNMENT HEALTH PROGRAMMES

Case Study of Nepal's Safe Motherhood & Reproductive Health Rights Act

- Before 1990, abortion was illegal in Nepal. The harsh provisions of the law led to many situations in which induced abortions, and even spontaneous abortions, would be misclassified as infanticide, in order to have a woman convicted.
- The pro-democracy struggle in the early 1990s as well as active engagement of women's rights activists to dismantle discriminatory laws, eventually resulted in abortion being legalized in 2002.
- The period between 2007 and 2015 saw the formulation of an interim Constitution and a new Constitution in 2015 which included Reproductive Rights and Reproductive Health Rights.
- The conditional legalization of abortion was followed by several health sector reforms that ultimately resulted in a Safe Motherhood and Reproductive Health Rights Act (SMRHR Act) in 2018.
- As a result of the many efforts mentioned above, today, women's reproductive rights are recognized as a fundamental right in Nepal.
- Access to safe abortion services have increased. Free abortion services are being provided in public health facilities.
- Several challenges remain – among them are: certain penal provisions continue in the SMRHR Act; and there is inequitable access to services, due to the difficult geography, low awareness of legality and availability of safe abortion services.



Why is it important to discuss abortion and reproductive rights NOW?

Globally, gender equality, women's rights to autonomy, and sexual and reproductive rights are facing a backlash. In Poland the government has spearheaded laws and policies that undermine women's and girls' reproductive rights. In the United States, the Supreme Court and several states have heavily restricted, if not banned, access to legal abortions. According to the World Population Review, as of 2021, there are twenty-four countries in which abortion is illegal in any and all circumstances. In this context, Nepal's story offers some valuable insights into the facilitating factors that brought about the changes in the abortion and reproductive rights law, as well as the continuing challenges.

What was our study about, where was it done and how?

The Public Health Foundation of India's Ramalingaswami Centre on Equity and Social Determinants of Health (RCESDH), Bengaluru, supported by Beyond Beijing Committee in Nepal, conducted research on the abortion legalization process, to examine and systematically document (1) the context which gave rise to the changes in the legal status of abortion, (2) the enabling factors and challenges encountered and (3) the lessons learnt. We employed an 'insider-outsider' methodology, considering the perspectives of implementing organizations / individuals and those of independent researchers and participants. We also conducted a document review and synthesis of the available literature in the public domain, and conducted interviews with around fourteen different stakeholders (public health professionals, gynaecologists, women's rights activists, researchers, international NGO representatives, government health department representatives). In addition, we conducted three group meetings with media, national NGO, and INGO representatives. Our case study provides a detailed description of global, national and local contexts, the mechanisms employed in the legalization of abortion, as well as the enablers and challenges in related processes, outcomes and opportunities.

This study was a part of the 'Promising Practices in Integrating Gender in Government Health Programs' project that brought together researchers from the United Nations University – International Institute for Global Health (UNU-IIGH) and School of Public Health at the University of Western Cape in South Africa. The objective was to document cases from three regions - Africa, South East Asia and South Asia - of instances where gender issues had been integrated in government-led health programs.

Study Objectives

"To explore and identify transferable lessons in gender integration in government health programs with specific reference to the legalization of abortion in Nepal's Safe Motherhood and Reproductive Health Rights Act".

Research Questions

- What was the social, political and economic context that led to the legalization of abortion in Nepal?
- What are the mechanisms that helped in achieving results and in sustaining the initiative?
- What are the output and outcomes of the efforts to legalise abortion in Nepal?
- What are some of the transferable lessons in gender integration?



What were the key findings of the study?

The context contributed tremendously to the efforts to legalise abortion.

- 1990s was the period of pro-democracy movement in which all sections of Nepalese society were involved. Simultaneously, there was an active engagement of women's rights activists to dismantle discriminatory laws. There was an openness for discussions, dialogues amongst policy makers.
- Public Health community was concerned about very high maternal mortality. Gynaecologists were concerned about life-threatening abortion-related morbidities, and deaths due to unsafe abortions.
- Human rights community was concerned about women in jails because of illegal abortions. Globally too the International Conference on Population and Development in 1994 and the UN Conference on Women in Beijing in 1995, created a reproductive and sexual health and rights discourse that influenced the Nepal government.
- Legal context: The pro-democracy movement led to the amendments to the Country Code (Muluki Ain) in 2002, an Interim Constitution in 2007 recognizing Reproductive Rights, and the revised Constitution recognizing safe motherhood & reproductive health in 2015. During this entire period the courts in Nepal were very responsive.

Some of the key mechanisms that supported the initiative were:

- Multi-stakeholder collaborations, and concerted collaborative action, through all stages of the struggle, including the key role played by the media in the early stages.
- Consistent advocacy based on evidence generated at every stage, including legal advocacy and use of International Human Rights instruments and processes, and proactive sensitization of the parliamentarians on emerging issues.
- Constructive role of UN agencies and INGOs, and the technical assistance provided by them.
- Strong government leadership at all stages, for example setting up of the Abortion Task Force and later Technical Committee for Implementation of CAC. There is ongoing government action – for example in developing Guidelines for implementation of the reforms through the Local Governments, and creating online monitoring and tracking systems

Outcomes

Higher level Outcomes

- The new Constitution of Nepal includes a Right to Reproductive Health. This constitutional inclusion led to the enactment of the Safe Motherhood and Reproductive Health Rights Act as well as the Public Health Act in 2018. Through each of these, women's reproductive rights are recognized as a fundamental right.

Intermediate Outcomes

- Access to safe abortion services has increased through task shifting to trained providers, and an increase of listed health facilities. The decentralization process has accelerated the listing of facilities providing safe abortion through the local governments.
- Free abortion services are being provided in public health facilities.
- The quality of abortion services has improved because early abortions are done through safer methods like medical abortions and manual vacuum aspiration.
- Gynaecologists report change in attitudes - they attribute this to providers being trained in Value Clarification and Attitudes Transformation.
- As a result, stigma around abortion has also reduced.
- A module on safe abortion has been introduced in the curriculum of 7 medical colleges.
- Through the PSM departments, gender perspectives go into the community and schools, resulting in the beginning of community reflections on social norms.



'Girls' lives are being saved... they don't need to resort to drastic measures – like suicides' (Gynaecologist interviewed)



What are some future directions?

To increase Acceptability

- Awareness of legality of abortion, addressing all roots of stigma needs to be increased. This can be done by deploying the media after sensitizing them to rights-based reporting.
- The discourse around Reproductive Health Rights needs to be widened to include men's & boys' responsibilities, especially towards partners' bodily integrity and consensual relationships.
- Inclusion of abortion within the SRHR continuum in medical and nursing curricula needs to be ensured. Social accountability measures and grievance redressal mechanisms need to be promoted.

To increase Accessibility

- Delinking of sex selection and abortion is required – one way maybe through framing sex selection as a gender discrimination issue, and abortion as a reproductive rights issue.
- Access to safe and legal abortion services: needs to be improved through:
 - Increasing registered facilities, especially in remote areas
 - Encouraging listing by private providers
 - Expanding the pool of mid-level providers
 - Authorising the role of trained pharmacists, with referral backup

To enhance Quality

- Abortion needs to be framed within the SRHR continuum.
- Body literacy to enable women and girls to recognize pregnancy at an early stage must be ensured.
- Regular CME for health care providers, including private doctors must be mandatory.



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