



Ethical Issues in Safe Abortion Policy of Nepal

Sunita Dhungel*

Department of General Medicine Program, Nawa Aayam Nepal, Nepal

***Corresponding Author:** Sunita Dhungel, Department of General Medicine Program, Nawa Aayam Nepal, Nepal.

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Abstract

Safe Abortion Policy which was operationalized in Nepal on September 2002 has remarkably improved the reproductive health status of Nepalese women and ensuring their reproductive rights as well. This policy has significant role in decreasing maternal mortality rate of Nepal and thus helped Nepal to march towards achieving the Millennium Development Goals. Despite the fact that the policy has many cons, it has resulted some challenges that lead ultimately to the imbalance in Nepalese society and female feticide is the major challenge. So, Nepalese government has to evaluate the safe abortion policy from the ethical perspective to create the gender balance society.

Keywords: Safe Abortion Policy; Nepal

Introduction

World Health Organization (WHO) defines unsafe abortion as a procedure for terminating an unintended pregnancy, carried out either by persons lacking the necessary skills or in an environment that does not conform to minimal medical standards, or both [1]. Abortion is the termination of a pregnancy before the fetus has attained viability, i.e. become capable of independent survival in extra-uterine life. "Safe abortion service" refers to termination of unwanted pregnancies through safe technique with effective pain management; post procedure family planning information and service are being provided to avoid further unwanted pregnancies [2]. In this essay, I am including three parts, Introduction of safe abortion policy of Nepal; Main body which will be divided into three sections consisting of arguments for safe abortion policy of Nepal, arguments against safe abortion policy of Nepal and the ways to address the ethical dilemma in the policy in which I will describe moral reasoning of the safe abortion policy of Nepal using principles of biomedical ethics given by Beauchamp and Childress (1994); and finally the third part will be the overall conclusion of the essay.

Safe abortion policy of Nepal

Abortion has been conditionally liberalized in Nepal on 27th of September, 2002 after the contemporary parliament approved the

11th amendment bill to the General legal code formulated in 1959 [3]. Before the introduction of this policy in Nepal, there was lot of ill practices of doing abortion illegally in Nepal. The third major cause of maternal mortality deaths in Nepal is due to unsafe abortion and according to WHO, unless the unsafe abortion practices are not addressed, Millennium Development Goals (MDG) of reducing Maternal Mortality rates (MMR) in Nepal will not be achieved [4]. So, abortion has now been legalized under following conditions: up to 12 weeks of gestation for any woman; up to 18 weeks if the pregnancy results from rape or incest; and at any time in the advice of medical practitioner, if the life, physical and mental health of a mother is at risk or the fetus is deformed. The National Safe Abortion Policy 2002 was developed under the leadership of Family Health Division (FHD) of Department of Health Services under Ministry of Health and Government of Nepal [3].

The FHD established the task force to develop the National safe abortion policy and strategy and then submitted to National Health Steering Committee for approval. The document was finally approved by this committee and regarded as Safe Abortion Policy and Strategy [3]. There are some other special considerations mentioned in the policy. The service providers who are certified in safe abortion care are eligible to provide induced abortion services. There is complete liberalization for the pregnant woman to choose to continue or discontinue pregnancy but in case of mother of less

than sixteen years of old or mental incompetence, a legal guardian must give consent to proceed. The policy considers paternalism over pregnancy termination on the basis of sex selection i.e. sex selective abortion is prohibited [5].

Arguments for and against safe abortion policy of Nepal

Arguments for safe abortion policy of Nepal

One of the ethical theories in public health include utilitarianism whose criteria of virtue is based on utility, and that conduct should be directed toward promoting the greatest happiness of the greatest number of persons [6]. Although there are advances in health technologies, an estimated 22 million abortions continue to be performed unsafely each year resulting in the death of estimated 47000 women and disabilities for an additional 5 million women all over the world [1]. So, introduction of safe abortion policy is significant in a global perspective especially in developing countries like Nepal for the quality of life of Nepalese women. Safe abortion has been highly practicing in Nepal after it is legalized in 2002 showing the significant utilitarianism [5].

Although the maternal mortality rate of Nepal decreased from 539 to 281 deaths per 100,000 women population between 1996 and 2006, it can still be considered as the country with one of the highest mortality rate all over the world [7]. There is an apparent causal relationship between abortion and maternal mortality as supported by different research findings. Hospital based study also revealed that more than half of total maternal deaths in hospital of Nepal are attributed to unsafe abortions, so the abortion has been legalized in order to promote standard safe abortion practices, ensure quality service provision by skilled service providers [3]. Similarly, comprehensive abortion care services throughout the country gradually are incorporated into the national reproductive health strategy in a planned manner [3]. Before abortion was legalized in Nepal, it was considered as the crime according to civil code of Nepal (8). The patriarchal society structures in Nepal reinforce women's lack of autonomy and decision making capacities thus putting their lives at risk on a daily basis through deprivation, physical and sexual violence, rape and others. The unwanted pregnancies resulted due to rape make unmarried women mentally disturbed because pregnancy before marriage is extreme form of cultural violation in Nepalese society. After legalization, there is complete liberalization for women to abort except in some special cases mentioned in the policy which ethically enhance the decision making capacity of women to make their own reproductive choices in a healthy manner.

Arguments against safe abortion policy of Nepal:

Safe abortion policy has been fruitful to some extent but the challenges aroused after the legalization of abortion are enormous which has created ethical dilemma regarding the policy. The most sensitive issue is the rise of sex selective abortion [9]. In Nepal, economic, cultural and religious practices make son more desirable than daughters. Nepalese society considers son more economically viable than daughters. Pregnant women are trapped by societal pressures that demand sons. So, the son preference in the family has been the leading cause alarming the sex selective abortion practice. Most people think abortion is against Hinduism. The religious taboo forces women to keep their abortions a secret but the rate of sex selective abortion is mushrooming after it has been legalized by government.

According to NDHS 2011, 48% women with an abortion in five years before the survey said that they paid more than Nepalese rupees 1500 for their most recent abortion while 36% paid more 1000-1500 and 10% paid less than 1000. Only 16% of women mentioned they had obtained free abortion showing the least population getting the service free of cost which is a serious issue in a country with a population of around 50% below poverty line [7]. Similarly, the post abortion care services are not satisfactory. The majority of women 69% who had an abortion in 5 years preceding the national survey didn't use post abortion care services even when they suffered from complications after their most recent abortion where 25% of women had complication in their last abortion [7]. The knowledge level about safe abortion is still low in Nepalese women. So, there are still many unsafe abortion practices ongoing across the country. A cross-sectional study on unsafe abortion after legalization in Nepal among 527 women presenting with complications from induced abortion in Nepal in 2010 showed that only 44% of surveyed women were aware that abortion was legal in Nepal [9]. Among women presenting to hospitals in Nepal with complications following induced abortion of pregnancy, the majority had undergone medically induced abortions using unknown substances acquired from uncertified sources. These findings highlight the need for continued improvements in the provision and awareness of abortion services in Nepal [9]. Both authorized and unauthorized clinics and centers are rising in Nepal on commercial basis rather than services, since abortion was legalized in Nepal. About 800,000 Nepalese women get pregnant every year and 200,000 of them are defined as unplanned, unintended and unwanted by Nepalese women. Only, 80,000 Nepalese women go to approved health facilities or clinic for abortion (10). These negative consequences due to

legalization of abortion mentioned under safe abortion policy of Nepal prove to create ethical dilemma existing within the policy.

What can be done to address the ethical dilemma regarding safe abortion policy of Nepal?

The principles of biomedical ethics according to Beauchamp and Childress (1994) consist of autonomy, beneficence, non-maleficence and justice [11]. Looking at Safe abortion policy of Nepal from human right point of view, women have right of autonomy to make their own choice. The policy includes the right of women but there is a question if the safe abortion policy is able to ensure and secure women right practically or not. Several studies in the recent years after legalization of abortion looked at the issue of safe abortion services, their reach and the perspectives of both users and service providers. Despite the existing religious and cultural taboos, Nepal government legalized abortion due to which women are liberalized to make their self decision whether to abort a baby or not. Women of Nepal are utilizing the services with their best. But the rising trend of abortion related morbidity, mortality and gender imbalance is the serious consequences which urgently require actions and hence the principle of non-maleficence is shown to be unfulfilled due to the negative consequences of legalization of abortion. Stakeholders need to increase the availability of quality contraceptive methods to women throughout the country to prevent unintended pregnancies on the basis of justice so that there will be fairness and equality among individuals of rural and urban community. The provision of awareness programme about preventing unintended pregnancies, legalization of abortion and effects of abortion should be expanded targeting sexually active woman. Strict regulation should be made to halt booming of illegal clinics or health centers for abortion. Government should develop and implement the strategy to build capacity of service providers to ensure quality safe abortion services including Post Abortion Care (PAC) services focusing on sensitization of clients' rights and gender issues. Also, the service providers should provide proper counseling on safe abortions services in all the clinics of both rural and urban areas so that the principle of beneficence will also be satisfied. Nepal government should promote safe abortion services followed by regular monitoring and investigation, develop gender focused advocacy package and Behavior Change Communication (BCC) materials and sensitize communities against stigmatization about abortion through gender based approach in order to prevent sex selective abortion which is mushrooming rapidly.

Conclusion

Safe abortion policy of Nepal is based on the principles that advocacy not only ends with the passage of a liberal law. Continued advocacy is needed to ensure that anti-abortion forces do not overturn, that health care providers are willing to provide safe services and that women are aware of their rights and able to access services [12]. The implementation part of the policy lacks effective implications resulting into several disadvantages which creates ethical dilemma. A country where majority of women are illiterate, not empowered and trapped by cultural taboos, cannot fully enjoy liberalism provided by the government. So, in such case what the policy makers can do is the identification of women status and act accordingly. A progressive law that cannot be fully implemented is not enough of an improvement. Prenatal sex determination for the purpose of sex selective abortion is illegal in Nepal but the current scenario of increasing trend of sex selective abortion has been the greatest challenge. Universal access to safe and affordable abortion service is a fundamental right for all Nepalese women guaranteed by the abortion law. Unfortunately existing government policy of changing a high fee even at government facilities has deprived many poor women from availing this right [12]. It will be perfect if the principle that „above all, does no harm“ as stated in the Hippocratic Oath [11], is followed but the context has many challenges. The arguments are there for and against safe abortion policy of Nepal. But it doesn't mean that the policy is not good. The things mentioned in the policy are appropriate but the way it is implemented has been the challenging part. So, the stakeholders' commitment towards decreasing negative consequences due to the legalization of abortion and strengthening the implementation strategy can be supportive for making the Safe Abortion Policy of Nepal ethically strong.

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