Discussion Program on

SEXUAL & Reproductive Health Rights

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Organized By:

SAARCLAW Nepal

Technically Supported By:

CENTER FOR REPRODUCTIVE RIGHTS
• Strengthening the understanding that reproductive rights are recognized by the Constitution.

• Initiating an open and inclusive dialogue on the issue of sexual and reproductive rights.

• Identifying the way forward for better implementation of judicial decisions pertaining to reproductive rights.

• Contributing ideas and suggestions pertaining to reproductive health rights to be incorporated in newly drafted legislations.

This discussion plays an important role in bringing forward different opinions and issues, which is very important in legislation drafting. While the burden of child bearing and many reproductive health issues weigh more heavily on women, it is important that men are made aware of the importance and impact of the said rights. Reproductive health rights and services are linked to family’s well being as it supports growth and individual wholesomeness.

Hon’ble Minister Mr. Sher Bahadur Tamang, Minister of Law, Justice and Parliamentary Affairs
The recognition of reproductive and sexual health rights is no more a matter of discussion. It is guaranteed as a fundamental right by the Constitution and also has been acknowledged by the Supreme Court as a human right. The way forward is the implementation of these rights and to promote access to reproductive health services and information. Affordability and accessibility to reproductive health rights and services are the key issues, which also involves assuring privacy and informed consent. Challenging and changing the notion that reproductive health issues are only limited to women is important, as reproductive health is interconnected with matters of public health.

Rt. Hon’ble Justice Mr. Kalyan Shrestha, Former Chief Justice, Supreme Court of Nepal  
Patron, SAARCLAW

There have been great changes in the position of women. It must be celebrated that we are continuously moving and thriving towards the goals of equality. Even if there are delays, tides of equality are constantly emerging. The judiciary has been active in acknowledging and bringing on these changes. Nepal is going through a huge transition as major laws are being drafted and amended to incorporate principles of equality and human rights. While there may be gaps and delays in implementation of decisions of the Court, the government has never refused to implement progressive decisions of the Court. The important thing is that change and participation is happening. Change is happening albeit the rate is slow.

Hon’ble Justice Dr. Ananda Mohan Bhattarai,  
Judge, Supreme Court of Nepal  
Member, SAARCLAW Nepal

Collective wisdom and collective contribution of the society, particularly the youth needs to be cultivated. The first wave of change brought in laws and policy changes incorporating equality and human rights. It is now the prerogative of the youth to continue this wave towards implementation. Sometimes law leads the society but ultimately, it is society that leads the change in law. The major foundation of equality is social awareness. It is the political and social commitment that will drive us forward to a better and inclusive society. Thus there is a need to keep our spirits high and continue to strive for a better society.

Senior Advocate Badri Bahadur Karki,  
Executive Member, SAARCLAW Nepal
Denying sexual and reproductive health rights in any form is denial of individual choice. The war on choices must be addressed and won through better education and social awareness to enable individuals to take their own informed decisions that improve quality of life. While the issue being discussed here concerns all individuals, one must bear in mind that a woman’s life cycle has her been more adversely impacted by lack of sexual and reproductive health rights than a man. It is important to work towards greater social sensitivity on the issue.

Hon’ble Justice Mrs. Sapana Pradhan Malla, Judge, Supreme Court of Nepal
President, SAARCLAW Nepal

PARTICIPANT HIGHLIGHTS

Megha Raj Pokhrel, Advocate
It is important that the judicial recognition of LGBT rights is now drawn into proper legislation that guarantees equality in all fronts to sexual minorities. Marriage equality is important in ensuring the rights of LGBT community to enjoy reproductive rights. The principle of equal protection of law must include the rights of sexual minorities.

Prabhu Krishna Koirala, Advocate
Supreme Court has time and again proved its commitment to protect rights of vulnerable groups. While the judiciary has been a constant torchbearer of human rights and has given us progressive judgements. It is now time to focus on the execution of these decisions by the state bodies. As the Constitution is in effect, every layer of the government whether federal or state needs to be engaged in dialogue and need to pave the path for the execution of these judgments. Our focus should now be on the method of execution of rights.

Baburam Dahal, Advocate
During my childhood, I witnessed many women being segregated during their mensuration. This superstitious practice of shaming did not sit right with me. Thus I took a stance that menstrual taboo would not be part of my family life and requested the women in my family to not practice it. Important aspects of women’s health are being silenced due to shame associated with it. This shame that surrounds menstruation is a major roadblock in reproductive health services, as women do not come forward with their reproductive health concerns. We must encourage people to come forward with their health issues.

Madhabi Bajracharya, Program Advisor IPAS
It is important to adopt and update certain terms we use in discussion to be politically correct and to keep up with changes. For an instance rather that saying foetus killing using the term sex selective abortion is better.

Sabin Shrestha, FWLD
Law cannot deny capacity and ability granted by nature. That is why the focus needs to be healthy and ethical access to sexual and reproductive health rights.

Shiva Rijal, Advocate
Archaic laws that treat women as commodity or take away agency from them in aspects of sexual and reproductive health rights need to be done away with.
Dirgha Raj Shrestha, National Programme Manager, IPAS Nepal

Despite legislative protection of a woman’s right to choose to continue a pregnancy (right of abortion), there is little knowledge and access to safe abortion. High number of unsafe abortions is still being carried out. Better reproductive health access and information reduces unwanted pregnancy and the need for abortion and other health complications that may arise in later age. There is a need to improve reproductive health services by ensuring that clinics across the country particularly those in rural areas have the required trained professionals and the requisite infrastructure support to handle reproductive health concern of women.

Nirmala Bhandari, Advocate

Widespread unethical practices in surrogacy are still to be addressed in legislation. It is important to balance an individual’s right over their body and the need to protect vulnerable individuals. The need of alternate methods of reproductions cannot be overlooked. The law should properly weigh the need of alternative reproductive methods and the required safeguards to ensure that exploitive practices are not cultivated in guise of alternative reproductive method.

Ganga Bahadur Kharel, Under Secretary, Ministry of Health

There is commitment to meet the timeline set by the Constitution for formation of protective legislation that guard and guarantee reproductive health rights. Endeavours to have the same presented at the earliest before the parliament are underway.

Prakash Maharjan, Advocate

With rapid changes in fertility technology, like prior genetic testing to reduce foetus abnormality, making headway, the affordability of such technology and treatments should also be strived. The law must make acknowledgement of certain limited foetus rights and impacts of technology on foetus.

Ratna Kumar Kharel, Advocate

The affordability of reproductive health service needs to be assured. It is important that access involves economically viable alternatives for poor sections of the society. Only then there can be true power of decision making in aspects of reproductive health.

Bishnu Maya Bhusal, Advocate

Though one’s right over one’s body is ensured in the Constitution, very few women can actually enjoy this right. Social pressures and demands from family often end up dictating their decisions and there is often a lack of actual consent in many reproductive health decisions taken by women. It must also be stressed that there is a need of proper follow up care in matter of reproductive health services.

Sadeep Kharel, Advocate

Sexual and reproductive rights regardless of matrimonial status or gender need to be protected and the same needs to be a part of the legislation. But there is also an issue of children’s right that needs to be balanced with an individual’s reproductive right.

Meena Paudel, General Secretary, Nepal Disabled Women Association

Needs of special groups in aspects of sexual and reproductive rights must be given special attention. For an instance, women with disability often may require longer maternity leaves. Law must consider disabled people and make provisions for their feasibility.
**SEVEN KEY RECOMMENDATIONS**

1. Sexual and reproductive health rights must be viewed through the lens of human rights.

2. The issue is not limited to women’s health and choice. Men are also key stakeholders in the issue and the same must be reflected in government policy and programmes.

3. State agencies must make an effort for quality information dissemination targeted at individuals, including students, so they can maturely handle the issue.

4. Judicial activism must continue to go several steps beyond existing legislations in giving expression/meaningful solutions and direction to the areas of human rights that are yet to be fully established.

5. Greater sensitivity and sensitization among various state authorities is required which should be cultivated through training and awareness.

6. Important to tackle the unwarranted shame surrounding the issue by encouraging various public hearing and programs targeted at all age groups.

7. Affordability of reproductive health services should be a priority for the government in an effort to ensure that economic status does not deny access to reproductive health rights.

**SIX RECOMMENDATIONS ON LEGISLATIVE DRAFTING**

1. Comprehensive legislations and policy changes that protect and promote sexual and reproductive health rights must be passed within the timeline stipulated by the Constitution to renew nation’s commitment to the Constitution.

2. A choice and consent centric model that protects individuality when State agencies handle any matter connected to sexual and reproductive health rights must be adopted.

3. Matrimonial status or gender cannot not be ground for denying access to certain reproductive rights.

4. Needs of disabled individuals must be taken into consideration when provisions relating to reproductive health are drafted. Aspects of their health and special needs must be accounted.

5. Commitment to sexual and reproductive health rights must transition into equal protection and recognition of sexual minority rights in all aspects, including marriage.

6. Alternative reproductive technology (ART) must be well regulated and approved to be safe and ethical before it is made available to individuals to avoid any form of exploitation.
EIGHT RECOMMENDATIONS ON IMPLEMENTATION OF JUDGEMENT

1. Judgements related to Reproductive Health must be collected and compiled.

2. The areas and indicators of judgements related to Reproductive Health have to be identified.

3. Communication has to be established with concerned authorities and agencies having responsibility to implement judgements.

4. Coordination, communication and collaboration with Judgement Execution Directorate, Office of the Attorney General and Judgement Execution Section at the Office of Prime Minister and Council of Ministers have to be held.

5. Discussion on necessary amendment proposals to laws related to Reproductive Health stakeholders and with the parliament members have to be held, if necessary with alternative language.

6. Shall engage and interact with parliament in issues related to conceptual framework on Reproductive Health laws.

7. Adequate budget allocation has to be advocated.

8. Dialogue on sexual and reproductive health issues has to be continued.