

Establishing Legal Abortion Services Where the Law is Restrictive

Laws in over 131 developing countries permit induced abortion in certain circumstances, ranging from broad social and economic reasons to fairly restricted health or juridical reasons. Most of these countries allow abortion to save the life of the pregnant woman, and approximately 50 permit abortion in cases of rape or incest. Yet in countries with these more severe restrictions, most women are unable to find a public health setting that will perform an abortion, even if they qualify for the procedure under the law.

In light of recent evidence about the magnitude of the problem of sexual violence against women, refusing women the right to legally terminate pregnancies resulting from rape is particularly offensive. In the United States, national statistics reveal that a woman is raped every six minutes (UN/DPI, 1996). One study in the U.S. found that among 445 women who became pregnant as teenagers, 23 percent of the pregnancies resulted from coerced or unwanted sexual intercourse (Gershenson et al, 1989). In Rwanda, sexual violence during the aftermath of the 1994 genocide took the form of innumerable rapes. A Human Rights Watch study found that of 716 rapes, 472 women became pregnant and 282 sought clandestine abortions (HRW, 1996). Increasing evidence on the use of rape as a war tactic throughout history suggests these distressing examples have been repeated in country after country for decades.

All forms of violence against women, from domestic abuse and rape to child marriages and female circumcision, are violations of the most fundamental human rights (UN/DPI, 1996). By denying women the right to a legal abortion, hospital administrators, health professionals, and policymakers perpetuate the violation of their rights. Physical or sexual abuse can also be associated directly or indirectly with other health problems, including STDs or HIV, unwanted pregnancy, psychological problems, and increased high risk behaviors, such as use of drugs and alcohol and unsafe sexual encounters. Offering legal abortion services provides an important opportunity for the health sys-

tem to identify these additional needs and help women find appropriate assistance.

In Brazil, the penal code makes abortion a punishable offense except for pregnancies that result from rape or that would endanger the pregnant woman's life. Several public hospitals have begun to exercise these exceptions by establishing legal abortion services for women who meet these criteria. The legal abortion experience at the Hospital Municipal "Dr. Arthur Ribeiro de Saboya", also known as Hospital Jabaquara, in São Paulo, has been documented in a manual that describes the approach taken there to establish a legal abortion program primarily for victims of rape and incest (see Resources, page 8, for ordering information). Using the Jabaquara experience as a guide, the remainder of this article suggests practical steps that can be taken by any group or individual interested in establishing legal abortion services in a hospital setting. While this article focuses on the legal grounds of rape or incest, the steps below can be followed to establish abortion services for most health or juridical indications in national abortion laws. Individual countries will need to examine the specific stipulations contained in their local law.

The manual, and this article, are not intended to engage in a debate about whether or under what circumstances abortion should be legal. Rather, they are designed to assist efforts at the local level to offer vital health services to the full extent allowed by existing abortion laws. By sharing some of the experiences and lessons learned in this area, we hope to encourage col-

leagues throughout the world to establish legal abortion services and to help them avoid "recreating the wheel" in doing so.

1 Build community support for legal abortion services.

Explain the rationale for establishing legal abortion services to relevant groups—health professionals, policymakers, women's activists, the religious community, and other stakeholders. Organize and gather data about unsafe abortion, sexual violence, and the need for expanded services. Base all discussions on facts; use clear, concise information to sensitize those who are directly responsible for establishing or promoting health services and familiarize them with the issues.

Workshops to identify prejudices or biases, or from presentations about the local prevalence of sexual violence and the potential demand for services may help build support for legal abortion.

Coordinate with women's groups that focus on violence and other relevant issues to explain the magnitude of the problem and the need for services.

2 Create local regulations that facilitate implementation of the national law.

If the national law is vague about the specifics involved in providing abortion—such as what paperwork is required, who can offer the procedure, and where it can be done—work with the local government or health department to develop a protocol. Update the language and content of existing regulations on abortion services, making sure not to create new barriers to obtaining legal abortion. Limit the bureaucracy involved: for example, if a police report is required to document the rape, don't require an additional review by a medical or legal council if not already mandated. Give providers authority and responsibility for performing abortion within the provisions of the law.

3 Seek support from local health councils and professional groups.

If the hospital where services will be established is governed by an external medical or health council, establish a working relationship with the council members. Approach the legal abortion program as an administrative, rather than an emotional, issue. Focus on how to implement an existing law instead of debating the value of abortion.

Build support among local professional groups. Meet with national lawyers associations, members of women's advocacy groups, relevant state and municipal agencies. Explain the importance of a legal abortion program and solicit their assistance as spokespeople for the program to their own constituents.

4 Build a supportive team within the health facility.

Meet with the hospital director, ethics committee, ob-gyn department, nurses and social workers, and maternal mortality committee. Sensitize them about the issue, discuss the pros and cons of a legal abortion program, form teams, develop new work routines based on the anticipated caseload. Involve the staff in finding ways to make the program work.

If a local medical ethics code allows physicians to "conscientiously object" to performing abortions, establish a referral system to ensure that women seeking legal abortion can find a provider who will offer the service.

5 When the law requires, set up an abortion review committee within the hospital.

If a committee is required, make it multidisciplinary. A broad range of skills will allow the group to address medical and legal issues of each case and plan for any emotional support that women may need. Avoid making the review committee unnecessarily complex and bureaucratic, as this can create delays in service delivery.

Remember that women who have experienced sexual violence may be reluctant to come forward to report the crime or to seek services because of shame, fear of reprisal

from the aggressor, desire to avoid returning to the scene of the crime, or other reasons. Make the review committee as welcoming and supportive as possible.

6 Establish the hospital protocol for obtaining a legal abortion.

Consider patient flow, staffing issues, and hospital administrative concerns (such as whether any required legal papers have been filed) that may be involved in offering a new service. The protocol could include steps such as an initial clinical assessment of the pregnancy; consideration of the case by the hospital review committee; scheduling of the procedure; counseling sessions with the woman to discuss informed consent for the procedure and answer any questions she may have about the technique that will be used, the period of hospitalization, the risks of anesthesia, etc.

Make sure the protocol facilitates services and does not create barriers. Set a time limit for consideration of each case. Make sure someone who can provide emotional support is available to the woman while she is in the health facility.

Disseminate the protocol to all staff in relevant departments.

7 Train a team of professionals to offer comprehensive high quality services.

Make sure the team is ready to respond to a variety of needs, including: counseling women before, during, and after the abortion; offering emergency contraception to women who have come to the hospital within 72 hours of having been raped in order to avoid unwanted pregnancy; providing referrals for subsequent family planning services, if needed; building an environment that emphasizes respect and confidentiality; ensuring that appropriate medical instruments are available at all times; and using the most appropriate technology to perform the abortion. For pregnancies that are too advanced to qualify for a legal abortion, establish a referral system for prenatal care and other services. Ensure that women will be able to get any other follow-up care they may need.

8 Collect and use service statistics to evaluate the services.

Make evaluation a standard part of the legal abortion services and gather statistics on key variables. These might include: age, ethnicity and marital status of the patient; relationship to the aggressor; gestational age of pregnancy; number and type of procedural complications; length of hospitalization; abortion technique used; and reason for refusing patients that do not qualify for services. Review the statistics periodically and make appropriate changes in services to meet the needs of patients. For example, statistics revealing that a large percentage of women are denied an abortion due to advanced gestational age may indicate the need for public education regarding the availability of services earlier in pregnancy.

9 Disseminate information about the services.

Publicize the services within the community and region. Create links with women's groups, police, health posts, and other pertinent resources to inform them of the availability of legal abortion. Solicit their help in referring women in need to the program. Make sure they know what forms and procedures are required in order for women to qualify for legal abortion.

This article is based on an original manuscript written by Irotilde Gonçalves Pereira and Clarice Novaes da Mota in collaboration with Joan Healy, with a forward by Ellen Hardy. This summary was compiled by Charlotte E. Hord and Alexa Gordon.

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