

ORGANIZATION PROMSEX

CONTACT

Susana Chávez | susana@promdsr.org Elida Guerra | elidaguerra@promdsr.org

L.C. became pregnant at age 13 after having been raped. Her request for an abortion was denied, which resulted in devastating consequences for her physical and mental health and well-being.



implementation story:

Closing the gaps between law and attitudes: advocating for legal and dignified abortion in Peru



My daughter is paralysed in all four limbs. She is only 14 years, and she will never walk again. She was raped, the man is in jail. She tried to kill herself and damaged her spine. How can they force her to continue the pregnancy – being so ill, having a urinary catheter, not being able to move, with wounds on her back? They all say that it is a risky pregnancy, but nobody wants to help her."

- Mother of L.C., a young girl who got pregnant as a result of rape, Lima

BACKGROUND AND CONTEXT

ABORTION ON HEALTH GROUNDS: A RIGHT IN THEORY BUT NOT IN PRACTICE

In Peru, induced abortion is only legally permitted under certain conditions: to protect a pregnant woman's life or health (which is also referred to as therapeutic abortion) (1). When an abortion is considered to not be based on these specific grounds, both the pregnant person and those who perform or assist an abortion risk imprisonment. However, prison terms may be reduced in certain circumstances, including when individuals seek abortion due to a medical diagnosis, for fetal anomlies, or when the pregnancy is the result of rape, and when an official complaint has been made and investigated (2).





Although abortion has been permitted by law under these specific conditions since 1924, equitable access to safe abortion on the grounds of protecting women's and girls' life and health has not been a reality in practice. For many years, the main reason for this was the absence of a national guideline that standardized the provision of abortion within the framework of the law, and that could complement other prerequisites for safe abortion care, such as access to well equipped facilities and quality medicines.

In addition, the misconception that abortion was completely illegal and penalized under all circumstances was very widespread among policy-makers, health providers, and women and girls themselves. As a result, many health-care workers felt compelled to provide abortion care in secrecy, while others refused to provide these services. Ultimately, there was a systematic denial of access to abortion for women and girls, even in cases when continuation of pregnancy risked leading to death or irreparable consequences for women's and girls' health.

"My sister had kidney problems. She got pregnant. Nobody told her about the option of having an abortion. As the pregnancy progressed, her kidneys got worse. The baby was born very prematurely and did not survive. Soon after, my sister had kidney failure and underwent dialysis every week. We couldn't find a kidney donor, and within two years, she passed away, after so much suffering."

- Sister of woman who died from pregnancy complications, Trujillo

In the early 2000s, various national organizations working on women's rights in Peru began to increasingly highlight the inaccessibility of safe abortion and, in particular, the link between unsafe abortion and maternal deaths. PROMSEX, which is a nongovernmental organization (NGO) dedicated to defending and advocating for sexual and reproductive rights in Peru, began collecting data about the number of hospitals that offered abortion on the grounds of saving a woman's life or health. This mapping revealed that, out of more than 50 hospitals consulted, only three offered abortion services even on such grounds. In these hospitals, only one single induced abortion had been performed during a period of three years, between 2002 and 2005 – representing just a fraction of all the women and girls who are likely to have needed abortion care on health grounds during this period. These data were used to raise public awareness of the fact that women and girls were often denied abortion care even on health grounds, and to advocate for a national guideline that would standardize abortion provision within the existing legal framework in the country.

NGOs' increased focus on the limited access to abortion coincided with the release of the first edition of the WHO guideline <u>Safe abortion</u>. <u>Technical and policy guidance for health systems</u>.¹ The attention that this WHO guideline received shed light on the absence of any national guidelines in Peru that reflected the WHO recommendations.

After 11 years of resilient advocacy campaigning, the Ministry of Health developed the Technical guide for therapeutic abortion, which was officially published in 2014. This guide provides a protocol for how safe abortion can be provided within Peru's legal context.

In this picture from 2008, PROMSEX and other stakeholders advocated for the establishment of this protocol in the forum Therapeutic abortion in Peru, a women 's right.







PROMSEX came to play a key role in "Therapeutic abortion saves lives", an advocacy campaign driven by NGOs, civil society organizations and activists to improve access to safe abortion in Peru in practice. This advocacy campaign – which included communication activities targeting both the health sector and the general public; training and sensitizing of health workers; as well as litigation actions – paved the way for the first national guideline (1) on how to provide safe abortion within the context of the law, a protocol which was published by the Peruvian Ministry of Health in 2014.

However, as this story will show, the launch of this national guideline was met with scepticism from many stakeholders. Therefore, PROMSEX continued its advocacy efforts, to also improve acceptance and implementation of the guideline.

WHO ABORTION GUIDELINES AND TOOLS

HIGHLIGHTING INACCESSIBILITY OF ABORTION AS A HEALTH AND RIGHTS ISSUE

Although access to legal abortion is restricted in Peru, a population-based survey of women aged 18–29 revealed that 11.6% of the respondents had undergone an induced abortion (3). However, despite being a common health-care need for women in Peru, abortion is highly stigmatized in the country. Induced abortion is considered to contradict the reproductive and caregiving roles expected of women; thus, people who seek abortion care are attributed negative characteristics such as being viewed as promiscuous, sinful and selfish. Abortion stigma pushes women towards unsafe abortion and contributes to claims of conscientious objection by health workers refusing to provide abortion care (4).



In this context, referring to recommendations provided by WHO, which is a well recognized organization in Peru, was a key factor to changing the perceptions of abortion in Peruvian society – among both health workers and the general public.

PROMSEX, the Peruvian Society of Obstetrics and Gynecology (SPOG) and other civil society organizations used WHO guidelines, as they advocated for the development of the <u>Ministry of Health's national guideline</u> Technical guide for therapeutic abortion.

The WHO guideline <u>Safe abortion: technical and policy guidance for health systems</u> constituted an essential piece of support in this process, as it inspired PROMSEX to describe abortion as health care, and highlight the link between access to safe abortion and human rights. By integrating WHO recommendations into its advocacy campaign, PROMSEX could add more weight to its messages of the importance of respectful and compassionate abortion care. The WHO guideline was also valuable in the sense that it emphasized the obligation of the State to protect people's health through policies and laws that support access to safe, quality abortion, and as it stressed that abortion needs to be integrated into the public health system.

Moreover, the WHO guideline outlined different barriers to accessing quality abortion care. This inspired PROMSEX to identify stakeholders at different levels of the Peruvian health system, such as medical doctors, midwives and policy-makers, who could influence the removal of barriers to accessing quality abortion.

SUGGESTING BROADENING THE DEFINITION OF HEALTH GROUNDS

With the objective of supporting health workers to feel more confident in providing abortion care within the framework of the law, SPOG convened a group of health associations, to reach consensus on a list of medical conditions that they believe could be considered under the health ground for legal abortion. In this process, the group suggested that risks to women's mental health should be considered a health ground for legal abortion.

In this process, PROMSEX led an analysis of Peruvian health laws. Workshops were also held in seven hospitals nationwide, to address health-care workers' concerns about providing abortion on health grounds.





IMPLEMENTATION STORY

A RAPE CASE EXPOSING THE NEED FOR ACCESS TO TIMELY AND RESPECTFUL ABORTION CARE

During this process of discussing the concept of health grounds, a dramatic event occurred in one of the participating hospitals in 2007. A 13-year-old girl, who had been sexually abused, tried to commit suicide by jumping off a roof when she understood that she was pregnant – consequently suffering a cervical fracture that required spinal surgery to reduce the risk of losing the use of her limbs. However, when it was revealed that the girl was pregnant, the doctors refused to perform the surgery, as they feared injuring the fetus. Despite a request from the girl's family for an abortion on the grounds of protecting the girl's life and health, the hospital management, which convened a medical board to assess the case, denied the request (5). The girl eventually had a miscarriage, and subsequently underwent the surgery – almost three and a half months after it had first been determined that surgery was needed. During this period of waiting for the surgery, the girl had not received any medical treatment, and she was left paralysed from the neck down. The girl's medical state has left her entire family in a disastrous financial situation, with her mother, her carer, not being able to work, and with her brothers forced to quit school to earn money for the family (6).



"What I wanted, what I prayed, is that they would operate on me because my life itself was at risk. Abortion on the grounds of health is what we demanded by law. The law protected me, because my spine was already broken; all my four limbs were paralysed."

- L.C., who became pregnant at age 13 after being raped

The Committee on the Elimination of Discrimination against Women (CEDAW) raised the case (known as Case L.C. vs. Peru) as a violation of the right to health, a life of dignity, and to be free from discrimination in access to care. In 2011, CEDAW determined that the Peruvian State was responsible for discrimination and of denying timely and quality access to health services. The Committee established that the Peruvian State should review its abortion laws to allow abortion in case of rape and sexual assault, and establish a mechanism that guarantees access to abortion services on the grounds of rape and sexual assault, as well on the grounds of life, and physical and mental health (7).

LEVERAGING THE L.C. CASE AND WHO RECOMMENDATIONS TO ADVOCATE FOR A NATIONAL ABORTION GUIDELINE

The case of L.C. vs. Peru was not the first time that human rights bodies had commented on Peru's abortion laws. In 2001, a 17-year-old adolescent was denied legal termination of pregnancy, despite the mental health risks it posed to the pregnant girl – as the fetus had the severe defect of missing the brain and most of the skull. This girl was forced to continue the pregnancy, and to breastfeed the newborn – only to see the baby die a few hours later. This case was taken to the Human Rights Committee (the K.L. vs. Peru case) and resulted in a positive sentence favouring the girl K.L., who was compensated years later. While this case was subject to limited public visibility



Despite a request for an abortion on the grounds of protecting the girl's life and health, L.C. was denied an abortion. She was left paralysed from the neck down.





back in 2001, in contrast, the L.C. case attracted significant attention - because of the increased awareness of the WHO recommendations on abortion (8).

The statement of the CEDAW Committee on the L.C. case, as well as the WHO recommendations on abortion care, laid the foundation for a long process of active advocacy for a national guideline on abortion provision within Peruvian law. PROMSEX conducted research to better understand attitudes and beliefs about abortion among health workers; other barriers preventing health workers from providing legal abortion: public opinion about abortion; as well as the actual need for therapeutic abortion within the country. The survey showed that a significant proportion of the Peruvian population favoured legally permitting abortion on specific grounds, such as rape and malformation of the fetus (9). The research also revealed that 90% of the participating health workers considered abortion an important public health issue, and that a majority of them were in favour of provision of therapeutic abortion (10). Based on these insights into attitudes towards abortion among different groups, PROMSEX disseminated messages via social media, provided public training sessions, and engaged with and supported women's rights movements.

USING CELEBRITIES AND STORYTELLING TO REDUCE ABORTION STIGMA

The proposal to develop a national guideline did not come without resistance. A petition signed by 5,000 Peruvians and backed by 19 organizations called for the Ministry of Health to not approve the national guideline (11). Some groups opposing abortion also spread disinformation about abortion and about the proposed national guideline. To respond to these challenges, PROMSEX developed communications activities to confront prejudice and misinformation about abortion.

A key factor in the success of the advocacy campaign was the training and strengthening of partnerships with a diverse range of stakeholders from various social, academic and scientific sectors, drawing on their respective perspectives, strengths, and experiences in advocacy processes. For example, in a campaign named "75 Opinions on abortion: a topic to talk about, an agenda to discuss" (12), 75 highly recognized Peruvian public figures, including intellectuals, actors, dancers, musicians, singers, painters, photographers, sociologists, lawyers, doctors, sculptors, psychoanalysts, fashion designers, television celebrities, teachers, reporters and political analysts – all well known in their different disciplines – shared their thoughts on abortion in a publication. This product was disseminated via the PROMSEX website and Facebook page, and was also distributed to stakeholders for them to include in their resource libraries.

By featuring such well recognized people, the campaign helped to soften the stigma surrounding abortion, while attracting the attention of the media.² It contributed to increased public awareness about abortion, putting the topic on the table for a more open discussion. Furthermore, by including the voices of a vast range of women and men, including Indigenous people, young people and human rights defenders, the campaign showed that abortion is a health issue that is relevant to people across all groups of society.

2. See, for example, this article about the campaign.



In the campaign **"75 Opinions** on abortion: a topic to talk about, an agenda to discuss", 75 highly recognized Peruvian public figures shared their thoughts on abortion. The campaign contributed to increased public awareness about abortion, putting the topic on the table for a more open discussion.





PROMSEX also learned that it was critical to partner with stakeholders from the health-care sector. To stress the need for evidence-based policies and to address abortion stigma, and its underlying causes, among health professionals, PROMSEX developed the publication *Therapeutic interruption of pregnancy for health reasons* (13), collecting statements from the country's best known doctors on their positions on induced abortion.

After 11 years of resilient advocacy campaigning, the Ministry of Health developed the *Technical guide for therapeutic abortion*, which was officially published in 2014. The guide provides a protocol for how safe abortion can be provided within Peru's legal context and is still in effect today.







ADVOCATING FOR ACCEPTANCE OF THE NEW NATIONAL GUIDELINE

The launch of the national guideline was just the beginning of a long process to improve access to safe abortion in Peru. Stakeholders who were against expanding access to safe abortion opposed the new national guideline. After so many years of misinformation and stigma, many health workers still lacked an understanding of the law and believed that abortion under any circumstances would lead to legal penalties for both themselves and their patients.

To address these challenges, PROMSEX identified and worked closely with allied doctors, and developed information campaigns directed at health workers. In collaboration with SPOG, PROMSEX developed training workshops in more



A workshop on SRH with health providers from the Juan Pablo Segundo Maternal and Child Center, Lima.

PROMSEX, in collaboration with SPOG, designed workshops on abortion care in more than 20 hospitals in Peru between 2014 and 2019.

than 20 hospitals throughout the country. From 2014 to 2019, 1,458 health professionals, including obstetrician-gynaecologists and midwives, were trained on how to apply the new national guideline to the reality of their everyday work, within the existing framework of the abortion law.

A PARADIGM SHIFT IN PERCEPTIONS OF ABORTION

The new national guideline shifted the focus of how abortion is approached in Peru. While abortion on certain grounds was already permitted by law, the new national guideline helped to "formalize" and legitimize the intervention, by acknowledging abortion as a health-care service and by recognizing that safe, timely and respectful abortion can prevent severe and permanent damage to women's health. For example, the national guideline clarified the obligations of health facilities –

both private and public – to provide abortion in cases where continuation of pregnancy posed a risk to the life and health of the pregnant person (1). The country went from a nearly complete absence of legal and safe abortion within the health system to an increase in registered, legally performed abortions (14).

The first step in accessing legal abortion is for the woman or girl to request an abortion. While making abortion

more accessible to those who need it continues to be a slow process with many barriers for abortion seekers, there has been an increase in the number of requests for abortion in Peru, which indicates a greater awareness among women and girls about the availability of services and about their legal right to have an abortion on the grounds of protecting their life or health. PROMSEX worked to inform women and girls about these rights.

The new national guideline also contributed to changing the misconception among some health workers that abortion is a highly complex intervention. The guidance further acknowledges medical abortion as a safe method of abortion, which has contributed to the inclusion of misoprostol in the national list of essential primary health supplies.³



The workshops hosted by PROMSEX and SPOG trained almost 1,500 health workers on how to apply the new national guideline to the reality of their everyday work, within the existing framework of the abortion law.

The misoprostol registration technical file in the Ministry of Health's General Directorate
of Supplies and Drugs (DIGEMID) refers to the guide, and to misoprostol's specific use for
therapeutic abortion





RELATING RAPE TO MENTAL HEALTH AND ACCESS TO LEGAL ABORTION

The national guideline has also laid the foundation for several other national protocols which highlight the rights of women and girls who become pregnant as a result of rape.

The Joint Action Protocol for Sexual Violence Victims⁴, issued by the Ministry of Health in 2019, states that access to abortion on the grounds of rape can protect women's and girls' mental health. Moreover, the Lima Maternity Protocol⁵, with the objective of safeguarding access to safe and dignified abortion, was also launched by the National Maternal Perinatal Institute of the Ministry of Health in 2019. This protocol states that women and girls who become pregnant as a result of rape have the right to be evaluated by a health provider to determine if a request for abortion should be approved on health grounds.

A TOOL TO SUPPORT MONITORING OF THE PROTECTION OF HEALTH AND RIGHTS

Photo: PROMSEX

L.C. was denied abortion and did not receive a spinal surgery until after she had a miscarriage.

The Committee for the Elimination of Discrimination against Women (CEDAW) determined that the Peruvian State was responsible for discrimination and of denying timely and quality access to health services.

This statement, as well as the WHO recommendations on abortion care, laid the foundation for a long advocacy process in which PROMSEX and other NGOs, civil society organizations and activists advocated for a national guideline on abortion provision within Peruvian law.

The fact that this national guideline was developed and validated by the Ministry of Health supports other state entities to protect the human rights of women and girls in need of an abortion. For example, the Ombudsman's Office in Peru can now monitor compliance with the national guideline, being able to lean on an officially established protocol and to hold stakeholders accountable when they do not comply. In July 2021, the Ombudsman published a report on comprehensive care in health establishments for pregnant girls and adolescents who had received abortion care as a result of rape (15). The report identified several deficiencies in the existing health services – including that many health providers were still unaware of the national guideline and lacked an understanding of the laws concerning therapeutic abortion, and that a majority are self-trained on the matter, as the Ministry of Health does not guarantee provision of such training. The report also concluded that almost half of the documented

health facilities preferred not to provide abortion care for underage pregnant patients, but referred them to other health facilities (16).

The implementation of the national guideline is also monitored by PROMSEX, in partnership with other women's rights organizations. By using official mechanisms to access information on abortion care provided in the country, PROMSEX maps how many of the abortions performed are registered according to the protocol in the national guideline. The organization also tracks on what grounds requests for abortion are permitted or denied – data which are not being collected by the Ministry of Health.



The medical condition of L.C. has left her entire family in a disastrous financial situation, with her mother, her carer, unable to work, and her brothers forced to quit school to earn money for the family.

^{4.} The full title of the protocol is <u>Joint action protocol between the Women's Emergency Centers</u> (CEM) and the Health Establishments (E.SS.) for the care of victims of violence.

^{5.} The full title is: Guide to Clinical Practice and Procedures for Therapeutic Abortion Care (<u>Guia de Práctica Clínica y de procedimientos para la atención del aborto terapéutico</u>).







A FIRST STEP IN CONTINUOUS EFFORTS TO REMOVE BARRIERS TO NON-DISCRIMINATORY AND EVIDENCE-BASED ABORTION

While the Peruvian national guideline embraces some of WHO's recommendations on abortion care, the development of this guidance was a result of compromises regarding which international standards to include. Yet the negative consequences related to continuation of an unwanted pregnancy for women's and girls' mental health and well-being are still not included in this concept of health grounds. While the working group convened by SPOG suggested including mental health under health grounds, the Ministry of Health did not expand the interpretation of women's and girls' health in its national guideline.

Moreover, this national guideline outlines a range of requirements that WHO recognizes as barriers to accessing equitable, timely and respectful abortion care: gestational age limits; third-party authorization from a medical board; mandatory counseling; and rules limiting abortions to be performed only by specialist doctors and in hospitals (and not in other health-care facilities or through other service delivery models).⁶

Nevertheless, the national guideline provides a solid foundation for future advocacy work to further improve national laws and policies – for example, as PROMSEX continues to advocate for legal access to abortion beyond 22 weeks; the registration of mifepristone; the elimination of the requirement of third-party authorization of medical boards; for abortion care to be provided by a wider range of health workers in a wider range of locations; and for mental health and well-being to be taken into consideration when assessing health grounds.



"Identifying a void in public policy, with severe consequences for women's health and lives, has been a crucial axis to pay attention not only to access to abortion for health reasons but also to how harmful it is to only legally permit abortion on certain grounds. Access to abortion is a public health and human rights issue. The national guidance was a real milestone."

Susana Chavez, Executive Director, PROMSEX







Harmonizing national policies with existing global recommendations is a necessary and possible way to protect and promote access to safe and respectful abortion in practice. To make international standards a reality at country level, and to promote the acceptance and implementation of public policies that reduce discrimination against women, litigation strategies constitute one possible approach.

Establishing alliances with medical professionals is key. Partnering with medical associations can support efforts to advocate for evidence-based policies. Moreover, it is key to engage with health workers, to receive their buy-in and to address their concerns about providing abortion in their daily work.

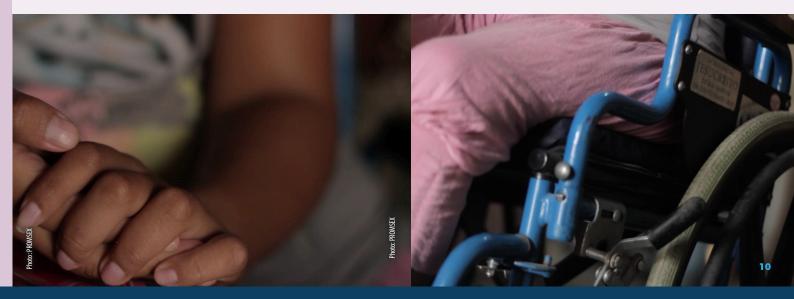
By developing effective communication strategies, public opinion and policy-makers can be sensitized about the importance of protecting and promoting SRHR. Communication activities are key to confront prejudices and misinformation about abortion care and to initiate dialogues.

tips for SRHR implementation

- Convey the message that abortion is a matter of health. Communication strategies must be clear, concise and evidence-based. They should aim to reduce stigma, and highlight how safe and person-centred abortion care can safeguard women's physical, mental and social well-being.
- **Leverage the legitimacy of WHO and other United Nations organizations.** When advocating for access to safe abortion, use official publications and statements from United Nations agencies, such as WHO.
- Monitor compliance with laws and regulations to enable follow-up, assess the viability of the national legislation, and ensure access to abortion care in practice.
- Highlight the human rights aspects of access to abortion care. Advocate for national public policy measures that protect and promote the realization of women's sexual and reproductive rights. Develop strategies of accountability for violation of rights and denial of abortion within the framework of the law.
- Promote strategic alliances with different organizations to achieve a diversity of voices across groups. Make sure to include Indigenous people and young people, as well as representatives of various sectors of society, including academia, science, human rights defenders, the cultural sector and celebrities.



For more information and recent WHO resources on abortion care, please visit the WHO Abortion webpage.







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L.C.was left paralysed from the neck down.