

Health rights in India: A gender prospective

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ABSTRACT

The Gender Perspective looks at the impact of gender on people's opportunities, social roles and interactions. Many Indian women, especially those from poor and marginalised communities, suffer from poor mental health caused by societal and economic pressures including early marriage, forced marriage, violence, dowry, son preference, low status in society and lack of decision making power. Nutritional deficiency can manifest in an array of disorders like protein energy malnutrition, night blindness, iodine deficiency, anaemia, , low Body Mass Index and low birth weight. Maternal morbidity and mortality are major public health problems signifying not only the poor status of women in the region but also the often appalling standards in basic healthcare. The high gender inequality in India is the reason for the poor health of women. Gender discrimination is prevalent in right to access health care services due to male domination. The data has been purely collected from secondary resources.

Key Words : Gender discrimination, Malnutrition, Stunting, Morbidity, Body Mass Index

INTRODUCTION

The Gender Perspective looks at the impact of gender on people's opportunities, social roles and interactions. Successful implementation of the policy, programme and project goals of international and national organizations are directly affected by the impact of gender which, in turn, influences the process of social development. Gender is an integral component of every aspect of the economic, social, daily and private lives of individuals and societies, and of the different roles ascribed by society to men and women. It is very clear that different cultures determine different functions and responsibilities for each sex. Gender is not about men and women. Gender is social and cultural construct of biological sexes. To quote Ann Oakley, "Gender is a matter of culture; it refers to social classification of men and women into masculine and feminine." Social scientists and development experts use two separate terms to biologically determined differences between men and women, which are called "sex differences", and those constructed socially, which are called "gender

differences". Both define the differences between men and women, but they have entirely different connotations. The prime purpose of this paper is to study the "Right to Health of Women? From the gender perspective. Detailed history about women's status is available since the ancient period to the modern era. In the Vedic period some evils were in existence in the society but they were non punitive. But in the modern era such evils are now punishable. The paper also focuses upon various interrelated issues like, vulnerability, women's health, feminism and empowerment.

Status of women in India:

Findings from the World Economic Forum indicate that India is one of the worst countries in the world in terms of gender inequality. The value of this multidimensional indicator, Gender Inequality Index (GII) is determined by numerous factors including maternal mortality rate, adolescent fertility rate, educational achievement and labour force participation rate. Gender inequality in India is exemplified by lower likelihood of women being literate, continuing their education and

participating in the labour force. Gender is one of many social determinants which include social, economic, and political factors that also play a major role in the health outcomes of women in India.

Therefore, we can easily say that the gender inequality affects the health of the women in India. Wellbeing of men and women is determined by social, political and economic factors that shape their lives, as well as by their biological condition. Biological differences between women and men affect their vulnerability to illness or disease. Differences in the roles, resources and status of women compared to men interact with biology to increase or decrease this vulnerability. Robert Ingersoll rightly stated that, “There will never be a generation of great men until there has been a generation of free women of free mothers”.

It is a fact that women are physically weaker than men. Yet no one can deny that woman and man are two pillars of the society. Their rights, duties and responsibilities are complementary and supplementary to each other. According to The Centre for Enquiry into Health and Allied Themes (CEHAT), in India social norms and cultural practices are deep rooted in a highly patriarchal social order where women are expected to adhere to strict gender roles about what they can and cannot do. Women are subject to double discrimination, being members of a specific caste, class or ethnic group, apart from experiencing gendered vulnerabilities. Women in Indian society have a low status as compared to men. They have little control on the resources and on important decisions related to their lives.

Gender analysis:

Gender analysis also shows how social beliefs about gender have a direct affect on health. For example, the belief that men should be strong, take risk and be sexually aggressive put men at higher risk for particular injuries and increases their exposure to sexually transmitted diseases. In the case of STD's, men's exposure may lead to increased incidence of STDs in women because they are biologically more vulnerable but more importantly because they often lack the power to negotiate safe sex practices.

Gender perspective of women's health rights:

Internationally, it was first articulated in the 1946 Constitution of the World Health Organization (WHO), whose preamble defines health as “Health is a state of

complete physical, mental and social wellbeing not merely the absence of disease”.

The preamble further states that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition. World Health Organisation is the principal organisation which is concerned with public health. The Concept of “Health for All” means each individual has a right throughout his or her lifetime to know about health. The provision under Article 12 Convention on the Elimination of All Forms of Discrimination Against Women also deals with elimination of discrimination against women in the area of health. Besides this framework women are facing many health problems like death at the time of pregnancy, unsafe abortion, malnutrition, domestic violence, sexual abuse, etc. Women's health risks, which are mainly linked to reproduction, make them more vulnerable during pregnancy to anaemia, malnutrition, hepatitis, malaria, diabetes and other illnesses.

Female life expectancy does not conform to this pattern in some Asian countries, where cultural norms and religious precepts restrict women's access to medical care and health services. Custom, social constraints and lack of resources also give rise to gender disparities among children in terms of nutrition, morbidity and mortality. The two sexes do not receive equal attention and care; the tendency being to favour the boy child. Males are also fed more and better. Women often serve the family first and eat whatever is left. The poorer health indices for girls and women mandate a social revolution which not only provides equal opportunities but also focuses on achieving equal outcomes

– The explicit recognition and reaffirmation of the right of all women to control all aspects of their health, in particular their own fertility, is basic to their empowerment. The Millennium Development Goals also talks about Improvement of maternal health because only half of women in developing regions receive the recommended amount of healthcare they need. Also it seeks to combat HIV/AIDS, Malaria, and other diseases and promote gender equality and empower women by eliminating gender disparity in primary and secondary education.

Women's health in India:

Women live experiences as gendered beings result

in multiple and, significantly, interrelated health needs. But gender identities are played out from various location based positions like caste and class. The multiple burdens of "production and reproduction" borne from a position of disadvantage has telling consequences on women are well-being. A majority of Indian women and girls face violence. Many Indian women, especially those from poor and marginalised communities, suffer from poor mental health caused by societal and economic pressures including early marriage, forced marriage, violence, dowry, son preference, low status in society and lack of decision making power.

Nutrition:

Nutrition is a determinant of health. A well balanced diet increases the body's resistance to infection, thus warding off a host of infections as well as helping the body fight existing infection. Depending on the nutrient in question, nutritional deficiency can manifest in an array of disorders like protein energy malnutrition, night blindness, iodine deficiency disorders, anaemia, stunting, low Body Mass Index and low birth weight.

Maternal mortality and morbidity:

Morbidity rates were higher among adult women in comparison to that of girls In India; Studies adopting gender sensitive methodology indicate higher levels of morbidity among women. Maternal morbidity and mortality are major public health problems in almost the entire south-east Asian region, signifying not only the poor status of women in the region but also the often appalling standards in basic healthcare. Maternal mortality has been defined as the death of woman while pregnant or within 42 days of the termination of pregnancy

Reproductive health:

Maternal health is an important part of sexual and reproductive health and rights. Worldwide, one woman dies every 90 seconds in pregnancy or childbirth more than 350,000 women each year. The vast majority of these deaths are preventable. Lack of education about pregnancy or access to trained caregivers for antenatal care and assisted delivery are driven by gender based discrimination. In addition, violence against women has been increase during pregnancy. Amnesty International is campaigning on maternal in five countries with disproportionately high rates of poor maternal health outcomes, including the United States.

Women and disability:

Many disabilities are preventable and by one account, over 70 per cent of the world, disabled girls and women are disadvantaged in many ways that limit their participation in development. Denial (or limited) access to education, vocational training, employment, and rehabilitative services as well as limited mobility both on account of their disability as well as restrictive practices make disabled women lead secluded and isolated lives. The disabled (the differently abled) in India represent diversities in their composition. The experiences of disabled women are even more complex. Disabled women constitute a "neglected minority of women in a majoritarian world of men and of the non- disabled". Asha Hans also observes that such women face "triple discrimination", the discrimination being experienced on multiple fronts-as women, as disabled and as women with disabilities (ibid). However, despite their special (and gendered) needs, the concerns of disabled women have not been taken up actively by either the feminist movement or the disability movement. Disabled women are more vulnerable to neglect and abuse because of their disability. They are more likely to be "physically, sexually and emotionally abused" subject to forced sterilisation, contraception and abortion; and more likely to be malnourished than disabled males.

Women and mental health:

Women face double the health problems. Health and mental health are not different concepts. Studies on the mental health of women in India show consistent gender wise patterns. Reviewing a number of studies in India, Davar observes that, "While gender differentials in severe mental illnesses are not significant, women are more likely to suffer from common mental illnesses, the prevalence rates of such illnesses being often almost double in women in comparison to that in men". Such gender differentials have been noticed in rural and urban India.

Women and work:

A study of Health of women is necessitated due to the contexts of women's lives. As we have seen earlier, the multiple roles that women discharge can have deleterious effects on their health. Paid work coupled with childcare and household responsibilities result in role strains and little leisure for women. For women, the spill over of family related stress on work related stress is higher than it is in the case of men.

Every human being wants to enjoy good and sound health with the help of nature, because nature has a great role in physical mental, social, political, and economic development of human beings. Right to Health is a right without which no person can enjoy all other Human Rights. Human Rights have got unanimous recognition all over the globe. There is no restriction on the basis of boundary on any human being to enjoy Human Rights. Women have been given less importance since beginning of the Human Rights movement. This subordination happened because the traditional concept of Human Rights is based on “Dichotomy of Public and Private Interests”. “The Human Rights movement should itself give equal priority to economic, social and cultural rights together with civil and political rights”.

Access to health care:

Factors that limit women’s access to health care at the household level can be gender related, purely economic, or supply driven. Such as getting money needed for treatment, having to take transport, or distance to the health facility, can be hurdles for both men and women because they are likely to be related, at least in part, to the household’s economic condition and to the supply of health care. However, these hurdles are also likely to have a gender component, because, being female, women have limited freedom of movement and access to income. Finally, others such as unavailability of health-care providers the fact that drugs are supply driven, but likely to be more of a problem for women than for men since it may be more difficult for women, largely for gendered reasons, to revisit the health facility if services are not received the first time.

Discrimination in family:

Women are victims of household discrimination. In day to day life many times she cannot go out of the home. Illiteracy, limited access to money is basic causes because of which she is restricted the domestic work of like cooking and unable to take decisions about her own health. Nationally, only about half the women (51.6%) are involved in decision making on their healthcare.

Formal healthcare:

The public healthcare infrastructure ranges from a sub centre in a village to multispecialty, multi bedded hospitals in urban areas. Primary Health Centres, Rural Hospitals, Civil Hospitals as well as a host of facilities

like municipal hospitals and clinics are some of the other public healthcare facilities.

Occupational health:

A woman is access to occupational health services is limited for various reasons. Access to occupational health services is limited for workers around the world.

Reproductive health services:

The public sector is the dominant provider of contraceptive related services in the country. Access to affordable and relevant health services and to accurate, comprehensive health information are fundamental human rights. Yet, gender-based discrimination, lack of access to education, poverty, and violence against women and girls can all prevent these rights from being realized for women and girls. The challenges that are often particularly acute are when it comes to sexual and reproductive health rights and safe motherhood. Reproductive Tract Infections (RTIs)/ Sexually Transmitted Infections (STIs), Menopause, Infertility, Abortion are important issues in reproductive health.

The Constitution of India and Women’s Rights:

Gender perspective:

The principle of gender equality is enshrined in Indian Constitution in its Preamble, fundamental rights under Part III, Directive Principles of State Policy under Part IV, and fundamental duties under Part IV-A. The Constitution of India is the true guarantor of right of equality of women under Article 14. It is a fundamental document which deals with women’s right to equality in India. Further, the Constitution of India provides special protection to women with the help of various provisions inserted under above parts.

Judicial response and empowerment of women:

Though various laws are enacted to protect women at large, due to ineffective enforcement, women are exploited by the male dominated society. In protecting the women, the Indian Judiciary has removed all the procedural shackles and has completely revolutionised constitutional litigations. The judiciary has encouraged widest possible coverage of the legislations by liberal interpreting the terms. The judiciary has shifted from doctrine approach to the pragmatic approach, which was conducive to all interests in the society. Following are some verdicts: In *Madhu Kishwar v. State of Bihar*

Supreme Court has considered the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, 1979 and held that it is a mirror image of Part III and Part IV of the Constitution of India. The Courts have shown great enthusiasm in granting the constitutional provisions for all women. The judiciary by its landmark judgments had filled up the gap created by the Legislative machinery. The judiciary had extended a helping hand to women when the legislature had denied it. The higher judiciary has shown concern for women's right in recent times; it also had been greatly influenced by the international declaration and covenants on women's rights.

The vibrant judiciary has recently exalted the dignity of women by its golden judgments. In *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, the Supreme Court extended the benefits of the Maternity Benefit Act, 1961 to the Muster Roll (Daily Wagers) female employees of Delhi Municipal Corporation. In this case, the Court directly incorporated the provisions of Article 11 of CEDAW, 1979 into the Indian Law. In *Chairman, Railway Board v. Chandrima Das*, the Supreme Court awarded compensation of 10 lakhs to an alien woman under Article 21 of Constitution, who was a victim of rape. In *Mohammed Ahmed Khan v. Shah Bano*, the Supreme Court granted equal right of maintenance under Section 125 of Cr. P.C. 1973 to a divorced among the married woman notwithstanding the personal law. The Supreme Court also held that "large segments of society which have been traditionally subjected to unjust treatment, women are one such segment." In *Charansingh v. Union of India*, In *Municipal Corporation of Delhi v. Female Workers*, the Supreme Court held that a just social order could be achieved only when inequalities are obliterated and women, which constitute almost half of the segment of our society, are honoured and treated with dignity. In *Air India v. Nargis Mirza*, the Supreme Court struck down the discriminatory Rules of Indian Airlines. In *Bodhisattva v. Ms. Subhra Chakraborty*, the Supreme Court held that rape is a crime against basic human rights. In *Vishakha v. State of Rajasthan*, the Supreme Court took a serious note of the increasing menace of sexual harassment at workplace and elsewhere. Considering the inadequacy of legislation on the point, the Court even assumed the role of legislature and defined sexual harassment and laid down instructions for the employers. In *Apparel Export Promotion Council v. A.K. Chopra*, the Supreme Court found all facets of

gender equality including prevention of sexual harassment in the fundamental rights granted by the Constitution. In *C. B. Muthamma v. Union of India*, a service rule whereby marriage was a disability for appointment to Foreign Service was declared unconstitutional by the Supreme Court. In *Shobha Rani v. Madhukar*, the Supreme Court held that demand for dowry was enough to amount to cruelty. In *Delhi Domestic Working Women's Forum v. Union of India*, the Supreme Court suggested the formulation of a segment for awarding compensation to rape victims at the time of convicting the person found guilty of rape. The Court suggested that the Criminal Injuries Compensation Board or the Court should award compensation to the victims by taking into account, the pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurs as a result of rape.

Conclusion:

In India women are neglected in social, economic and political spheres. Studies have revealed that development of women as a human was hampered since ancient time. In India gender inequalities are in existence. The period of women's life such as childhood, adolescence and old age are vulnerable to discrimination. The high gender inequality in India is the reason for the poor health of women. It can be eradicated by effective implementation of policies, awareness programmes, comprehensive and gender sensitive health care system to meet the needs of health problems of India. Protection of Health related rights of women is more significant and imperative since they constitute half of the population. Besides all protective legislations need to adopt practical measures for empowerment of women in the family first and then we can think about change at national level. Gender discrimination is prevalent in right to access health care services due to male domination

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