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Reproductive Rights: Status and Strategies for India

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Abstract: Reproductive rights have great significance for both individual as well as for society. This paper presents a picture of current scenario of reproductive rights in India in the background of prevailing social factors and various government policies and pitfalls. This paper is divided into two sections. In the first section status of reproductive rights is assessed with the help of the framework suggested by Naila Kabeer and finds the existence of vicious circle of reproductive rights violation. However, the second section deals with suggesting five level strategies to ensure reproductive rights with the help of Sara Longwe's strategic model.

Keywords: India, Reproductive rights, Reproductive right Violations.

1. INTRODUCTION

Right to have sexual and reproductive health is recognized by Indian Constitution, in general and International laws and declarations, in particular. However, the actual status is quite contrasting to what is expected. As reported by *Human rights law network*, the cases like a scheduled caste woman living below the poverty line was denied her reproductive rights and tragically lost her life minutes after she gave birth to a premature newborn; a poor, homeless, young woman, after being denied emergency obstetric care was forced to publicly deliver her newborn child under a tree, has turned out to be a common phenomenon.

The present paper deals with the concept of reproductive rights, its historical context followed by the social constraints, government policy and pitfalls. This paper is divided into two sections, first talks about current status of reproductive rights in India, constraints in availing these rights, initiatives taken from the government side along with the bottlenecks, and then what is the effect of such effort on the basis of assessed status. The second section suggests a five level strategy to achieve reproductive rights.

1.1. The context

India launched its family planning program in 1952, legalized abortion in 1971, various childcare and maternity schemes are floated by government every now and then. But, the situation is really pathetic for women. The question is: what is the reason behind the reproductive rights violation in such a high frequency?

On the one side, the campaign, "Condom Bindaas Bol" ("Say Condoms Freely") has won a United Nations award for excellence in public information campaigns that tackle

priority issues and on the other, issues like sex education, contraceptive usage are not even discussed.

All the decisions of a women's life are taken by others let it be related to education, career, marriage, child-bearing etc. It would not be hyperbolic to say that even before entering the world it's decided whether she has a right to live or not just because of being female.

Millennium Development Goals III, IV, V and VI all deal with various facets of reproductive rights as gender equality, child mortality reduction, improving mental health and fight against HIV and AIDS and other communicable diseases. The issues like maternal mortality, child mortality, HIV/AIDS reduction sexual and reproductive rights are needed to be attended with due diligence to meet the targets placed by MDG (*Sexual and Reproductive health rights under the reproductive & child health policy)*.

But, the actual situation is of sheer negligence, where the situation is of failure in allocation of general budget of 2010 to specific financial resources to address maternal and child health even though the specific commitments were made as part of the Eleventh Five Year Plan.

1.2. Reproductive Rights

Reproductive rights were first established as a subset of human rights at the United Nations 1968 International Conference on Human Rights. *The sixteenth article of the resulting Proclamation of Teheran states*, "Parents have a basic human right to determine freely and responsibly the number and the spacing of their children."

According to *paragraph 7.3 of International Conference of Population and Development Programme of action (1994)* "reproductive rights…. rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. They also include the right of all to make decisions concerning reproduction free of discrimination, coercion and violence."

Thus, reproductive rights are the foundation for men and women's self-determination over their bodies and sexuality. So these are of immense importance to achieve gender equality and to ensure global progress towards fair and democratic societies.

As per the *International Conference of Population and Development Programme of Action, Paragraph 7.3 (1994),* the evolving reproductive rights framework is based on two key principles:

i The right to reproductive healthcare

ii. The right to reproductive self-determination.

It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence.

Reproductive rights are an issue of immense importance not only for fairer sex but for whole of the society. In the present time there is a great need of efforts with the right ap-

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proach. Though, lots of plans, policies and acts have been made by the government none resulted in the targeted output.

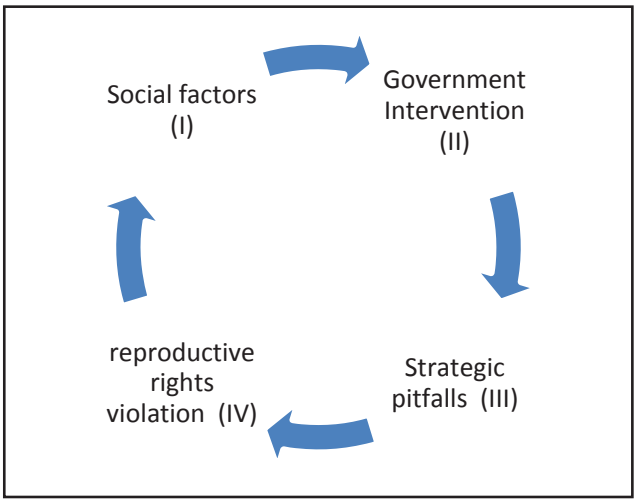

Figure 1: Vicious Circle of reproductive rights violation

1.3. Current Situation

Violation of reproductive rights has formed a vicious circle as depicted in figure 1.

The figure illustrates that due to existing social forces, government has implemented various policies and laws. However, due to the failure in implementation strategies violation of reproductive rights has become a common practice.

Details of each factor of this vicious circle, is discussed in the preceding section:

Social factors: All the policies and actions work in the background of the society. Thus, social factors are first to be assessed to analyze whether Indian society is in consonance with the target of ensuring productive rights.

Adolescents and sexuality: Despite the *Child Marriage Act of 2006*, which makes 18 the legal age for marriage for women, almost a major percentage of Indian women are married or in union by the time their 18th birthdays and give birth by the time they are 18. Due to child marriage, India has largest number of adolescents this further puts the need to make information about reproductive and sexual health should become an important part of both school curricula and health services for adolescents. On the same line, *India's 2003 Youth Policy* recognized that "information in respect of the reproductive health system should form part of the educational curriculum." But, it is still on papers rather than in practice.

Adolescent, the age group that requires maximum awareness about sexuality related issues possess least knowledge due to reluctance on the side of parents to discuss sexual matters with their adolescent children, lack of sex education in school settings, misperceptions, half-cooked knowledge about contraceptives and above all inadequate commu-

nication to negotiate safe sex. Adolescent girls are at special risk of maternal mortality and morbidity.

Violence against Women: Violence against women and girls (VAW) is a major public health and human rights issue. With sexual violence and (SV) and intimate partner violence (IPV) being among the most pervasive.

Inhuman treatment of woman: Women's asset of child-bearing capacity has turned out to be her liability due to lack of mature mindset. And, if some problems arise in fulfilling this role, its women only, who is blamed and investigated first. For men in most of the cases the investigation is limited to only maximum sperm count. Also, in India still practices like artificial fertilization/test-tube fertilization is lesser preferred to second marriage.

Target-Driven sterilization: Two years after the 1994 International Conference on Population and Development, India announced that it would take a "target-free" approach to family planning. But in practice, state-level authorities and district health officials assign targets for health workers for every contraceptive method, including female sterilization. Women are far more likely to be sterilized than men, even though the procedure is more dangerous for women. State authorities in some parts of India also use incentives to promote sterilization like cars, gold coins etc. Also indirect incentives are seen in various government schemes like in "girl child promotion" program to receive benefits it has been made mandatory to produce a sterilization certificate by the couple.

Discrimination against vulnerable groups: Some groups are highly discriminated in providing health services. They may be treated poorly and disrespectfully by hospital staff and even denied essential treatment such as blood transfusions. Women with HIV/AIDS may also be discriminated against when seeking reproductive healthcare and treatment.

Government agencies and policies: Government bodies are important in defining law and rules and proper implementation. In accordance with the objective of reproductive rights Indian government has also set up certain committees and launched various policies. Some of these are:

National Rural Health Mission (NRHM) (Year: 2007-2012): It provides for maternal healthcare with free care before and during child-birth, emergency obstetric care, postnatal and antenatal care. The lacuna prevailing is lower standards of service and limited awareness among the receptors.

Parliamentary Standing Committee on Health and Family Welfare: This committee is empowered to make recommendations to the government regarding investments and to suggest avenues for future expenditure.

Reproductive and Child Health Policy (1997): The RCH policy was launched in 1997 (Ninth Five Year Plan) to incorporate the recommendations of the ICPD (International Conference of Population and Development). For the first time, men were also involved as equal partners in taking responsible decisions in regard to family size and the health of the mother and child. It aims at reducing maternal mortality ratio (MMR), infant mortality rate (IMR), total fertility rate (TFR) and increase immunization coverage of children. It is also targeted to minimize regional variations and making provision for access of

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service. RCH is characterized by some lacuna also, like its complete ignorance to issues like access, awareness and obsessed approach to deal with obstetric care. Again, quite in contrast to 'target free approach' as set by government of India it sets 'expected levels of achievement' to Primary Health Centers (PHCs), Community Health Centers (CHCs), and municipal and public hospitals for increasing the figure of people sterilized. It has also followed gender biased approach thus excluded men from the policy.

Government pitfalls: Though the above points depict that government has made various provisions in terms of laws and policies yet due to some lacuna in strategy building the results are not up to the mark. The major bottlenecks in the governmental approach are:

Lower financial Support to healthcare: Far below the suggested minimum expenditure of US $30-$40 per capita by International Commission for Macroeconomics and Health India invests US $ 6.39 per capita. Thus, there is a requirement of increment in public expenditure. But, just opposite to what is expected, the Sixth Pay Commission has increased salaries and in so doing reduced the amount available for expenditure on essential health services.

Gender-bias approach: India's family planning program focuses predominantly on women, with little interaction and engagement with men. At the same time, it is men who often decide when to have sex and how many children to produce. For India, to be successful in its renewed efforts at family planning, it should engage effectively with men too, the rights groups said.

Lack of pro-women laws: The lack of social security programs is also found to be a bottleneck in the usage of contraceptives as families rely on their sons to for old age. National Policy for Older Persons (1999) and Maintenance and Welfare of Parents and Senior Citizens Act (2007) seem to be promising in reducing the trend but much effort is needed to bring it in practice.

India's Infant Mortality Rate (IMR): It is estimated to be 53 per 1000 live births *(Census India, 2007-09)*. The National Rural Health Mission (NRHM) envisages reducing the IMR to 30 by 2012. But this could be attained through revolutionary reforms in education system, administrative system as well as social system (WHO, 2006).

Maternal Mortality Rate (MMR): It is 212 per 100,000 live births *(Census India, 2007-09)*, which amounts to a massive per cent of the world's maternal deaths. The factors like severe bleeding, unsafe abortions, obstructed labor and hypertensive disorder as major contributors to India's high maternal mortality rate. This is also due to other unreported, unidentified and unaddressed health disorders like anemia and malnutrition. Maternal mortality violates the fundamental right to life, the right to liberty and the right to be free from cruel, inhuman and degrading treatment.

Paucity of Medical facility: Due to the Phenomenon of gravitation of medical practitioners in urban areas it's really difficult to find general practitioner in rural settings.

"*Empowered Action Group" (EAG)* states, there is still marked inequality in the availability of essential healthcare facilities and services. Focus states include Uttar Pradesh, Uttarakhand, Bihar, Jharkhand, Rajasthan, Orissa, Chattisgarh and Madhya Pradesh.

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Table 1: Institutional Social Relations in context of reproductive rights in India

Dimensions	Present Status	Proposed Status
Rules	Human rights Reproductive Rights The Prohibition of Child Marriage Act, 2006 Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act (Female Foeticide) The Protection of Women from Domestic Violence Act, 2005' National Rural Health Mission (2005-12)	• Creating platform for implementation of all these rights. • Making masses aware of their rights and empowered to attain them
Activities	Targeted population control Lack of Sex-education Lesser access to contraceptives Unavailability of health care services Discrimination to vulnerable group	• Target-free population control • Compulsory sex education • Easy availability of contraceptives and health care services. • Due care to vulnerable groups and weaker sections.
Resources	Human capital Financial capital	• Human resources are needed to be empowered to access their rights and to prevent trespassing in others' rights • Financial capital is needed to be invested more (Current investment per capita is very low to proposed one).
People	All genders and all age group	• It should be gender redistributive
Power	Concentrated in few hands only	• Need for empowerment of women • For inclusion of men • For educating the masses • For creating awareness amongst the masses

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As per the reports of UNICEF, Madhya Pradesh, Assam and Uttar Pradesh present with shocking of 700 or more per 100,000 live births ('Maternal Mortality Rate High in MP', The Hindu, 11 February, 2007).

Lack of information: The women are not provided accurate and correct information and even the procedure of informed consent is not followed. They are subjected to false information also to make them sterilized. Quite contrary to the standards for pre-sterilization counseling as set by Indian central government, studies show that female health workers are themselves not equipped with complete information of HIV and sexually transmitted diseases.

1.4. Reproductive Rights and Allied Concerns

As a result of drawbacks in government strategy and unfavorable status, the violation of reproductive rights has turned out to be prevalent phenomena in India. This violation is further leading to various physical, psychological and social concerns.

Cervical Cancer and Reproductive rights: Cervical cancer majorly resulting from sexually transmitted human papillomavirus (HPV) is the leading cause of cancer death in women in the developing world. Condoms only offer partial protection against HPV transmission because the virus can exist on body surfaces not covered by the condoms, such as the perianal area and anus in men and women, vulva & perineum in women & the scrotum in *men (Integrating health care for sexual and reproductive health and chronic diseases: Comprehensive cervical cancer control, World Health Organisation).*

HIV and Reproductive Rights: Involvement of men is needed to facilitate communication related to sexuality. Due to the inability of women to negotiate for sex and safe sexual practices lead to HIV infection, STI or unplanned pregnancy *(Male involvement in the prevention of mother-to-child transmission of HIV, World Health Organisation).*

Mental health & reproductive health: Mental health is interlinked with physical one. Thus, poor physical health naturally leads to poor mental health.

Mental health is also governed by social circumstances. Women are more prone to mental health problems as are overly burdened of household chores, lack decision making and are victim of violence and coercion.

Prevailing myths and reproductive health: Misconceptions like papayas, pineapples, eggs and drumsticks are sometimes thought to cause abortions and are therefore avoided by pregnant women. Ironically, all of these foods are rich in iron and Vitamin A, essential nutrition for a safe pregnancy and a healthy baby. In many regions, pregnant women are not given rich foods like milk and fats, because it is thought that these will make the baby too large and difficult to deliver.

Gender roles and reproductive rights in India: Scientifically, safe and consensual relationships are a necessary condition for healthy reproduction. But due to gender roles as assumed and forced upon, women is denied the right to run sexual relations on their own choices. Women are needed to be empowered to decide about child-bearing and spacing on their own terms, to have say in sexual relations.

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2. ANALYSIS

In the light of various studies and reports it is evident that the status of reproductive rights in India is awful. The status of reproductive rights is meant for both the sexes and all the age groups. But as women are more prone to denial of this right they need greater support. Other vulnerable groups are poor classes and down-trodden. To analyze Institutional-Social relations in context of Reproductive rights violations in India, five dimensional frameworks of Kabeer*, N. (1999)* had been used. The analysis had been conducted with the help of tabular presentation.

A critical look at the factors and studies presents a wide gap between what is expected and what actually exists. Although, various laws and acts are passed by the government to ensure reproductive rights yet the situation is awful because neither the platform for the implementation of laws and policies is present nor populace is empowered to fight for their right. Again, the various practices are not in the desired direction. For instance, discriminatory practices prevailing in various sectors that deny the vulnerable groups their basic rights. Sex education which should be provided at home and in schools is available through wrong means only. This is finally resulting in unawareness, misperceptions and sexual diseases.

The human and financial both the resources are needed to be channelized, human resource needs to be empowered through access and education. While financial capital is needed to be invested through a well-planned strategy. However, a major problem lies in the approach in recourse of reproductive rights. It excludes other groups except females. The issue should be dealt with a gender-redistributive approach where males are not only included but are expected to play supportive instead of regulatory role.

Besides, all the above four dimensions power needs to be equally distributed among all the classes. As in absence of equality all the efforts would turn out to be vain.

3. STRATEGY

Empowerment is needed to better the status. In order to prepare a plan of action of empowerment the framework of *Longwe, S. H. (2002)* is used. The five level strategy is:

3.1. Welfare

As women with other vulnerable groups is in backlog status. The policies aiming towards creating access and providing rights and laws would be of no use. Beforehand they are required to be brought at par with others as equity is possible only, when all are at equal footing.

The current practices like female foeticide, having no say in family and other matters, poor nutrition status and lesser involvement in productive jobs calls for ‘welfare’ strategy in the beginning by governmental as well as societal side.

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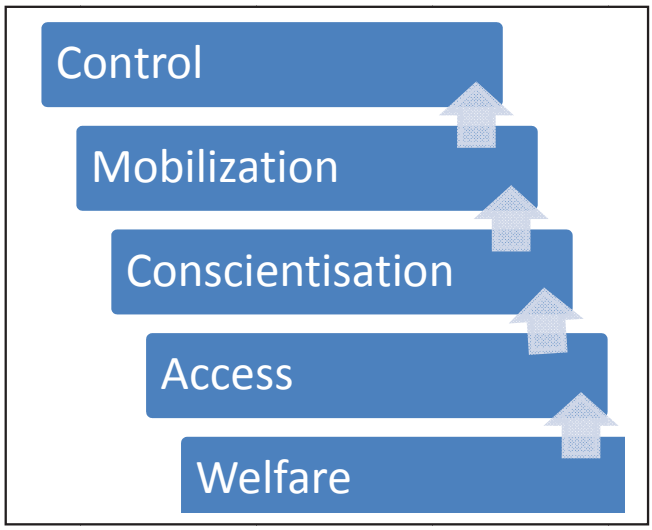

Figure 2: Five level strategy of betterment of reproductive rights status

3.2. Access

Access of the resources is the second step in the process. It is direly needed to facilitate the access of services and rights by the targeted group. It could be done through empowering the group to ascertain their rights and making the service accessible and available to them. A provision should be made regarding the betterment of infrastructure and provision of good medical practitioner in both the urban and rural settings.

3.3. Conscientisation

Various social provisions like preference of sons for social security, gender inequality, and sex as tabooed issue lead to poor status of women. The adolescent age group characterized as most experimenting group in sex-issues possesses least knowledge and access to contraceptives. It further worsens the situation by increased unwanted pregnancies, unsafe abortions, HIV, sexually transmitted diseases and psychological diseases. Women on the line of other rights are also denied reproductive rights. The provisions meant to better their status like *Janani Suraksha Yojana* are again out of their reach. The shocking figures of IMR and MMR clearly suggest that expenditure incurred over health services is neither sufficient nor in access to directed population. Other to these conditions, various physical abuses like violence against women, female genital mutilation and male genital mutilation also act as constraint causing major physical and psychological damages.

Exclusion of males from all the policies related to reproductive rights is major check. It's widening the gap further instead of bridging it. They perceive rights favoring women as against them. So, gender bias policies and actions are needed to better the situation.

3.4. Mobilization

As soon as populace gets conscientised, mobilization starts taking its pace. Here laws and policies are directed to remove or reduce the constraints and create a smooth ride in ascertaining one's rights. Instead of trying to empower the women after being completely powerless, she should be targeted at the stage from where the difference starts taking its shape. Unless and until a change is started from the unit of society i.e., home, no policy could ever work out. Females should be provided equal access to resources from the very beginning to let she decide what she wants out of her life. Then only she can ascertain her rights in all the walks of life. Same like other issues, parents should guide and tell about sexual issues. Sex education should be made compulsory. It would inculcate communication skills to negotiate sex and safer one too. India has highest number of adolescents, so no more chance could be taken to avoid the issue and let the major percentage of our population suffer just on the name of ignorance and cultural taboos. Other to this, contraceptives along with complete knowledge should be in easy access to all.

3.5. Control

As, the last step the level of access attained out of first four steps are involved with the control of resources. Here, the empowered individuals take the hold of resources and manage them as per the needs.

4. CONCLUSION

This paper has attempted to provide overview of social conditions and government interventions. However, due to gap in proposed and practiced there exists reproductive rights violation in India. To address this issue and ensure the reproductive rights to masses a five level strategy has been suggested, which if followed and implemented properly promises a better condition in terms of reproductive rights.

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