

Access to Health and the Impact of Covid-19 on Woman: Challenges and Solutions

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Abstract

Access to justice is an essential component of gender equality. Gender justice includes within its ambit right to health which cannot be denied to any woman. This paper is an attempt to highlight the health problems faced by the women during pandemic through gender lens. The impact of pandemic has resulted in affecting their health system. Lack of adequate emergency help lines, delayed response of police, delay in reporting, lack of timely health care, inability to provide adequate safe shelter and psycho-social counselling etc are some of the issues faced by her which need to be addressed timely to provide gender justice. Institutional coordination and effective implementation is required from all stakeholders and through constitutional mandate she can look for protection, safety and security within ambit of article 21 of the constitution. Article 21 along with Disaster Management Act 2005 can extend its ambit to cover the victims of gender inequality. In the end some recommendations have been laid down to overcome the problems faced in crises.

Keywords: Pandemic, Right to health, Disaster management, Gender Justice, Equality.

Introduction

The pandemic has exploded globally with multitude dimensional issues which has threatened our life and health and has brought unprecedented disruption to public services thus perpetuated injustice and insecurity among woman. Women are lacking access to the most basic essential services for their safety, protection and recovery. No doubt resources are strained and institutional capacity is limited, but at the same time, women are facing disproportionate impacts on the front line and at home simultaneously, which is affecting their health, economic independence, security and social environment¹. India has a comprehensive document as constitution of India along with specific laws to cover crises caused and national governments have adopted extraordinary measures to protect their citizens and overcome the pandemic but women are still suffering. This forces us to ponder upon. We need to respond to dignified gender issues during pandemic to rectify gender inequalities and to promote healthy, dignified and secured environment for her

In order to provide her healthy life during pandemic we need to revisit article 21 of the Constitution of India which protects life and personal liberty as a fundamental right of everyone at all times including pandemic. Article 21 says "No person shall be deprived of his life or personal liberty except according to procedure established by law." Article 21 entails two fundamental or basic rights within its domain. As movement of the individuals is curtailed by lockdown and restrictions are imposed by the government to prevent, protect and save the people from the virus, so many rights of women are curtailed as result of lockdown. There is surge in sexual violence, domestic violence, delayed medical help and police protection which has negative impact on her health which is required to be handled timely by stakeholders.

Right to life includes right to health but in present scenario there is law which justifies why the liberty of the individual is curtailed but impact of restrictions imposed on movement has also to be dealt with carefully. Article 21 says no person shall be deprived of his personal liberty except according to procedure established by law and it is pertinent to mention



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here through Disaster Management Act 20052 government has restricted movement of people to prevent /mitigate/reduce/ danger or threat posed by this virus but we have to agree that emergency response in form of lockdown has resulted in hampering of essential health and social services for many women thus directly threatening their right to health which forms an integral part of Right to Life. By virtue of this fundamental right they deserve access to maternal healthcare, safe childbirth; emergency police help lines for reporting domestic violence cases, Access to timely justice, economic assistance to working class, adequate shelter centres.

Right entailed in article 21 includes right to health as essential basic right which cannot be curtailed in emergency but same has been endangered due to pandemic and problems suffered by these women in their respective fields. Now, let me point out some gender focal points directed towards women where her health is getting affected.

1. Women working class is unpaid / less paid with higher risk of losing their livelihoods. They do not have adequate access to comprehensive health care placing them at high risk of exposure along with financial restraint.
2. Most of the Nari Niketans /Women Shelter Homes are overcrowded and the residents are living in sub-standard and unhygienic conditions.
3. During COVID-19 pandemic "court proceedings have been postponed or have adopted different approaches in classifying limited in-person appearances in "exceptional", or "urgent "cases on virtual mode. Due to this so many are unable to seek legal redressal against their perpetrators.
4. Pandemic has affected economic and social stress of everyone including woman due to restricted movement and social isolation measures which in turn has resulted in surging gender-based violence exponentially. Many of these women are now trapped in their homes with their abusers.
5. Limited delayed or no access to health care in case of maternity care has affected her reproductive right to deliver the child in safe and secure.
6. Existing legal services and emergency shelters are operating with limited capacity or have closed down due to COVID-19 measures and impacts3.

These problems are making the situation more vulnerable. Right to health is not expressly guaranteed as a fundamental right in the Indian constitution under article 21 but it has been recognised through number of judgments delivered in the last three decades by the Supreme Court since 1995. In case of Consumer Education and Research Centre versus Union of India⁴ amplitude of article 21 has been expanded. Vishaka v. State of Rajasthan⁵ case has been reiterated by the Supreme Court in Apparel Export Promotion Council v. AK Chopra⁶, where court has observed "contents of fundamental rights guaranteed in our constitution are of sufficient amplitude to encompass all facets of gender equality and courts are under constitutional

obligation to protect and preserve fundamental rights. In case of Vincent v. Union of India⁷ the Supreme Court held that maintenance and improvement of public health have to be ranked as indispensable to the physical existence of the community and right of the patient to be treated with dignity is guaranteed as their fundamental right and human right. Hospital /Nursing Homes are liable to provide treatment to the best of their capacity to all their patients⁸. In case of Occupational Health And Safety Association v. Union of India⁹, the Supreme Court held that it is double fold duty of the state to protect the workers living in risky and unhygienic environment.

In Kharak Singh¹⁰, the Court has recognized that a person has complete rights of control over his body organs and 'person' under Article 21 including complete right of a woman over her reproductive organs. In Navtej Singh Johar vs Union Of India AIR 2018 ,the Court held that it is positive obligations of the State to take measures to provide adequate resources or access to treatment facilities to secure effective enjoyment of the right to health. Access to justice is an essence of gender equality and it cannot be denied to any woman during this period.

Under Part IV of the constitution directives imposes obligation on the state to formulate its policies to promote social order where social, economic and political justice is secured¹¹. The society comprises of fifty percent of women population so duty is imposed on the state to secure to all adequate means of livelihood, equal wage for equal work to protect the health and strength of men and women and to make the provisions for securing maternity relief¹² to promote gender equality. Supreme Court has concluded in Consumer Education and Research Centre v. Union of India¹³ that right to health, medical aid to protect health of workers is a fundamental right to make their life meaningful and purposeful with dignity¹⁴. But same has not been responded to woman during this time of crisis and she has been a victim of lack of justice, domestic violence, lack of health services and lack of economic resources all of which, calls for all the stakeholders involved to prioritise these issues of urgent concerns. Through this paper I would like to put some recommendations so that this vulnerable class may get justice timely.

Suggestions for Future Implementation Role of Government/ State to Prioritize Gender Equality in Health System

States have special obligation to ensure adequate access to healthcare services in quarantine and isolation centres. Segregation and Care for pregnant and lactating women should be prioritized. Pregnant women cases must be categorised as essential services for better health response. Maternity services should be exempted from travel restrictions in order to ensure easy access to health facilities in a timely fashion.

We must strengthen health services to ensure primary healthcare to all such victims, including sexual and reproductive health and Quick preparedness to response during emergency must be adopted for providing timely medical assistance for all

these women. All policies, programmes and investments, including stimulus and recovery packages, must be designed with a gender lens.

Economic Recovery Measures

Protection of women's employment, health, and food security during the pandemic is a matter of urgent concern and needs to be addressed. They must be guaranteed protection, support and fair compensation. This includes safe working conditions, appropriate equipment, equal emergency/hazard pay, safe housing and access to services that reflect their needs as individuals, such as mental health services and childcare¹⁵.

Need to be Design Gender lens Strategies to Restore Livelihood of Women

Millions have lost their jobs and livelihood. This requires gender-responsive economic and social policies with long term recovery plans by promoting equal pay and equal opportunities, social protection schemes financing for women entrepreneurs and mechanisms to promote women's self-employment in public and private spheres. Stimulus packages and emergency measures to address public health gaps have been put in place in many countries to mitigate the impacts

Gender Based Violence

Integrating prevention efforts and services to respond to violence against women into COVID-19 response plans should be put in place. For instance-designating domestic violence shelters as essential services as restrictions on the freedom of movement worldwide has led to slow response of emergency measures from woman perspective.

Role of Judiciary

Courts must play its role through public interest litigations/suo motu and monitor the implementation of Disaster Management Act 2005 to ensure timely access to gender responsive justice. A speedy trial of female victims is need of the hour to curb or reduce cases of gender related issues.

General Role of Woman

Include women as decision makers as judges, police, prosecutors, lawyers, legal aid providers, administrators and community workers.

Aim of the Study

An attempt is being made through this article to analyze and apply mandate of article 21 which ensures right to health within its ambit but during

pandemic women are victims of multi dimensional gender issues and state is not able to extend adequate mechanism to provide protection to them.

Conclusion

In the end I would conclude that national/state/local agencies should be more collaborative and consultative in true spirit, otherwise we have sufficient laws to control situation which has arisen over period of six months. Success of effective implementation of the national and state decisions under existing framework is required. Policy recommendations if adopted and executed by stakeholders properly will definitely help to build back better future which in turn will protect, restore and advance the human rights of all women and promote gender equality.

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