



Expanding Access to Reproductive Rights: Using the Law to Guarantee Sexual & Reproductive Health and Rights



Date: 2nd & 3rd November,
2019

Place: Hotel Regal, Bilaspur
(Chhattisgarh)



Report of State Level Consultation
On

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Reproductive Health and Rights

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ACRONYMS-

1. LGBTQ- Lesbian, Gay, Bisexual, transgender and Queer
2. NALSA- National Legal Services Authority
3. NHRC-National Human Rights Commission
4. NACO- National Aids Control Organization
5. PUCL/CBA- People's Union for Civil Liberties/ Chattisgarh Bachao Andolan
6. PIL- Public Interest Litigation
7. PDS- Public Distribution Centre
8. SHRC- State Health Resource Centre

Introduction:

Health has been characterized as a state of complete physical, mental, social and spiritual well-being, and not merely an absence of disease or infirmity. However, it was soon realized that there are wide disparities within and across countries based on income, gender, locations and social segmentation which push vast majority of the citizens experience adverse health consequences. Therefore, health has become a political and governance issue but above all it is a fundamental human right.

The public health services are inadequate in India. Maternal mortality rates and infant mortality rates are declining is slower than the neighbouring countries. Pregnant women in villages and tribal areas are still not able to access medical care because the sub health centres, primary health centres and community health centres are not functional in the manner as they should be. Another important aspect of sexual and reproductive services is accessibility to safe contraceptive methods. Despite several options for contraception, there is a constant push to promote sterilizations, the whole burden of which falls on women. Quality parameters during sterelisation operations are often found to be below the par due to which large number of sterilisation failure and death cases are reported every year.

Only a very inclusive health policy can increase the status of health in our country and reduce MMR and IMR. Accessibility to good quality health care at affordable rates can help India achieve the goals set by the health policy. For this we need an increase in the health budget as well as demand for free medicines and diagnostics scheme which will reduce the burden on the families while getting medical treatment and will also help eradicate irrational medicines from the market. To attain the goal of universal health care, a separate law is needed to make public health a right. One of the most important aspects in increasing the health standards of a nation is improving the sexual and reproductive health services in the country.

Article 21 of the Indian Constitution provides “*Protection of life and personal liberty*” that clearly states that “*No person shall be deprived of his life or personal liberty except according to procedure established by law*”. Right to Life is one of the fundamental rights that encompasses right to health. One can achieve a good quality life only if she or he attains a high standard of health. Through legal intervention the constitutional mechanism can be used to bridge the gap between government assurances and the abysmal ground realities of the sexual and reproductive health delivery services.

Introduction to the Consultation

In light of the above evidences and indicators, it is very important to ensure that Sexual and Reproductive Health and Rights stay intact. With this objective, Prayas and Human Rights Law Network (HRLN) since past some years have been engaged in promoting sexual and reproductive health rights through varied advocacy measures, one of them being the legal route. In past about five years, Prayas and HRLN have identified more than a thousand incidents from different parts of the country citing diverse violations and denial of sexual and reproductive health and rights and through citizen-based advocacy and legal tool tried to claim justice in those cases. The State Consultation on ‘Sexual and Reproductive Health and Rights in India: Reviewing Laws, Policies and Practices’ jointly was organized by Prayas and HRLN at Hotel Regal, Bilaspur on 2nd- 3rd November 2019. Purpose of this consultation was an attempt to create a platform where the experience of interventions around SRHR through legal advocacy could be shared with other likeminded individuals and groups and at the same the current laws, policies and practices that impact SRHR can deliberated upon to identify gaps and areas where focused efforts are required. Around 110 participants were participated in this consultation like health activists, legal experts, civil society groups, women organizations, marginalized groups, doctors, lawyers, students, government representatives and media to help understand how using law accessibility to sexual and reproductive health and rights can be expanded.

Objectives of the Consultation

- To create a forum for sharing and discussing good practices, lessons, as well as the barriers and constraints in realizing sexual and reproductive health and rights in India
- To review the existing policies, programmes, schemes and legislations (including international obligations) related to sexual and reproductive health in India
- To deliberate on achievements, challenges and processes in claiming sexual and reproductive health and rights using law
- To sensitize and build capacity among judicial and legal fraternity around sexual and reproductive health and rights
- To equip CSOs and NGOs, especially those working in marginalized communities, with tools and information to make effective use of law in advocacy for sexual and reproductive health and rights
- To identify and draw consensus on issues and agenda for further advocacy, research and action around sexual and reproductive health and rights, especially using law

Day 1

Welcome and introduction of participants:

Dr. Nikky Ramawat, Prayas, Jaipur

The introductory session began with Dr. Nikky Ramawat, Prayas, Jaipur articulating the rights of reproductive health. After extending a warm welcome, he briefed the details on coming sessions and the consultation process to be followed.

A round of introduction revealed the array of fields the participants came from like LGBTQ rights activists, NGO's working for human rights & public health, transgender's experts, lawyers, women forest rights activists, reservation rights and trade rights advocates,

Mr. Degree Prasad Chouhan, HRLN,

Mr. Degree Prasad Chouhan, HRLN, commenced on jolly and warm note emphasizing to keep the session highly interactive between the participants and panel. He then reiterated the WHO definition of health and further the evolution of policies for women and health programmes, from National Rural Health Mission to Reproductive and Child Health. He stressed that the health services are the fundamental right of every Indian citizen irrespective of caste, status or gender.



Session 1- Situation of Human Rights in the country and Chattisgarh, Human Rights Defenders

Ms. Rinchin, PUCL/CBA & Adv Amarnath Pandey HRLN

The first session was taken by the panel of forest activist Ms. Rinchin, PUCL/CBA, and Adv. Amarnath Pandey, HRLN, endeavouring to make the participants aware of the present situation of depleting forests and resources, which results in naxalism. Ms. Rinchin shared in detail about how events related to riots and protest like of Koregaon Bhima is fuelling injustices and unrest in communities of some cast who are then growing more remonstrations. The intention was to bring into perspective how political movements are violating and abusing women body and adding threats to the health of tribal communities, particularly due to the change in forest act.

The subsequent session elaborated on the ambiguities in the range of government policies on natural resources to casteism and the repercussions on public health services.



Session 2- Introduction to sexual health and reproductive health

Ms. Chhaya Pachauli, Prayas

Ms. Chhaya, Prayas, started with the caution on the privatization of health services. She tried to bring attention to how the hospitals can misuse the insurance schemes violating the rights to the human body to make more profits.

She used the power-point presentation to explain the definitions of reproductive and sexual health bringing the context for the audience. Keeping session highly interactive she involved the cases from the participants themselves and brought several issues to notice like the importance of health worker counselling the whole family to prepare positively for a new mother, the importance of providing contraception to the people without marriage and poor accessibility of services for abortions; associating the experiences shared with the broad policies for maternal and health services.



The session has a healthy discussion on why discrimination between male and female in choosing sterilisation or usage of contraception, and why the onus of choice is on the female only while the male has given freedom to not participate, even when female sterilisation is far more complicated than male sterilisation.



Question Answer session witnessed sharing on several personal observations of abuse and violence towards women, sexual molestation on children, the gender difference in society, violence while choosing gender, making the participants more and more sensitized about the issues. The flow of discussion revolves around gender discrimination, child molestation, women violence, marital rape, abortion rights, attitude towards sex before marriage, a high number of maternal mortality in Chattisgarh.



It ended with concluding remarks from Mr. Choudhary who then invited the panel for the next session.

Session 2- Violence, Sexual Violence against Women

Ms. Pushpa, Mahila Adhikar Manch

Ms. Pushpa, Mahila Adhikar Manch, started with explaining the types of violence happen with women irrespectively belonging to upper or lower caste. The communities of lower caste observed more equality in the distribution of work between male and female. The type of barrier they face is like the communication gap between a girl in the family and family members when the girl experiences any sexual molestation and tries to inform. The stigma around menstruation and abortion was also mentioned, that doesn't allow women to abort as there is an assurance of taking care of the child by the family. The rape culture that is developing towards tribal women was also questioned with great concern along with the security concerns of women in the rehabilitation centre.



Session 3 Interlinkage between education and health, Child marriage

Ms. Aamna Begum, Jan Jagran Society

Ms. Aamna Begum, spoke about norms in child marriage where girl marriageable age is 18 and boy age is 21, which needs more consideration as these are still age for education only. She raised concern on the level of awareness particularly in girls to able to learn a family, and even the freedom for open conversation around topics related reproductive health. She shared using her personal experience of how she learned about sex and inability to find right information when adolescents start building relationship with opposite sex. Danger of getting misinformation or misguided information through the platform available like mobile phone, internet, magazine sometimes confuses the kids more.



Adv. Divya Jaiswal, Centre for Social Justice

Adv. Divya Jaiswal, she shared about how responsibility ensures the access of rights, where responsibility comes through education. She shared about the right of consent into marriage, when girl is being married without her consent it can be challenged under POSCO act. Another issue is the trend of marrying girl by the age of 16 year, because girl is into education and parents fear of her making choices of her own. She mentioned the laws that can be used to stop child marriage.



Mr. Ganesh Koshle

He stressed on the challenge of difference in students coming from government education system and private education system. He shared the challenging state of education system that is keeping the whole society deprived of quality education, resulting into unaware system.

Session 4 – Inter-caste and inter-religious marriages and Social Boycott

Mr. Sanjeet Barman, Dalit Activist

He facilitated the session and first invited the couple in inter caste marriage to share the challenges from society that they facing and then a Dalit activist Mr. Mani Shankar to shed light on the rights of Dalits and caste discrimination.





A couple of 10-year-old inter-caste marriage exchanges observations on how society is causing trouble in acceptance of marriages inter-caste and inter-religion, and how women are facing more discrimination and lack of support from families due to the societal pressure. Also, more serious implications are seen in children born to such

couples.

Mr. Mani Shankar, Dalit Activist

Mr Mani Shankar, highlighted the causes that build pressure in society and how the political system is taking advantage of these differences in societies to make a profit of its own. He told that the mindset of the chosen elected leader is so crucial that it can make or break the mindset of the whole community. He took the example of lynching happening based on eating habits where vegetarians find non-vegetarian eaters as the impure community and shared a recent case where a leader from the elected government questioned the eating choices of a tribal leader, declaring them as tainted and non-deserving community threatening for social exclusion.



He clarified how he is taking the support of NCHR- the human rights commission and PIL to fight against all these social discriminations and violations of rights.

The session ended with the conclusion that the societal framework has an inbuilt system of women exploitation and the real hope lies in having more equity and women leaders in public governance.

Session 5- Universal Healthcare Coverage and Reproductive Health – Challenges & way forward.

Dr. Prabir Chatterjee, SHRC

Dr. Prabir Chatterjee, SHRC, with the help of facts and figures in a powerpoint presentation explained how the water-related illness like malaria, diarrhoea and the air-related illnesses like COPD, Pneumonia, asthma etc. is on a rise and taking the share of budget and policymaker attention over reproductive health which seems to be a bigger challenge.

He elaborated on the loopholes in healthcare human resource management policies of government due to which several health centres lack skilled health providers, having a direct repercussion on handling the reproductive and maternal-child health services. He shed light on the fake recording of service delivery as a big concern, where child even been born outside the centre in deplorable condition are still added in records as service beneficiary, even quality of water in PHC & CHC which is high in fluoride needs attention if quality care is to be given.

The session addressed questions around issues for water, the absence of providers in health care and sanitation services.



Session 6 Implementation of the forest Rights Act in Chhattisgarh, Case in Supreme Court, Chhattisgarhi High Court

Ms. Kanta, (Navrachna) & Ms. Rinchin, (PUCL/CBA)

The last session having a panel of Ms. Kanta,(Navrachna), Ms. Rinchin, (PUCL/CBA), Ms.Rajni (HRLN), started with how the activists and several organizations demanded tribal

right to the forests, which was accepted as a petition after a long wait in 2006 and final changes was incorporated in 2012, and then it became a law still with several ambiguities.



Ms. Rincin raised concern on an alarming situation where government policies itself taking away the tribal rights to benefit the corporates, raising bigger questions like what will be the impact on health status and services if the resources like forests in Chhattisgarh will be taken over. Ms. Rinchin also added how big landowners are catalysing the process of overpowering the rights of tribal and small landowners.

Ms. Rajni Soren, HRLN

Ms. Rajni brings to notice the process of reaching to Supreme Court for the rights of forest and forest act. The not so supportive verdicts from Supreme Court in recent times are making the fight more difficult, and she shared the details of recent efforts building to save the rights and forests that are facing an alarming rate of resource depletion due to industrialization and mining.

They shared several examples of how resistance can be shown by the help of law.

Day 2

Session 1- Women's bodies, access to contraception, abortion

The session one of day two started with a local song that is dedicated out of rebellious love for the forest, followed by the group sharing of 3 women from the teaching profession in Chhattisgarh, Ms.Shreya, Ms. Meenu and Ms. Basanti Sahu. Ms. Shreya implored participants

to think how come that so many women around the country having issues with uterus, where hysterectomy is suggested as only solution.

They shared the ground level challenges faced by women when seeking health services for abortion or trying to choose proper contraception. These experiences were voicing against the attitude of healthcare providers towards the women of particular or different community and a total dissuasive attitude among health providers towards women body.

Majorly they shared about the difficulties faced for abortion and demanding the healthcare services for the same.

Ms. Chhaya Pachauli, Prayas

Ms. Chhaya Pachauli, Prayas, took from here to share the choices available for family planning, stating how still the prevalence of women sterilisation is on top of all the choices, resulting in women having her rights violated on her own body. She also shared her concern over the alarming rate of frivolous surgeries on women reproductive body either as hysterectomy or child delivery by caesarean operations and demands for more awareness for citizens to make better-informed choices



Ms. Durga Jha Shreya, Chhattisgarh Mukti Morcha

Ms. Durga Jha Shreya, Chhattisgarh Mukti Morcha, explained how the whole health system including the providers till date have a biased patriarchal mindset, even in science and research for women health. Questions were raised about why all family planning methods are applied

on women only while very few tools for male body, why menstrual pain never gain enough attention of researchers when the science has reached to the level of genetics, why men are not equally forced for sterilisation and why women need to trade her dignity to use healthcare.

The whole attempt of the session is to bring in focus the need to change in not only the health system but the whole social system, as the mindset of care providers who verbally abuses the tribal or women from lower caste speaks about.



It was concluded with a sharing from a participant on how she along with her community are fighting for their rights in their region to claim for sensitive and proper care in their PHC for women.

Session-2 Current Scenario of women protection in state of Chattisgarh

Ms. Chandrakumari Lahare, Jan Jagran Society

Ms. Chandrakumari Lahare, spoke on the kind of threats looming on girl security be it rape by their own guardian, or killing women based on orthodox ideologies. She raised concern on never declining crimes on women even after taking strict steps in the laws like provision of death sentence in rape under 12-year-old girl, imprisonment till lifetime in case of rape under 16 and imprisonment increased to 10 years now in case of rape of adult woman.



Ms. Gayatri Suman, Centre for Social Justice

Ms. Gayatri Suman, appealed participants to think of woman becoming a complainant instead of defender. She stressed on always having documents at place to able to fight for your rights when required. An example of a real case study where a minor girl is fighting for the justice after rape, where she couldn't arrange a caste certificate required to file a FIR was also given.

She implored to take cognizance of having proper preparation for fight by law instead of road protests.

Mr. Vijay Shankar, Dalit Activist

Mr. Vijay Shankar invited participants to understand how violence and social system is represented through our media and digital content. An example of a movie that tells a story of a girl who gets pregnant by a boy from other caste and thrown out of the village, where she had to turn to prostitution to save her child, only to lose her child eventually, was used to proclaim the power of moving media.

His session concluded by an appeal to create more content on women rights to bring better awareness.

Session 3 Right to food, the functioning of PDS system, mid-day meal, the movement for inclusion of eggs in mid-day meal.

The panel in the session elaborated on the importance of the right to food and the challenges involved in making a provision of ration card.

Mr. Chandrakant, Right to food Abhiyan

Mr. Chandrakant explained the association of right to food, water with the status of health, by quoting examples of food distribution policies under PDS (Public Distribution Services). He elucidated using the recent example of a highly misunderstood notice from the government which leads to several protests, believing the government uninvited interference in the culture of local vegetarian food. It was about introducing eggs in Anganwadi menu. He then briefed the latest addition in Anganwadi menu for maternal and adolescents.



He elaborated on how the process of ration card allotment is also been discriminatory towards women particularly after marriage when she shifts to the husband's home. The mismanagement

in implementation causing schemes like *garam-paka-swadisth bhojan* (hot-ready-delicious food) unserviceable; concluding the session with the umbrella of rights to food.

The questions from participants tried to grasp the present status of law and order regarding these issues. A healthy discussion happened on right to food irrespective of debate on the choice of food. A participant who happens to be an Anganwadi worker herself presented several queries regarding the schemes for the proper functioning of Anganwadi. She was informed that she can now claim a gas cylinder as per the latest addition in the scheme by Government of India.

The session was concluded with a discussion on several ambiguities in implementing government schemes and the number of rights that can be exercised to improve the situation.

Session 4- LGBTQ Rights, Access to health care

Ms. Kanchan Sendre, Network of HIV People

Ms. Kanchan Sendre, Network of HIV People, put efforts to bring the participants to the perspective of LGBTQ community rights. Their struggle to get an identity card, skill development, hostel for transgender kids, lack of employment, Life with HIV, are few among several issues she invited the audience to take into cognizance when dealing with the LGBTQ community.

Some issues that they highlighted were-

- Violation of rights in ID card allotment like to bring proof to change the gender to transgender, that demands physical examination.
- Complete ignorance in the healthcare system for the needs of transgender.
- A highly inhuman attitude towards the third gender.
- Due to the unavailability of jobs and economic reforms for transgender, they end up needing more assistance in health care.



The other members on panel Ms. Rinky Arora and Mr. Vijay Arora revealed “the NALSA judgement” from 2014 that explains the needs of transgender by giving guidelines on how to distinguish the sex and gender, bringing the gender into perspective, which is irrespective of the reproductive organ.

Session 5- Situation of the atrocity against Dalits in Chhattisgarh

The panel discussed on the need for schedule caste community to respond aggressively with awareness to make the oppressors feel their wrongdoings.



M D Burman, Dalit Activist

Mr. Burman spoke about the violation of rights of men and particularly women from lower caste, that needs more people in power to get sensitized about. A support system for lower caste system to grow on the ladder of growth and success is still required. He opined to empower the Dalits to the level that they can respond as tit for tat.

Mr. Vibhishan Patre, Jan Jagran Society

Both speakers on panel, Mr. Vibhishan Patre and Mr. Kala Das Dehriya spoke on length about the atrocities of Brahmanical ideology on lower caste system that demand more aggressive approach both on road and by law. Mr. Vibhishan Patre appealed to change the definition of Dalit from “community in dirt, poverty and untouchability” to “the community that fights against the violence & harassment and promotes the belief in equality”. This would make eventually change the outlook of generations towards Dalits.

Mr.Kala Das Dehriya, Mukti Morcha

Mr.Kala Das Dehriya, , further explained the ways schedule caste community are harassed in social, financial, physical, sexual, and many more areas. He spoke for the rights of blue collar workers who are meant to do all the odd jobs, and usually belongs to the Dalit caste, hence being harassed the most.

Session 6 - Violation against Tribal Human Rights in Bastar

Adv. Kishore Narayan, HRLN

Adv. Kishore Nayan, shared the extreme violation of tribal rights in Chattisgarh, in particular, Bastar as it is afflicted with Naxalism. He quoted from the recent case to highlight the inhuman strategies that are adopted only because the area is Naxal affected. These strategies are usually violating the women body the most. A recent case, he quoted to highlight the serious issue of violating women rights in most inhuman ways. The state government allowed security forces to identify Naxalite women based on their non- marital status, as unmarried are the potential threat. For this they used the scrutiny process of physically examining the breasts of all women to exclude the lactating mothers, forcing women in the most inhuman violation of her own body.

Another episode he shared was police in the programme of trust-building with women reached out to tribal girls’ hostel, only ended up molesting some girls.

He concluded that these frequent episodes are demanding more attention to the human rights of tribal women and the dire need to put a hold on inhuman acts.

Last session 7- As the last session, some light was shed on the process of filing a PIL, detailing about how PIL helps on the bigger cause of people.

Ms. Rajni Soren, HRLN

Speaker Ms. Rajni Soren, from HRLN, introduced the structure of HRLN. She shared the success stories of several judgments in favour due to the filing of PIL like functioning of Anganwadi, opening the sub-center and several others, motivating participant to think the range of issues that can be demanded.



HRLN then invited and collected several issues from participants to bring the context of PIL filing on types of issues raised.

A panel of Dr. Chaterjee took several doubts related to sterilization of both male and female including guidelines to claim a refund in case of failed sterilization, repercussion of undergoing sterilization with wrong documentation or fake id and many more.

Later a lengthy discussion went in responding to several queries on charging a patient fee, medicine distribution, medicine unavailability under all departments including NACO and maternal health.

The situation of how PIL can help or cannot help to ensure the supply of resources for proper program implementation was raised too.

----- Ending with a vote of thanks to all speakers. -----



Annexure:

Agenda:

Day 1		
Time	Issue	Speaker
10:00 – 10:30	Opening Remarks	Degree Prasad Chauhan, HRLN Dr. Nikky Ramawat, Prayas
10:30 -11:00	Situation of Human Rights in the country and in Chhattisgarh, Human Rights Defenders	Amarnath Pandey, HRLN Rinchin, PUCL/CBA
11:00 – 11:30	Introduction to Sexual Health & Reproductive Rights	Chhaya Pachauli, Prayas
11:30-11:45	Open Discussion	
11:45 – 12:30	Violence, Sexual violence against women	Rajim Tandi, Dalit Adivasi Manch Sanjeet Kumar, Dalit Activist, Pushpa, Mahila Adhikaar Munch
12:30-12:45	Open Discussion	
12:45 – 1:15	Interlinkage between education and health, Child marriage	Divya Jaiswal, Aamna Begum
1:15 - 1:30	Open Discussion	
1:30 – 2:30	Lunch	
2:30 – 3:00	Intercastes – Interreligious marriage and Social boycott	Lakhan Subodh, Sanjeet Burman, Mani Shankar
3:00 - 3:15	Open Discussion	
3:15 – 3:45	Using the Law to guarantee health and Reproductive Rights How to do a PIL How and when to approach the High Court	Kishore Narayan, HRLN Rajni Soren, HRLN
3:45- 4:00	Open Discussion	
4:00-4:30	Universal Healthcare Coverage and Reproductive Health – Challenges & way	Dr. Prabir Chaterjee, State Health Resource Centre

	forward	
4:30-4:45	Open Discussion	
4:45-5:15	Implementation of the Forest Rights Act in Chhattisgarh, Case in the Supreme Court, Chhattisgarh High Court	Kanta Marathe, Navrachna Rinchin, PUCL/CBA Rajni Soren, HRLN
5:15- 5:30	Discussion	

Day 2		
Time	Issue	Resource Person
8:30- 9:00	Breakfast	
9:00 – 9:45	Women’s bodies, access to contraception, abortion	Chhaya Pachauli, Prayas, Durga Jha, Shreya, Chhattisgarh Mukti Morcha
9:45 – 10:00	Discussion	
10:00 – 10:30	Violation against Tribal Human Rights in Bastar	Soni Sori, Tribal Activist Kishore Narayan
10:30 – 10:45	Discussion	
10:45 – 11:30	Right to food, functioning of the PDS system, Mid-day meal, movement for inclusion of eggs in mid-day meal	Chandrakant, Right to Food Campaign Saraswati, Neelu,
11:30 – 12:00	LGBTQ rights, access to health care	Phillip-HRLN, Kanchan Sendre, Vijay Arora. Rinky Arora, Chhattisgarh network of HIV people
12:00-12:15	Discussion	
12:15-12:45	Protection and safety of Women in Chhattisgarh	Gayatri Suman, Chandrakumari Lahare
12:45-1:00	Discussion	
1:00-1:30	Situation of the atrocity against Dalits in Chhattisgarh	Vibhishan Patre, M D Burman, Kala Das Dehriya
1:30-1:45	Vote of Thanks	Degree Prasad Chauhan, HRLN Dr. Nikky Ramawat, Prayas
1:45 – 3 :00	Lunch	