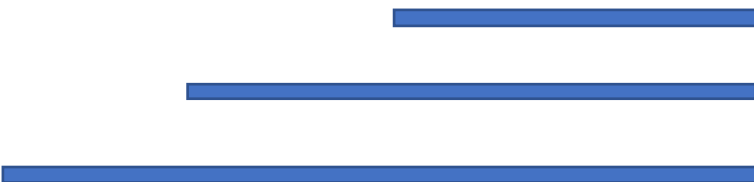


**Expanding
Access to
Reproductive
Rights: Using
the Law to
Guarantee
Sexual &
Reproductive
Health and
Rights**

**Date: 9th & 10th November,
2019**

**Place: Pastrole centre, Bhopal
(Madhya Pradesh)**



Report of State Level Consultation
On

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

Date: 9th & 10th November, 2019

Place: Pastrole centre, Bhopal (Madhya Pradesh)

Annexure-

1. CWC- Child Welfare Committee
2. CHC- Community Health Care
3. GASVS- Gramin Adivasi Samaj Vikas Sansthan
4. GMC- Gandhi Medical College
5. HRLN- Human Rights Law Network
6. IMR- Infant Mortality Rate
7. JSY- Janani Suraksha Yojana
8. KSS- Krishak Sahyog Sansthan
9. MMR- Maternal Mortality Rate
10. PC-PNDT- Pre-conception and Pre-Natal Diagnostic Techniques.
11. PMJAY- Pradhan Mantri Jan Arogya Yojana
12. PHC- Primary Health Care

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 Pastrole centre, Bhopal on 9th – 10th November 2019. Purpose of this consultation was 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 time the current laws, policies and practices that impact SRHR can be deliberated upon to identify gaps and areas where focused efforts are required. Around 90 participants joined in this consultation including 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

Welcome and introduction of participants:

Mr. Vijay Singh, Prayas

Vijay Singh, Prayas, started the opening session with a round of introduction. The participants were a mix of advocates, NGO's, activists, counsellors and health service providers. It was followed by an inspiring folksong dedicated to the blue-collar workers.



Session 1- Background and Objectives of program:

Dr.Narendra Gupta, Prayas



Dr.Narendra Gupta, Prayas, commenced the session with appreciating the presence of high number of women speaker in following sessions. He then elaborated on the fundamental rights of Indian citizen, and professed the rights for individual in India I like right to live with dignity, right to food, right to education, right to security and many more. Though right to healthcare is yet to come on paper but is there in spirit. He then invited the participants to understand the perspective of health as not mere absence of illness but as overall wellbeing that encompasses happiness as a major indicator. He

raised concern on 70% out-of-pocket expenditure to seek healthcare in India as the highest among all developing nations, as well as, the inequity in the quality of health care. Increase in cost of care due to the private healthcare reaping higher profits by overprescribing out of poor regulations and government unable to provide the quality care.

He stresses that poor regulation is leading to high corruption in health system and causing violation of rights in several ways while seeking health care. The irregularity comes because of the leaders' apathy due to the citizens ignorant attitude to demand for the quality in public services.

Ms. Sangeeta, HRLN

Ms. Sangeeta, HRLN, briefed about the organization HRLN and role of PIL. Ms. Santosh with help of powerpoint presentation revealed the issues that will be taken further in details in the following sessions. She elucidated that comprise the reproductive health and role of freedom of choice in sexual health. She concluded after touching on several issues like child marriage, adolescent health, human trafficking, maternal and child health, safe pregnancies and healthcare, choice of contraception, gender discrimination and right to information that can be dealt with judiciary interventions in solving cases against violations of right.



Session 2- Sexual and reproductive health rights and legal advocacy

Ms. Shanoshgufta Khan,HRLN

HRLN through Ms. Shanoshgufta Khan, presented the categorization of 122 cases filed by HRLN and Prayas together. Sterilization, maternal deaths, JSY, adolescent health, malnutrition, death due to abortion, neonatal deaths and irresponsible healthcare provider were some of the issues that cover these cases. She outlines that PIL against hospital has helped to raise the standard and quality of healthcare/hospitals even before the verdict is out and filing PIL against the government schemes non-implementation leads to quicker action. PIL can be filed for several issues like discrepancy in quality care, unawareness in patients about the schemes or standards not matching the set guidelines. Any health service when availed by a receipt of buying their services can be challenged in consumer court. Cases against failed sterilization are mostly accepted and cases against child molestation, trafficking and rapes by PIL are also highly invited.

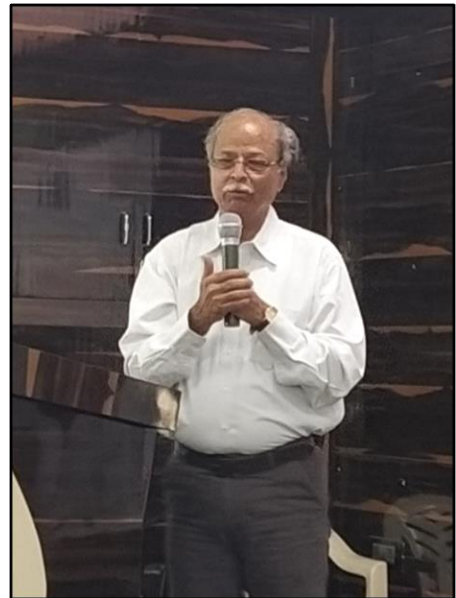
In question answer section she clarifies the doubts about the process of filing petition against consumer violation cases and mentioned that in consumer court anyone can approach even if they are delayed due to valid reasons which involve not knowing about the process. Other questions were raised for human rights commissions, how to file for tribal rights and the process of Lokpal. Lokpal is generally held once in a month to resolve the cases out of mutual consent.

Session 3: Right to health- Current scenario

Dr. Narendra Gupta, Prayas

Dr. Narendra Gupta, Prayas, reiterated the definition and briefed in detail explanation the association of maternal and child mortality with poverty, poor healthcare, nourishment, Janani Suraksha Yojana, social norms, early age of marriage, etc.

As responding to a question on whether we are better than our ancestor, as we see based on storytelling from the recollection of ageing community, he explained that there are several factors lead to population explosion but mental wellness still needs much improvement. This shifted the discussion to what makes the quality of life and the shifting trend from communicable to non-communicable.



Session 4- Marginalised groups and health

Dr. Narendra Sharma, ActionAid



Dr. Narendra Sharma, ActionAid, started the session under the perspective of taking “right to health” as a political question. He then elucidated how the formation of constitution involving declaration for human rights in 1948 and International Covenant on Economic, Social and Cultural Rights (ICESCR) has introduced in India Right to live with dignity, obliging the states to make all rights accessible to all, particularly to the most deprived in the society.

He then brings the association of how the framework of social system in India is the biggest hindrance to make rights and even constitution reach to the most deprived. Second, gender discrimination is adding to these obstacles, he explained using the example of how manual scavenging is done usually by women due to the pressure out of societal norms. Overall putting the context in frameworks that deciding the delivery of services. These four frameworks are-

1. Class system
2. Caste system
3. Patriarchal system
4. Capitalist system

He then implored the audience to expand the understanding and recognize these barriers to demand and offer best out of public services.

Session 5 Mental health in the context of sexual and reproductive health rights

Mr. Pankaj, GASVS

Mr. Pankaj, GASVS, invited participants to share what they think defines the patient with mental illness. He then explained how sexual or reproductive health deterioration or harassment leads to mental problems like anxiety, depression, anger, stress, etc. The obliviousness towards mental healthcare is making the services for sexual and reproductive health incomplete.

Out of the experience working on field, he shared an observation that the shared arena of religious interventions with medical solutions to manage the mental illness makes it more difficult to demand interventions on basis of fundamental rights, so awareness-based intervention is what they opted for.

He shared several challenges he is facing to refer patients with mental illness in the existing health system.

Still, the group therapy as psycho-social interventions is turned out to be the most effective strategy. The another strategy called Sanjeevani, which is also a project, where a story of how, in mythology of *Ramayan*, lord Hanuman saved the king Laxman with help of a doctor counselling is proving to be the effective folktale for spreading awareness and treating the abandoned patients at Hanuman temple, which received maximum number of abandoned mental patients.

He shared how the petition for mental health intervention is still moving between desks in the last three years while the already deplorable condition of a rehabilitation center for mental patients is getting worse.



The session was followed with several queries regarding rehabilitation, process, medication and provisions for mental health under Ayushman Baharat.

Dr. Narendra then clarified the upcoming changes at policy level for mental health that involves the availability of mental health medicines and mandatory services at district level. He made aware about toll free number- 14555 the number of Ayushman Bharat helpline.

Ms. Shafogufta from HRLN invited NGO GASVS to file a petition for the cause-related funds under the government scheme. The session concluded by highlighting the need for proper mental health care and a provision of temporary residential care for women in distress for each district.

Session 6 Adolescent Health

Ms. Subhadra, Majilis

Ms. Subhadra, Majilis, used the explanation of evolution theory to mention why maternal health in human species needs more care. She explains as the evolution made human walk upright the women pelvis became more vulnerable. The social system then decided to keep the women at home to nurse children and give birth in a safe environment with proper monitoring. This introduced the controlling of women and children rights and the rise of patriarchal movement because while women stayed at home, men ventured out to claim rights on lands. This brings the need to have equal rights on the ancestral property for women, that proving to be a promising strategy in breaking the shackles of chaining women fundamental rights.



She emphasized the need to make the rights for reproductive health as more fundamental, inviting more male participation in the process, from the time the gynaecological process starts to the process ends.

She further explained the need for proper services for women in two distinct phases - gynaecological and motherhood. She professed for more fathers to stay aware of menstruation process to better take care of their daughters and women in families, as 12 cycles a year that

women undergo needs the proper supportive environment from society and end the taboo that makes menstruating women untouchable.

She demonstrated the tools that aid the gynaecological examinations to make even men aware of the process. In the question-answer session, the stigma around promoting the habit of asking queries for sexual or reproductive organs was discussed in details.

Session- Malnutrition among women and children and child protection **Mr.Mahendra Kamekar, CID**

Mr.Mahendra Kamekar, CID, implored participants to think more why the government laws and schemes are not implemented as expected. He suggested better training for schemes implementation. As coming from the long years of experience working with children in distress, he started with the requirements of children in juvenile delinquency. He elaborated on the service structure from the government to help children in distress.



- I. Every district has a *Bal Kalyan Samitee* OR Child Welfare Committee- who is responsible for taking care of any child abandoned or in need of help. If one doesn't know about the CWC, can call 1080 – child helpline to enquire for this committee for their area. CWC by the government has been given the power to use their discretion for the child future.
- II. Child rehabilitation or support homes like *Bal Graha* (0-6 years boys), *Balika Graha* (6 to 18 years), or *Khula Ashraya Graha* (Day care center or center with day/night care that allows only 7 days to stay) needs to be there in each district. With the required documents one can establish these with permission from the center under Women and Child Ministry, and every center should have facility for proper sanitation, food, recreational activity,

III. These centers are created to help kids of underprivileged community where both mother and father is working. He told to note there has to be a woman above 35 years of age in the Child Welfare committee.

He mentioned Juvenile Justice board has Sampreshan Graha where juveniles who attempted crimes should have human code of conduct with proper care, as they are not the criminals. Childline center who is headquartered in Mumbai runs a 24*7 helpline call centre and action committee in each district of India. He requested participants to study more on the byelaws and organizational structure of child support in their areas.

Dr.H.B.Sen, KSS

Dr.H.B.Sen, KSS, then shared the status of MMR, IMR in Madhya Pradesh, and with aid of storytelling he tried to sensitize the participants on women health issues. The story of a woman being born to underage mother and raised motherless, attaining the motherhood in similar way facing the same destiny of maternal death as her mother, imploring participants to brainstorm on why such cycle continue. Several reasons were responded as lack of awareness, education, malnourishment, child marriage, poor accessibility to government schemes, poor maternal health, improper ANC, PNC, maternal check-ups, etc. He then establishes the association of malnutrition and maternal or child mortality. He gave details of anaemia causes, identifications and cure, with briefing on natural diet supplements that usually comprise food with vibrant natural colours. He concluded with a song dedicated to the schemes to fight malnutrition.



Session last- Domestic Violence

Ms. Uma Chaturvedi, Sahyog

Ms. Uma, Sahyog, talk was about the vicious cycle of domestic violence and societal norms that women get into and the existing laws for same. She elucidates the types of violence in four categories-

1. Emotional violence.
2. Sexual violence.

3. Physical violence.

4. Financial violence.

She briefed upon the law of domestic violence (2006) having the processes like informing the police, ensuring the child safety, steps to claim, seeking women empowerment officers, provision of punishment, complimentary health services and freedom for anyone who witness the domestic violence to complain police for help.

Statistics on records for violence, rape and crime against women in India was shared too. She also questioned the implementation of guidelines and policies for the women safety quoting example of no provisions made of prepaid auto even after the booth established at railway centres, possible only because people don't demand for its absence and compromises on their safety. She ends the session by asserting participants to take awareness and question as a powerful tool that can ensure implementation of the laws.



Day 2

Session- Factors affecting women's health

Ms. Harpreet Kaur, Saans Welfare Foundation, Gwalior

After the round of introduction and a quick verbal feedback from the participants about the last day sessions, the session one of day two started by Ms. Harpreet Kaur, Gwalior, who stressed on the importance of bringing the topic of women health, menstruation and right to make informed choices in daily communication and using the awareness as a tool when seeking healthcare.

As respond to a query on new initiatives for girls by the state government, she explained schemes are running broadly under three concept - adoption care, foster care and after care. Under Paschat vriti

initiative from state government, the CWC identify the foster home and ensure monitoring as case study to mention how the girls get to settle in terms of education, job or marriage, and cater girls between 18 to 21 years only who is in rehabilitation centre. The role of counsellor is crucial and maximum only 4 kids (including family's own) are allowed to foster by one family. She also mentioned about pilot project DIR (domestic incident report) under *Mahila Oja Desk scheme* that gives a provision to file case against domestic violence only when people living under same roof.



Session 2- Ayushman Bharat scheme

Dr. Narendra Gupta, Prayas

Dr. Narendra Gupta, Prayas, elaborated the schemes under Ayushman Bharat where the provision is now coming to convert the sub centre into "health and wellness centre" which will have two ANM, one MHW and Community Health Officer as mandatory staff, with similar additions at PHC and CHC level.

As second component, he elaborated on an insurance scheme, the PMJAY, that is designed to support 10 crore underprivileged/poor income families to avail the treatment upto five lakh rupees in case of medical emergency. It allows to make a choice in private or public healthcare facility and have number of diseases listed under scheme. The burden of scheme cost is divided between 60% by Central and 40% by State government.

He made clear one can call the helpline number to find who can avail the PMJAY scheme only by sharing the ration card number or aadhar number on



Ayushman Bharat helpline -14555 or talk to the Ayushman Nayak, a dedicated person allocated as a guide on how to avail the service in the hospital. The free distribution of generic medicine under Sardar Vallabh Bhai Patel Free Drug Distribution was also discussed in details.

He mentioned as well the process to reach to *lok-Adalat* when found discrepancy in implementation of these schemes.

Session ended with a suggestion from a participant that if such training invite the senior officials as well, might will lead to better outcome.

Session 3- Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT)

Dr. Shaliendra Patni, Ass. Professor Community medicine, GMC

Dr. Shaliendra Patni, Ass. Professor Community medicine, who has served as deputy director in ASHA in MP speaks next. He talks about PCPNDT Act that penalise the process of identifying sex of a womb in view of skewed sex ratio. He explained that how the technology was developed for prenatal diagnosis for any congenital deformity, chromosomal abnormality, haemophilia, or any other disorder related to genetics, now is misused resulting into female foeticides demanding such act.



He explained how the act is working for better reproductive health. He also explained the procedure of the pre-natal diagnosis technology in detail, like three techniques in India-

- I. Cell-free foetal DNA test which take the tissue of womb to study DNA ,
- II. Invasive technique to study the cell of foetus
- III. transvaginal study of the womb using gel and ultrasound.

He alerted that due to the invasive nature of these techniques it holds several implications to both mother and foetus. He made it clear that if because of these pre-natal diagnostic techniques lead to female foeticide or maternal death, the doctor can be held under PC-PNDT act.

He then elaborated on terms that are used frequently under this act –

The state of pregnancy- conceptus, embryo or foetus.

Centers/Departments that can use these techniques- The genetic clinic, genetic counselling center and genetic laboratory, stating are three potential areas where the act would be required.

Experts that can prescribe these techniques- Gynaecologist, Paediatrician, Medial geneticist.

Still, there is no scope to reason to do sex determination. He reiterated the guidelines of whole PC-PNDT act. The clause of inspecting the registered ultrasound centres anytime and if found guilty the provision to convict under the law.

Session last- How to file PIL and undertake factfindings

Panel from HRLN, informed that the most important parameter to file PIL is it should be for larger public interest. The panel shared in detail the process and steps to file a PIL.

Ms. Shanno Khan, HRLN

Ms. Shanno Khan explains the process of preparing proper documentation for representation on court. She expressed a caution on identifying the petitioner, as the petitioner will to stand the pressure can make or break the case. Form to file PIL is easily available online and offline, however, before reaching the court the issue should be well researched as of larger public interest and court should feel the importance, otherwise there is a penalty of false filing.

Mr Aamin Khan, HRLN

Mr Aamin Khan, HRLN, experience of filing PIL on several issues like maternal mortality, malnourishment, housing issue shared the crucial need of ensuring all documents collected against the non-implementation of the schemes for which PIL is filed, before facing the court.

He stressed that the process of fact finding where surveying maximum number of people affected by the issue gives the best evidence.

The session then opened for question and answers.

Array of questions for different issues were asked to understand that comprise of PIL filing

The last session involves group activities where the group of participants brainstorm on issues and presented to panel where members of HRLN funnel them for further action.

Annexure:

Agenda

09 November 2019		
Time	Session	Speaker/ Facilitator
09:30 AM- 10:00 AM	Registration	
10:00 AM- 10:30 AM	Welcome and introduction	Vijay Singh, Prayas
10:30 AM- 11:00 AM	Background and objectives Address by the Chief Guest	Dr. Narendra Gupta, Prayas Dr. Raghvendra Sharma & Former Chairperson, Child Commission, Madhya Pradesh Sangeeta, HRLN
11: 00 AM- 11:20 AM	Tea	
11:10 AM- 11:50 AM	Sexual and reproductive health rights and legal advocacy	Dr. Ravi D'Souza, SOCHARA Chavi Sharma, Prayas Shannogufta Khan, HRLN
11: 50 AM-12:15 PM	Open discussion	
12:15 PM- 12:35 PM	Right to health- Current scenario	Dr. Narendra Gupta, Prayas
12:35 PM -12:50 PM	Open discussion	
12:50 PM -01:10 PM	Marginalised groups and health	Narendra Sharma, ActionAid
01:10 PM- 01:25 PM	Open discussion	
01:25 PM- 02:30 PM	Lunch	
02:30 PM- 02:50 PM	Mental health in the context of sexual nd reproductive health rights	Pankaj Sharma, GASVS
02:50 PM- 03:05 PM	Open discussion	
03:05 PM- 03:25 PM	Adolescent health	Subhadra, Majlis
03:25 PM- 03:40 PM	Open discussion	
03:40 PM- 04:20 PM	Tea	
04:20 PM- 04:50 PM	Malnutrition among women and children and child protection	Mahendra Kamkar, CID Dr. H.B.Sen, KSS

04:50 PM- 05:05 PM	Open discussion	
05:05 PM - 05:25 PM	Domestic violence	Uma Chaturvedi, Sahayog
05:25 PM - 05:40 PM	Open discussion	
05:40 PM- 06:00 PM	Concluding the first day	
10 November 2019		
Time	Session	Speaker/ Facilitator
09:15 AM - 09:30 AM	Welcome and recap of the previous day	
09:30 AM - 09:50 AM	Free medicines scheme	Dr. Narendra Gupta, Prayas
09:50 AM - 10:00 AM	Open discussion	
10:00 AM - 10:20 AM	PCPNDT Act	Dr. Shailendra Patne, Prof. GMC, Bhopal
10:20 AM - 10:30 AM	Open discussion	
10:30 AM - 10:50 AM	Factors affecting women's health	Harpreet Kaur
10:50 AM - 11:00 AM	Open discussion	
11:00 AM - 11:15 AM	Tea	
11:15 AM - 11:35 AM	How to file PIL and undertake factfindings	Shannogufta Khan, HRLN Amin, HRLN
11:35 AM - 11:45 AM	Open discussion	
11:45 AM -12:45 PM	Identifying SRHR issues for legal advocacy- Group work and presentations	Chavi Sharma, Prayas
12:45 PM – 01:00 PM	Vote of thanks	Madhav, Prayas
01:00 PM -02:00 PM	Lunch	