

Socio Legal Diagnosis of women's Right to health – A Constitutional Obligation of the State

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SCHEME OF THE PRESENTATION

- Health as a Fundamental Right under Art.21
- Constitutional provisions relating to the Health
- Under Fundamental rights - Art.15 (3), 16(3), 21,
- Under Directive principles of State Policy - Art.38,39E,41,42, and 47 of Indian Constitution.

Right to Health

- Economic, Social and Cultural Right to a universal minimum standard of Health to which all individuals are entitled.
- minimum entitlements are encompassed in a right to health, and which institutions are responsible for ensuring a right to health.

Enumeration of Right to Health

- Universal Declaration of Human Rights,
- International Covenant on Economic, Social and Cultural Rights
- Convention on the Rights of Persons with Disabilities.

World Health Organization

- "the first formal demarcation of a right to health in international law.
- a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.
- The Constitution defines the right to health as "the enjoyment of the highest attainable standard of health," and enumerates some principles of this right as healthy child development; equitable dissemination of medical knowledge and its benefits; and government-provided social measures to ensure adequate health.

UDHR

- Article 25 of the United Nations' [Universal Declaration of Human Rights](#) 1948 states that "Everyone has the [right to a standard of living](#) adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.

- "responsibility [that] extends beyond the provision of essential health services to tackling the determinants of health such as, provision of adequate education, housing, food, and favourable working conditions," further stating that these provisions "are human rights themselves and are necessary for health."

INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

- "The right to public health, medical care, social security and social services.

International Covenant on Economic, Social and Cultural Rights

- right to health in Article 12 of the 1966
- The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
- The reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;The improvement of all aspects of environmental and industrial hygiene;The prevention, treatment and control of epidemic, endemic, occupational and other diseases;The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Convention on the Elimination of All Forms of Discrimination Against Women

- **Article 12:**
- States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
- Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Constitutional Rights to Women:

- **PREAMBLE**
- **FUNDAMENTAL RIGHTS**
- **DIRECTIVE PRINCIPLES OF STATE POLICY**
- **FUNDAMENTAL DUTIES**
- **RESPONSIBILITIES OF INSTITUTIONS OF LOCAL SELF GOVERNMENT**

PREAMBLE

- **JUSTICE**, Social, Economic and Political
- **LIBERTY** of Thought, Expression, Belief, faith and worship
- **EQUALITY** of status and of opportunity; and to promote among them all.
- **FRATERNITY** assuring the dignity of the individual and the unity and integrity of the nation.

FUNDAMENTAL RIGHTS

- The state shall not discriminate against any citizen of India on the ground of sex [**Article 15(1)**].
- The state is empowered to make any special provision for women. In other words, this provision enables the state to make affirmative discrimination in favour of women [**Article 15(3)**].
- No citizen shall be discriminated against or be ineligible for any employment or office under the state on the ground of sex [**Article 16(2)**].
- Traffic in human beings and forced labour are prohibited [**Article 23(1)**].

DIRECTIVE PRINCIPLES OF STATE POLICY

- The state to secure for men and women equally the right to an adequate means of livelihood [**Article 39(a)**].
- The state to secure equal pay for equal work for both Indian men and women [**Article 39(d)**].
- The state is required to ensure that the health and strength of women workers are not abused and that they are not forced by economic necessity to enter avocations unsuited to their strength [**Article 39(e)**].
- The state shall make provision for securing just and humane conditions of work and maternity relief [**Article 42**].

FUNDAMENTAL DUTIES

- It shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women [**Article 51-A(e)**].

RESPONSIBILITIES OF INSTITUTIONS OF LOCAL SELF GOVERNMENT

- One-third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women [**Article 243-D(3)**].
- One-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women [**Article 243-D(4)**].
- One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women [**Article 243-T(3)**].
- The offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide [**Article 243-T(4)**].

RIGHT TO HEALTH AND CONSTITUTIONAL DYNAMICS

- ARTICLE 21
- PROTECTION OF LIFE

- **Lot requires to be done on the policy level,**
- Experts during their deliberations at the roundtable gave noteworthy suggestions. They broadly agreed that women health issues have not been prioritized in India yet.

THANK YOU