



Reproductive Rights: Need to Reinterpret

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ABSTRACT

Reproductive rights are not new to the society. They had been recognised in earlier times in different forms. Today, we have realised their presence in different forms and aspects. They are means to describe the complete physical, mental, spiritual, political, social and economic well being of a person. These rights are to be considered and debated like other progressive priorities as air, food, cloth and shelter. They are inextricable and fundamental to all religion, race, caste, creed, colour, sex and irrespective of place of birth. They are inalienable human rights as they are related to human body. They embrace certain human rights that are already recognised in national and international human rights documents. Despite this fact, it is true that our bodies have become like puppet in the struggle amongst family, society, religion and state and these rights are violated at every step.

KEYWORDS

Reproductive health, Reproductive decision, Reproductive safety, Privacy

Reproductive issues are not issues of individual, but they are issues of family, society, nation and world as a whole. The trend in world population growth is exerting considerable pressure on resources and institutions. The issue of increase in population is matter of great concern to developing countries. In such a struggle the child bearing should not be considered as personal rather a social problem. States are adopting and introducing coercive population measures at state level in an effort to discourage fertility. These measures further raise issues linked with health, social status, religion, state control, administrative inertia and private profits. In tussle between various agencies of society the reproductive rights are abused at all levels to achieve all targets of population control or tag of developed countries. Above all the human body shall be respected regardless of their overall demographic goals.

There is no proper definition of reproductive rights. World Health Organisation has defined reproductive rights in relation to reproduction as bundle of different rights. According to it reproductive rights rest on the recognition of the basic right of parents to decide freely and responsibly the number, spacing and timing of their children and include the right to have the information and means to control the same. It is considered the right to attain the highest standard of sexual and reproductive health. Also, it includes the right of all to make decisions concerning reproduction free of discrimination, coercion and violence. Reproductive rights have not been enumerated in any document but according to different interpretations and their nature, they can be classified as:

1. Right to Reproductive health: Reproductive health means complete physical, mental and social well being of a person. It is not merely the absence of disease or infirmity in all matters relating to the reproductive system, its functions and processes. It includes the right to have satisfying and safe sex life. It embraces issues of capability to reproduce and the freedom to decide to reproduce. It is a right to be informed about and to have access to safe, effective, affordable and acceptable methods of family planning of their choice. The most important part of this right is the right to access to appropriate and good quality health care services. It also includes right to treatment with humanity while in detention. While in detention it is duty of state to provide adequate access to medical care and counselling appropriate to the needs of those in custody recognising their particular needs.

Youth are often denied equal access to reproductive health

services because health workers view adolescent sexual activity as unacceptable. The reason for such an attitude is that responsibility of youth sex education is seen as the responsibility of parents. There is dire need to educate and trained the reproductive service providers and make them accountable to sexual needs of youth.

It is high time to check the insensitive practice of sterilisation drive in developing and underdeveloped countries. The accountability of the failures in such drives is to be fixed. Further, the majority of women do not have access to safe abortion services. Legal abortion services are no easily accessible, and women continue to resort to unsafe practices and self-induced abortions making their lives risky.

2. Right to Reproductive decision: Right to take reproductive decisions is not restricted to right of parents to decide freely and responsibly the number, spacing and timing of their children. This is the right to regulate fertility. It imbibes in it the right to interrupt pregnancy at various stages before and after conception. Reproductive decision gracefully includes the right to exercise voluntary choice in marriage. It includes matters of the selection of partner to marriage, performance of marriage ceremonies and rituals to be observed as per custom in marriage. Time to decide to be parents and to take the responsibility as parents is an important element of this right.

Infertile persons can adopt any legal method for infertility treatment of their choice to become parents. They can take the advantage of new research and technology. But the new concepts like concept of Surrogacy, test tube babies etc. have raised very different issues and problems.

Laws in many countries require sperm donors to be either anonymous or known to the recipient. Some laws restrict the number of children each donor may father. Although many donors choose to remain anonymous, new technologies such DNA technology have opened up new avenues for those wishing to know more about the biological father, siblings and half-siblings.

Sterilisation of a mentally unstable person and his inability to give consent in relation to reproductive rights is a controversial topic and raises many issues. Similarly, a person who is afraid to have a child with hereditary defects, can he be restrained to reproduce a child. Further, unwarranted government intrusion into matters of family planning, fundamentally affects the right of the individual, married or single, to make decision to

bear or beget a child. So, the compulsory and coercive sterilisations have become important issues as it violates individual's right to procreate.

Homosexuality is worsening the demographic crisis and threatening the future of the nation. It is devaluing the concept of family.

3. Right to have access to means and measures of reproduction, family planning etc.: Everyone have right to safe and affordable methods of family planning, safe motherhood, management of gynaecological problems, infertility, prevention and treatment of sexually transmitted diseases. Right to access is right to resort to any method for regulation of fertility which is not against the law. It is the responsibility of the government to meet the individual reproductive needs rather than to achieve demographic targets. Family planning services shall be easily provided by the state. Such services include safe childbirth, care for sexually transmitted infections, post abortion or post delivery care of mother and child etc.

This right is very important to the people living with sexually transmitted diseases. They have many issues related to unwanted pregnancy. They need to plan pregnancy very carefully. They need special healthcare during and after pregnancy. Special abortion facilities are to be provided to them. It is not only the health and care of mother but health and care of child born to them is also a matter of concern.

4. Right to equality and equity for men and women: Equal status of men and women in the family and in society improves the overall quality of life. This principle of equality should be fully realised in family planning where each spouse should consider the welfare of other member of the family. Improvement of status of women in the family and in the society can contribute to smaller family size and the opportunity for women to plan births also improves their individual status. Equal relationship between women and men in matters of sexual relations and reproduction including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behaviour and its consequences.

It includes right to paternity. Right with regard to paternity have become subject of debate in many countries. In United States a new term 'Male abortion' has been coined. It is argued in the context of legally recognised 'Female abortion'. The underlined theory is that when a woman becomes pregnant, she has option of abortion, adoption or parenthood. She has ability to decline parenthood in the event of unintended pregnancy. Similarly, it is argued that in the earliest stage of pregnancy the putative father should have the right to relinquish all future parental rights and financial responsibilities, leaving the informed mother with the same three options open. Hence, it is also termed as 'Financial abortion'. In case of unplanned pregnancy, they call it as a state enforced coercion against male, favouring traditional roles if male abortion is not recognised.

The opportunity to give men the right for 'Paper abortion is also discussed in many countries. It is also known as 'Statutory abort'. It refers to the proposed ability of the biological father, before the birth of the child, to opt out of any rights, privileges and responsibilities toward the child. Hence, he can absolve himself of both the privileges and demands of fatherhood. The contention to justify the 'Paper abortion' is that consenting a sexual intercourse is not the same as consenting parenthood. All men, women and children are punished. Children have to live with an absent father who never voluntarily became a parent. If women's partial responsibility for pregnancy does not obligate them to support a foetus, then men's partial responsibility for pregnancy does not obligate them to support a resulting child.

Right of women to abort a child has raised many issues. Abortion by a female without the consent of male is considered as violation of men's reproductive right. There is need to balance such two conflicting interests

5. Right to have access to the information regarding sexual and reproductive issues: Everybody has right to access to information of family planning. Family planning not only prevents unwanted pregnancies but also eliminates involuntary sterility and sub fecundity. They have right to receive education about sexually transmitted infections and other aspects of sexuality. They have right to adopt the adequate means to plan their family. With correct and definite information and education, they can account the needs of their children and responsibilities towards the community. The information needs to be provided in a manner that is clear, complete and sensitive. The appropriate education concerning responsible parenthood shall be encouraged and made available to persons who desire advice.

It is imperative to recognise that adolescence and sexuality are integrally linked. Youth sexual education is not considered as an important aspect in reproductive rights. This has led to high rate of unintended pregnancies along with the high rates of sexually transmitted diseases amongst youth. Hence, illegal abortions and unsafe abortions are threatening their health and lives. Any programme that deals with reproductive rights must keep adolescent in focus.

6. Right to sexual and reproductive safety and security: Men and women have right to adopt safe birth control measures. In case of failure of such measures, they have right to legal and safe abortion. The state shall ensure to individuals the freedom from coerced sterilisation and contraception. It includes protection from practices such as female genital mutilation. Reproduction shall be free from discrimination, coercion and violence. The state shall address the far reaching implications of sexually transmitted diseases. The state shall be committed to education, research and prevention of mother to child transmission and development of vaccines and microbicides.

Intersex persons are often subjected to involuntary sex normalising surgical and hormonal treatments in infancy and childhood to overcome the genital ambiguity found in them. Forced and non-consensual sterilisations or surgical intervention, irreversible sex assignment, involuntary genital normalising surgery in an attempt to fix their sex shall be highly condemned. It shall be considered as cruel, inhuman and degrading treatment or punishment to them. It leaves them with permanent, irreversible infertility and cause severe mental suffering. There is need to follow the guiding principles to prevent sterilisation in medical treatment, including patient autonomy in decision making, ensuring non discrimination, accountability and access to remedies.

Sex among youth is generally looked down upon and seen as a problem in need of solution. Decisions of youth concerning sexual activity often involve secrecy and taboos. At the top of it lack of access to accurate information force them to adopt illegal and unsafe measure to prevent pregnancy or abort it. Youth sexual and reproductive health centres should be established to provide health services exclusively to them. This will ensure them the comprehensive, correct and precise information from healthcare providers. It will reduce the mortality rate amongst the young pregnant girls and the issues of parenthood of the child born to them.

Another key issue involved is criminalisation of sexual violence. Sexual violence violates right to life, physical and mental integrity to the highest attainable standard of health. It includes the forced sexual intercourse, forced pregnancy, pregnancy from rape, forced marriage, child marriage, marital rape etc. There are many social barriers as complete sexual subordination of a woman to her husband is expected which results in serious violence like honour killing.

Hormonal contraceptives like injectables can be extremely hazardous, causing irreversible and serious damage to body as well as brain. They require close monitoring at every stage by trained personnel using sophisticated equipment

7. **Right to privacy:** It is right to maintain secrecy between couples in family matters. They have right to get check-up of private parts from the doctors of their own choice. The private information disclosed by the person or the medical information with doctor shall be kept secret and not disclosed to anybody. Right to personal privacy includes the abortion decisions.

Techniques to detect abnormalities in the foetus have been largely misused to detect the sex of a foetus. Assisted reproduction technologies (ART's) help infertile couples to bear their own biological child. But research scientists and physicians are constantly devising new technologies that range from in vitro fertilisation and embryo transfer to genetic diagnosis of an embryo before implantation and even cloning. This has certainly caused a drastic change in our relationship to child bearing. It also poses grave risk to health and mental trauma to woman.

Conclusion:

The scope of reproductive rights has widened with the change in society and science and technological developments. There is need to educate the people about their reproductive rights. The developments are raising new issues. Issues of surrogacy, artificial insemination, rights of intersex, transgender, lesbians, gay, HIV patients, sperm donors etc. are to be addressed properly so that there is no chaos in society. Priority should be given to healthcare services, keeping in view all sections of the society. State shall endeavour to assist and protect the youth and children to assume their responsibilities in the community. All states should endeavour to change the mindset of Islamic states and Latin America to remove their reservations and potential incompatibility to concept of reproductive rights and sexual freedom, abortion etc.

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