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WOMEN AND HEALTH LAWS IN INDIA: A LEGAL PERSPECTIVE

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Abstract

Health and gender justice are interdependent pillars of social welfare and constitutional governance. Women's health in India is a multidimensional issue shaped by social hierarchies, economic dependency, cultural taboos, and limited access to healthcare services. Despite constitutional guarantees and numerous statutory enactments, women continue to face barriers in realizing their right to health. This paper explores the legal and policy framework governing women's health in India, analyzing the interplay between constitutional provisions, legislative enactments, and judicial interpretations. The study critically examines gaps in implementation, identifies socio-legal challenges, and proposes policy recommendations to strengthen gender-sensitive healthcare governance in India.

Keywords: Women's Health, Right to Health, Reproductive Rights, Constitutional Law, Public Health, Legal Framework, Gender Justice, India.

1. Introduction

Health is not merely the absence of disease but a state of complete physical, mental, and social well-being. For women, health carries broader implications — influencing family welfare, economic productivity, and social development. The Constitution of India envisions a welfare state committed to social justice and equality, wherein public health forms a key directive principle of state policy.

However, women's health in India remains a matter of concern due to systemic gender discrimination, lack of awareness, and inadequate health infrastructure. Maternal mortality, malnutrition, gender-based violence, and reproductive health violations persist, especially among marginalized groups such as rural women, Dalits, Adivasis, and migrant workers.

This article critically analyses how Indian laws and policies respond to women's health concerns through a legal and human rights perspective.

2. Constitutional Framework on Women's Health

The Constitution of India, though silent on the explicit "right to health," guarantees several rights and directives that collectively ensure women's access to healthcare and well-being.

2.1 Fundamental Rights

Article 14 – Equality before law and Article 15(1) prohibit discrimination on grounds of sex. These articles form the foundation for gender-sensitive health policies.

Article 15(3) empowers the State to make special provisions for women and children, justifying targeted health programs like maternal and child welfare schemes.

Article 21 – Right to Life has been expansively interpreted by the Supreme Court to include the Right to Health as an integral part of life with dignity.

In *Parmanand Katara v. Union of India* (1989) 4 SCC 286, the Court held that every doctor has a professional obligation to extend medical aid to preserve life.

In *State of Punjab v. Mohinder Singh Chawla* (1997) 2 SCC 83, the Court explicitly recognized the right to health as part of the right to life.

2.2 Directive Principles of State Policy (DPSPs)

Article 39(e) & (f) directs the State to protect the health and strength of workers, men and women, and to ensure that children develop in a healthy manner.

Article 42 requires the State to provide just and humane conditions of work and maternity relief.

Article 47 obligates the State to raise the level of nutrition and improve public health, forming the constitutional basis of national health programs.

2.3 Fundamental Duties

Article 51A(e) imposes a duty to renounce practices derogatory to women's dignity — covering harmful health practices such as female genital mutilation, child marriage, or domestic violence.

3. Statutory Framework on Women's Health

Several legislative enactments operationalize the constitutional mandate to protect women's health:

3.1 The Maternity Benefit Act, 1961

Provides paid maternity leave, medical bonuses, and protection from dismissal during maternity. The 2017 amendment extended maternity leave to 26 weeks and encouraged crèche facilities, promoting maternal and child health.

3.2 The Medical Termination of Pregnancy (Amendment) Act, 2021

Recognizes a woman's autonomy and reproductive choice by allowing termination up to 24 weeks for special categories. It expands the scope of "reproductive rights" as part of the right to privacy under Article 21 (as upheld in *K.S. Puttaswamy v. Union of India*, 2017).

3.3 The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PCPNDT Act)

Aims to prevent female foeticide and misuse of prenatal diagnostic techniques. However, challenges in enforcement persist, reflecting deep-rooted gender bias.

3.4 The Protection of Women from Domestic Violence Act, 2005 (PWDVA)

Recognizes physical and mental health as integral to a woman's right to live in dignity. It provides for protection orders and residence rights, addressing the mental health dimension of domestic abuse.

3.5 The National Food Security Act, 2013

Guarantees nutritional support to pregnant and lactating women, linking food security to health outcomes.

3.6 The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Although primarily about workplace dignity, it contributes indirectly to mental health protection by ensuring a safe working environment.

3.7 Other Relevant Laws

The Dowry Prohibition Act, 1961, Child Marriage Restraint Act, 1929 (as amended 2006), and Prohibition of Child Marriage Act, 2006 — indirectly protect women's reproductive and mental health by addressing socio-legal harms.

The Mental Healthcare Act, 2017 recognizes mental health as a fundamental right and mandates gender-sensitive mental healthcare services.

4. Judicial Interpretation and Right to Health

Indian judiciary has played a proactive role in transforming women's health into a justiciable right.

Laxmi Mandal v. Deen Dayal Harinagar Hospital (2010) – Delhi High Court held denial of maternal healthcare services violates Article 21.

Sandesh Bansal v. Union of India (2012) – Madhya Pradesh High Court emphasized the State's duty to ensure maternal healthcare infrastructure.

Suchita Srivastava v. Chandigarh Administration (2009) 9 SCC 1 – Supreme Court recognized reproductive choice as a dimension of personal liberty under Article 21.

Devika Biswas v. Union of India (2016) – Court condemned coercive sterilization practices and reaffirmed women's reproductive autonomy.

Through these decisions, the judiciary has progressively expanded women's right to health from a welfare entitlement to a constitutional guarantee.

5. Challenges in Implementation

Despite a robust legal framework, several obstacles impede effective realization of women's health rights:

1. Socio-cultural barriers: Patriarchal norms and stigma around reproductive and mental health restrict women's autonomy.
2. Healthcare inequity: Rural–urban disparity and inadequate public health infrastructure disproportionately affect poor women.
3. Lack of awareness: Many women are unaware of their legal entitlements to healthcare, nutrition, or maternity benefits.
4. Weak enforcement: Implementation gaps in laws like the PCPNDT Act or Maternity Benefit Act reduce their impact.
5. Intersectional discrimination: Marginalized women (tribal, Dalit, disabled, LGBTQ+)

face compounded vulnerabilities in accessing healthcare.

6. Mental health neglect: Legal and policy frameworks still under-address psychological trauma from domestic violence, workplace harassment, and social exclusion.

6. Policy Initiatives and Programs

Key national health policies supporting women's health include:

National Health Policy, 2017 emphasizing gender-sensitive health planning.

Janani Suraksha Yojana (JSY) and Janani Shishu Suraksha Karyakram (JSSK) for safe motherhood.

Reproductive and Child Health Programme (RCH) under the National Health Mission.

POSHAN Abhiyaan (2018) addressing nutrition among women and children.

Menstrual Hygiene Scheme (MHS) improving adolescent girls' health and dignity.

While these initiatives align with global commitments under CEDAW (1979) and SDG 3 & 5, their impact depends on sustained funding, awareness, and accountability mechanisms.

7. Recommendations

1. Legal literacy campaigns to educate women about health-related rights.
2. Gender budgeting in healthcare to ensure equitable allocation of resources.
3. Strengthening enforcement of existing laws through monitoring and accountability.
4. Integration of mental health in all women-centric health policies.
5. Community participation in designing local health initiatives.
6. Comprehensive Reproductive Health Law consolidating fragmented statutes into a single, rights-based framework.

8. Conclusion

Women's health in India stands at the intersection of law, rights, and social justice. The Indian legal system—anchored in constitutional values—recognizes health as a fundamental human right. Yet, the realization of this right remains incomplete without gender-sensitive implementation, societal transformation, and active state responsibility. Ensuring women's health is not merely a policy goal but a constitutional and moral imperative toward achieving substantive equality and human dignity.

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