Reproductive Choice of Women: A Fundamental Right

27th November 2021

CONTENTS

ABOUT THE NATIONAL COMMISSION FOR WOMEN

The National Commission for Women was set up as statutory body in January 1992 under the **National Commission for Women Act, 1990 (Act No. 20 of 1990 of Government of India)** to:

- review the Constitutional and Legal safeguards for women;
- recommend remedial legislative measures;
- facilitate redressal of grievances and
- advise the Government on all policy matters affecting women.

In keeping with its mandate, the Commission initiated various steps to improve the status of women and worked for their economic empowerment during the year under report. The Commission prepared Gender Profiles to assess the status of women and their empowerment. It received a large number of complaints and acted suo-moto in several cases to provide speedy justice. It took up the issue of child marriage, sponsored legal awareness programmes, Parivarik Mahila Lok Adalats and reviewed laws such as **Dowry Prohibition Act, 1961, PNDT Act 1994, Indian Penal Code 1860 and the National Commission for Women Act, 1990** to make them more stringent and effective. It organized workshops/consultations, constituted expert committees on economic empowerment of women, conducted workshops/seminars for gender awareness and took up publicity campaign against female feticides, violence against women etc. in order to generate awareness in the society against these social evils.

The vision statement of the National Commission for Women says, “The Indian Woman, secure in her home and outside, fully empowered to access all her rights and entitlements, with opportunity to contribute equally in all walks of life.”

The mission of the NCW is “To strive towards enabling women to achieve equality and equal participation in all spheres of life by securing her due rights and entitlements through suitable policy formulation, legislative measures, effective enforcement of laws, implementation of schemes/policies and devising strategies for solution of specific problems/situations arising out of discrimination and atrocities against women.”

The first head of the commission was Jayanti Patnaik. As of 30 November 2018, Rekha Sharma is the chairperson. The objective of the NCW is to represent the rights of women in India and to provide a voice for their issues and concerns. The subjects of their campaigns have included dowry, politics, religion, equal representation for women in jobs, and the exploitation of women for labour. The commission regularly publishes a monthly newsletter, “Rashtra Mahila”, in both Hindi and English.

The Commission deals with the complaints received from all over the country including those relating to deprivation of rights of women and involving injustice to women. At times the Commission takes *suo motu* cognizance of incidents related to commission of heinous crimes against women.

ABOUT CHANAKYA NATIONAL LAW UNIVERSITY

In the State of **Bihar**, where the seeds of the earliest republic were sown and the crop of democracy cultivated, a need was felt by the government for a university which would provide quality legal education and strive to raise national legal standards to competitive international level and promote legal awareness in the community, which will lead to the realization of goals embodied in the Constitution of India. Thus, on July 15th, 2006 came into being Chanakya National Law University at Patna under the able guidance of its **Vice - Chancellor/Pro - Chancellor**, **Prof. Dr. A. Lakshminath**, former Dean and Registrar, NALSAR University of Law, Hyderabad. CNLU was established under the **Chanakya National Law University Act, 2006 (Bihar Act No. 24 of 2006)** and included in **section 2(f) & 12(B) of the U.G.C. Act, 1956**.

No Educational Institution is complete without adequate facilities to its Students, Faculties & Employees. CNLU provides wide range of facilities on its campus. A well-managed residential accommodation with modern facility provided to students. Mess & Canteen facilities on campus provide everything from a simple coffee and sandwich to a full meal. University provides a full range of medical services for students & for employees who register as patients. In addition to general practice services, CNLU provides a range of specialist clinics and visiting practitioners. University organised regular careers fairs, training workshops, and one-to-one guidance for students. Counselling Service aims to enable students to achieve their academic and personal goals by providing confidential counselling and support for any difficulties encountered while at CNLU. University provides a wide range of IT services including campus internet access via a wireless network and in student residences.

Number of retired Judges of the Supreme Court, High Courts and lower Judiciary as well as Senior Advocates & Educationalist have offered to assist the CNLU in its teaching and research programmes making education at CNLU a rare and exciting experience to the student body. CNLU admired example of maintaining financial autonomy along with greater accountability. It is equipped with the state-of-art infrastructure for successful imparting of legal education of the highest standards. The faculty at CNLU comprises highly acclaimed and experienced academicians who are proactively involved in grooming the younger generation to take CNLU to greater heights.

The construction work of the university spread on 18 acres of land at Nyaya Nagar, Mithapur near Mithapur Bus stand, Jakkanpur Police Station, Patna.

BACKGROUND

(**For webinar on Reproductive Choice of Women: A Fundamental Right**)

Bihar is a state less developed as compared to other states of India. Condition of women in Bihar is also not up to mark since most of the population of this state are belonging to Villages. If we see the health profile of this state, then we come to know that Bihar has the lowest health profile. There are various reasons behind it and pregnancy is also one of the reasons behind it. If we talk about the rights of women in context of pregnancy in India there is no appropriate law for it. In about 75 years of Independence of India, women are working in many sectors parallel to the men.

In context of Reproductive Rights, judgments of Puttaswamy, this recognizes the constitutional right of the women which give freedom to make their reproductive choices. It cover under the Article 21 of the Indian Constitution (Justice K S Puttaswamy v Union of India 2012A: para 72, 2012B: para 46, 2012C: para 38).The bench also reiterated the position adopted by a three-judge bench in Suchita Srivastava v Chandigarh Administration (2009), which held that reproductive rights include a woman's entitlement to carry a pregnancy to its full term, to give birth, and to subsequently raise children; and that these rights form part of a woman's right to privacy, dignity, and bodily integrity. But things are very much different in reality.

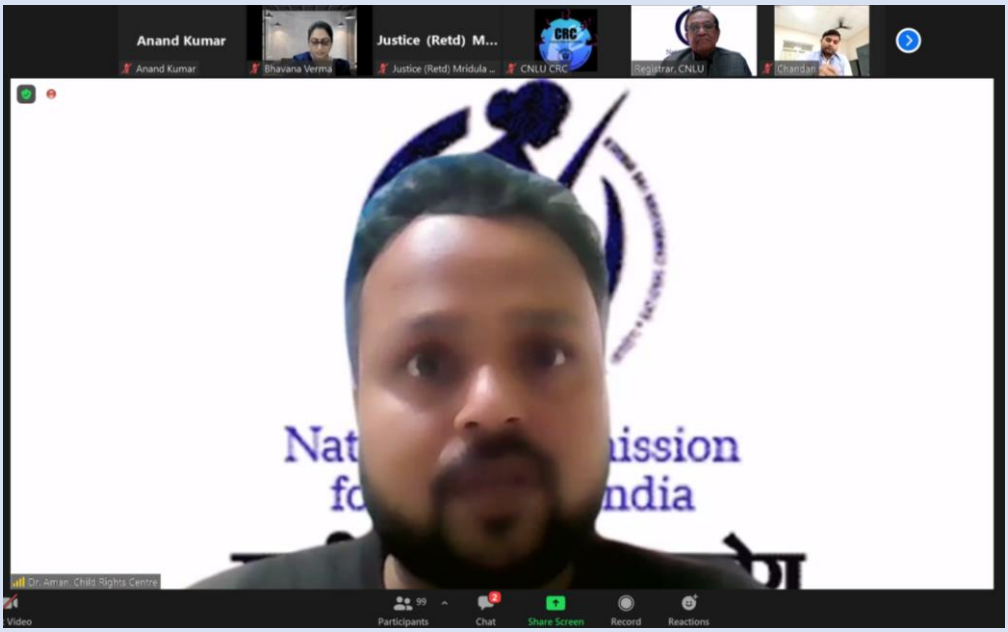
If we talk about the life expectancy, it is higher in developed country as compared to India. In India we can see that the expectancy of the female is not same as the women of developed countries which indicate the poor health of women in India. This poor health might be due to different reasons and reproductive choice is one of them. One big issue of India society is that the choice of getting son and these things is governed by the elder of the family. Such practices of getting son as a baby are very common in our northern India especially in Uttar Pradesh and Bihar.

This webinar focused on the condition of women particularly in context of their rights in reproductive choice in different districts of Bihar.

WELCOME SESSION

(By Dr. Aman Kumar, Center Coordinator, Child Rights Centre, Chanakya National Law University)

Setting the stage for discussion Dr. Aman Kumar gave a brief description of the topic of the webinar and at the same time he introduced the organization involved with the conduction of this webinar on the issue of "Reproductive Choice of Women: A Fundamental Right". Considering the economic and social structure of Bihar, he said that this topic becomes more important for the local population too. As a majority of those attending this webinar were from a legal background, he also pointed out that in changing times laws have been changing too. At the same time, he encouraged the attending students to ponder upon what more can be done to give the reproductive rights and choices back to women and those who are most affected by this choice.



Dr. Aman also focused on the role of the National Commission for Women in protecting the rights of women in India. He added that that the educational institutions play an important role in dissemination of information related to the rights of women. In this regard institutions like CNLU have been doing a commendable work. Outreach of such programmes reaches the grassroot levels as students from these institutions go on to work in corporates, start private practice and work with non-governmental institutions too. To continue the webinar with a formal opening Dr. Aman Kumar then invited Honorable Justice (Retd.) Mridula Mishra (VC, CNLU) to formally inaugurate the session.

WELCOME ADDRESS BY HON'BLE JUSTICE SMT. MRIDULA MISHRA

(Vice-Chancellor, Chanakya National Law University)

India has been among the first countries which gave women the freedom and right to vote. Somehow, we are still lagging behind on providing them their reproductive rights. This needs to be changed.

- *Hon'ble Justice Smt. Mridula Mishra*

Beginning her address, Hon'ble Justice Smt. Mridula Mishra said that even in countries like USA there has been a lot of debate on this issue of reproductive rights and choices because of religious, ethical and moral reasons getting involved. She said that starting a family, or giving birth should be a personal choice. Somehow in our country, and many other countries too, this is a forced decision that has to be made by couples. There is a constant nagging and pressure from families, and if there is a joint family, the problem is more. She added that there are a lot of other considerations that need to be kept in mind with the issue of reproductive choice.

One such matter is health of the pregnant mother. Currently little consideration, if any, is given to the health of the girl who gets pregnant. She said that in rural areas and even in many urban areas' women don't have access to family planning. They were overburdened by children and the future economic condition was never kept in mind. The right to reproduce is a personal right. The number and spacing of the children should be the choice of couples.

She said that what medical advice they can get becomes important. Women cannot exercise their reproductive choice because of lack of information too. If women are allowed to have their reproductive rights, we will have a healthier society.

In the Puttaswami Judgement[1] gave reproductive right to individuals under Article 21. Reproductive right is essential to the human rights. They are related to right against ill treatment. If women cannot protect their reproductive right, unwanted pregnancy causes deaths. Women do not have access to safe contraceptives so a lot of maternity deaths during child birth.

[1] https://indiankanoon.org/doc/127517806/

SHRI MANORANJAN PRASAD SRIVASTAVA

(Retired District Judge), Registrar, Chanakya National Law University

Even educated people do not want a girl child. There is a need for change in the mindset of people. We need to organize more such seminars and especially in rural areas to achieve this aim.

- *Shri Manoranjan Prasad Srivastava*

Men should also understand what are the reproductive rights of women are. Discussion among the elite will not solve this problem, we need to take these discussions to women, to rural areas and also to the society in general. Three judge bench, in Suchitra Shrivastava judgement[2] pointed out many such issues which are of note.

Poor visibility of the health conditions in rural areas results in zero or no reproductive rights being extended to women. Repeated abortion of child in the expectation of a male child also results in poor health. The choice of getting a male child does result in skewed male-female ratio which again becomes a problem too.

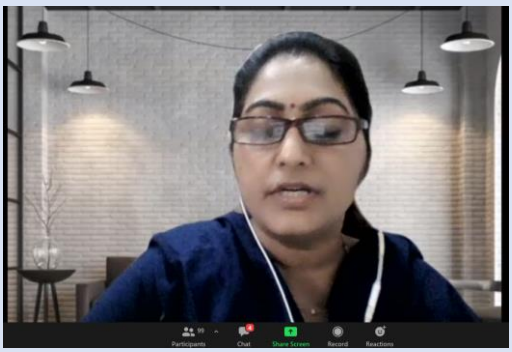
[2] https://indiankanoon.org/doc/1500783/

TECHNICAL SESSION 1

SOCIAL IMPACT OF COVID-19 ON REPRODUCTIVE HEALTH OF WOMEN AND ADOLESCENTS

Prof. Bhavna Verma

Professor, Department of Social Work, Mahatma Gandhi Kashi Vidyapith, Varanasi, Uttar Pradesh



On one hand we say that women are vulnerable and on the other hand she is made into a "devi". We need to treat women as a human being by giving her the rights.

- *Prof. Bhavna Verma*

She started her presentation with a basic information on what is reproductive health. It says that mental health is a state of complete physical, mental and social well being and not merely the absence of disease of infirmity, in all matters relating to the reproductive system and to its functions and processes. This definition emerged from the 1994 International Conference on Population and Development (ICPD) held at Cairo, Egypt.

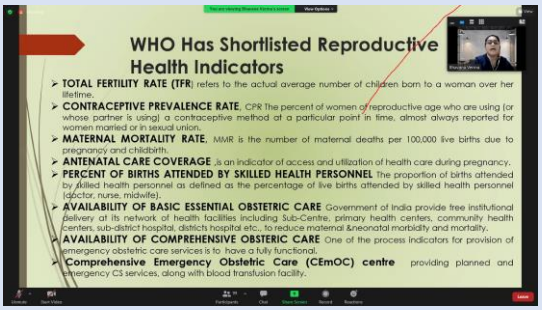
She said that the whole family decides the reproductive health. It is not just about the woman. Primarily a child birth and rearing impacts the women and whether they want a child is a question the woman should answer.

Discussing what Reproductive Healthcare Includes she said that a basic idea of Reproductive Healthcare would include many things like:

- Prenatal care, safe delivery and post-natal care
- Especially breast feeding and infant health care becomes important
- Women's health, adolescence health and reproductive hygiene
- Prevention and appropriate treatment of infertility
- Prevention of abortion or management of the consequences of abortion facility for safe abortion
- Treatment of reproductive tract infections; sexually transmitted diseases and other reproductive health conditions.
- Information, education and counselling on women sexually, reproductive health and responsible parenthood and family planning

She said that reproductive health imples that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide when and how often to do so. (United Nations, 1994) She also added that a poore maternal health not only affects a child's health in adverse ways but also decreases a woman's ability to participate in economic activites. She focused on reproductive health definitions that emerge from the 1994 International Conference on Population and Development (ICPD) held at Cairo, Egypt.

She also emphasized on how a data driven approach can be taken to address these issues.



In the next slides she detailed some shortlisted reproductive health indicators like TFR, Contraceptive Prevalence Rate, Maternal mortality Rate, Basic Essential Obstetric Care etc. These become important as these indicate what is the status of health in a society or a country (particular region). Often these are ignored by students of other profession which results in improper understanding of reproductive health.

She said that the government provides family health related data through National Family Health Surveys and currently NFHS-5 data is being used to check the status of health in country. It has a detailed section on family health and we can note that most of these issues concern women. Focusing on the key findings of NFHS-5 she first mentioned child marriages which show an increase in Manipur (16.3% from 13.7% in 2015-16), in Tripura (40.1% from 33.1% in 2015-16), and Assam (31.8% from 30.8% in 2015-16). States such as Andhra Pradesh, Himachal Pradesh, Tripura, Manipur and Nagaland have shown an increase in pregnancy of teenagers.

Continuing with the NHFS-5 data she also told that sex ratio at birth (SRB) is below 900 in Telangana, Himachal Pradesh, Goa, Dadra & Nagar Haveli and Daman & Diu. While majority of the states have a sex ratio of 952 and above. National Mrotality Rate, Infant Mortality Rate and Under 5 Mortality rate – infant and child mortality rates across most Indian states have declined. Sikkim, Jammu & Kashmir, Goa and Assam were the best performers as they witnessed a steep reduction in neonatal mortality rate (NMR), infant mortality rate (IMR) and under five mortality rate (U5MR).

She said that we need to focus on adolescents as one in five persons being an adolescent (10-19 years) and every third a youth (15-24 years), India is a young country today. There are approximately 56,225,000 women aged 15-19 living in India, as of 2014. Adolescent girls are the most neglected and vulnerable group. Early marriage, early and unsafe initiation into sexual activites and consequently early childbearing, limited knowledge about and access to contraception, unwanted pregnancies, lack of acess to safe abortion services, exposure to sexually transmitted infections – adolescents face a number of challenges with regard to their sexual and reproductive health.

Biologically, sexual relations before phusical maturity may lead to pregnancy and they are more susceptible to HIV-AIDS. She said quoting reports from UNICEF. It also becomes important that we start early because it is evident that often reproductive right are ignored due to improper understanding and social issues. If we start training adolescents and the younger generation, we would be able to see drastic positive changes in the society.

She further added that the COVID-19 situation has presented new challenges in front of us. As health care was severely impacted, there was a lack of hospital beds and doctors all over the world, it resulted in poorer health care of pregnant women and young mothers taking care of new born children. According to reports from UNICEF adolescent girls are more vulnerable to sexual exploitation harassment and gender-based violence during the pandemic. School closure due to the COVID-19 pandemic could lead to millions of more girls dropping out before they complete their education, especially girls living in poverty, with a disability of living in isolated rural places.

She said that experts emphasize that girls are worse affected than boys when a family faces huge setbacks and income losses as millions of poor Indian families. Apart from loosing access to nutritious food, sanitary pads and schooling during the lockdown, girls stand at a higher risk now of being pushed into early marriage and child labour, beside being trafficked. She also quoted from a survey done in Uttar Pradesh, Tamil Nadu and West Bengal that found that 36% were getting less food than before the lockdown (7% were even going without food on some days). 70% lacked access to sanitary pads, and 40% could not attend online classes.

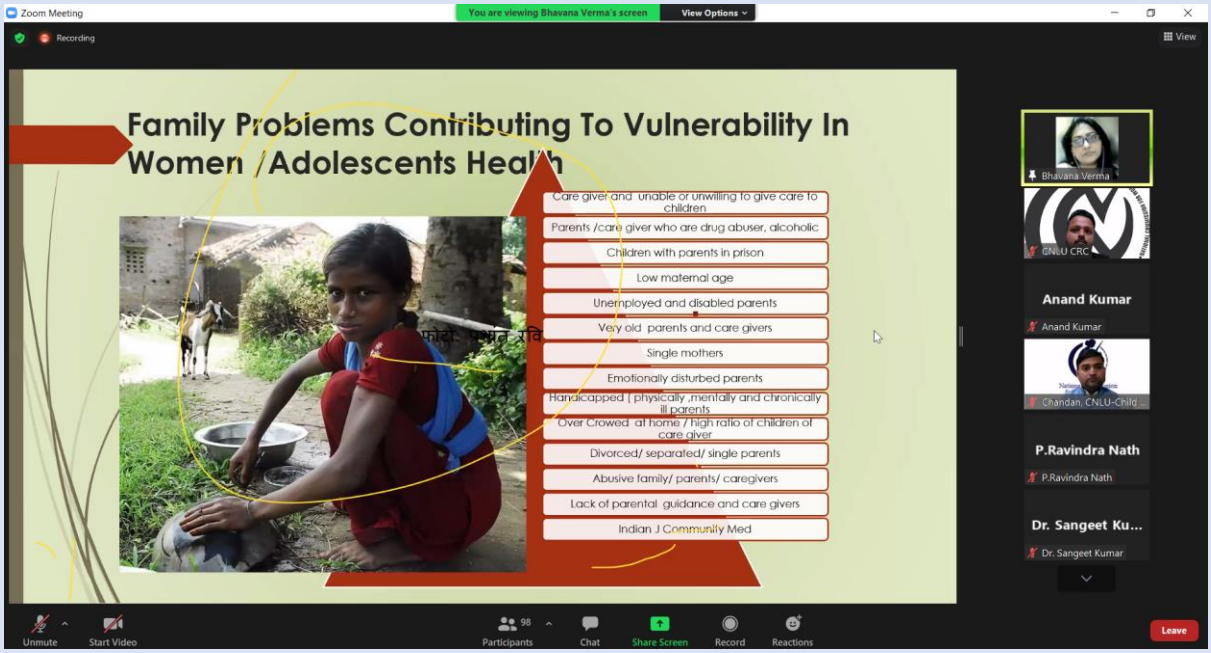
This directly impacts the society as women form almost half of the population. So reproductive rights, if taken care of, would positively impact the society as a whole because issues like poverty, lack of food, shelter and clothing, street children, trafficking for sex labor, children in conflict with law, all would be impacted through this.

A slide from Prof. Bhavna Verma's presentation

Quoting from a survey by the Population Foundation India she said that it was noted that reproductive health suffered due to COVID pandemic. During the first wave of pandemic most of the private nursing homes closed down and public hospitals were impacted too. Roaming health care services stopped as most were catering to patients of corona virus. Thus, highly inadequate public health services which were directed to treatment of COVID-19 patients and treating of those who had came in their contact.

Health care for women i.e., timely access to necessary and comprehensive sexual and reproductive health services during the crisis, such as emergency contraceptive, safe abortions and safe child birth needs to be resumed urgently by the public health department of government. She indicated what we need to do:

- Maintain an adequate stock of menstrual hygiene products at healthcare and community facilities.
- Train medical start and frontline social workers to recognize signs of domestic violence and provide appropriate resources and services.



A slide from *Prof. Bhavna Verma's presentation*

She also focused on the need of abortions during COVID-19. According to the data from April 1 to 10 June 2020 from ministry of health and family welfare the national average of the estimated number of pregnant women registered with MoHF was only 24.05 percent, while that of newborns was only 17.47 percent. In other words, 76 percent of the pregnant women and 83 percent of the newborn children are nowhere in the data bank. What happened to the rest 76 percent of pregnant women in the country? Did they deliver in their homes? Did they get medical care on time?

She said that according to the Foundation for Reproductive Health Services India, a number of states in India witnessed a shortage of abortion pills during the lockdown. In Haryana and Punjab only 1 percent of pharmacies had the pills while in Madhya Pradesh and Tamil Nadu it was just 6.5% and 2 per cent respectively. The COVID-19 pandemic has resulted in women either undergoing unintended pregnancies, carrying a late term or undergoing unsafe abortion methods. Each year millions of women in India find themselves with an unintended or an unwanted pregnancy. It is estimated that internationally 1.85 million women will be unable to access abortion services as a near-term impact of COVID-19.

She said that the second wave effected pregnant woman more. Even Lancet reports it. Only 47.5% women are vaccinated. An increase in maternal deaths has been reported in The Lancet

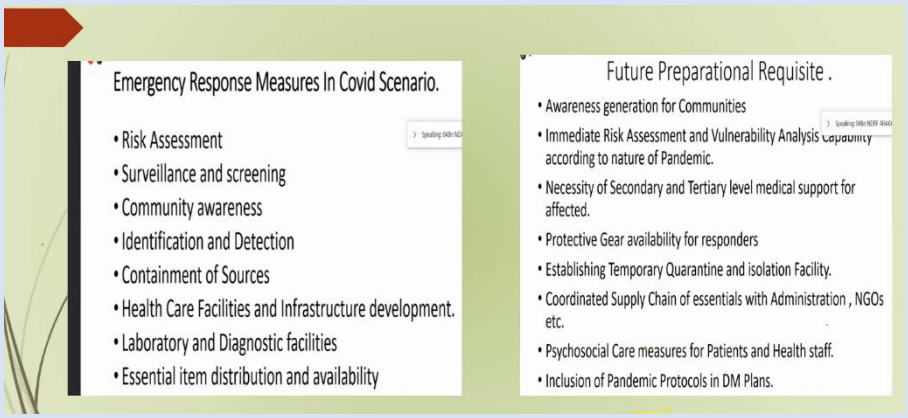
article[3] which indicates that the second wave globally affected pregnant women adversely. India is also not an exception. There has been a sharp increase in stillbirths and maternal depression also during the second wave.

She said that news reports also suggest that gender gap in COVID-19 vaccination in India persists. About 47.5% women having received the shots as against over 52.5% men who got them was reported on 16th September 2021 in a New Indian Express article. A survey by Breakthrough, found reasons:

- women do not want to get vaccinated while menstruating.
- Vaccines do not actually work;
- Vaccines can be life-threatening;
- Pregnant and breastfeeding women should not get vaccinated

Our regulations have approved the administration of the vaccines during pregnancy and there is no scientific data or studies that show that vaccines can cause infertility. These vaccines do not affect the reproductive organs in any way, she said.

She said that during the second wave, many women contracted COVID-19 during pregnancy during the last trimester as the uterus is enlarged and presses on the diaphragm, compromising a woman's ability to cope with a fall in oxygen saturation. This may lead to a sudden fall in blood oxygen saturation and risk the lives of both the mother and the child.



She further emphasized on the situations that have been brought around due to COVID-19 for women and showcased how they impact the reproductive choice of women. Not ending at listing only the problems she continued to present some measures that can be taken for the effective implementation of the existing programmes:

Staff at AFHCs and frontline Health Workers (FLHWs) should be trained to upgrade their knowledge and skills to deal with the adolescents and become familiar with all adolescent health issues. She also said that efforts must be made to improve the communication skills of FLHWs to bridge the gap that exists between adolescents and FLHWs. Easy access and availability of commodities must be ensured to improve SRH services for adolescents e.g., sanitary pads and condoms. She said that RKSK programme which is adolescent friendly, has

[3] https://www.orfonline.org/expert-speak/destructive-second-wave/

been setting up clinics in UP from the beginning. As of now 7,470 AFHCs have been established in the country of which 347 are in UP

Government interventions are needed to ensure that all adolescent girls and boys receive socio-economic programmes that effectively respond to their vulnerabilities. She also added that we must get them access to good sexual and reproductive healthcare which means they must have access to sanitary napkins, to contraception, to iron and folic-acid tablet for anemia.

In her presentation she also listed some governmental measures that are being taken for reproductive, maternal, new-born, child and adolescent health like:

- Reproductive Maternal Newborn Child Adolescent Health Plus Newborn Child Adolescent Health Plus Nutrition (RMNCAH+N)
- Government of India's "Call to Action (CAT) Summit" in February, 2013.
- Rashtriya Kishor Swasthya Karyakram (7th January 2014)
- The Surakshit Matritva Aashwasan (SUMAN)
- Kasturba Poshan Sahay Yojna (KPSY)

She said that the Rashtriya Kishor Swasthya Karyakram envisions enabling all adolescents in India to realize their full potential by making informed and responsible decisions related to their health and well-being and by accessing the services and support they need to do so. Its benefits include improved nutrition, improved sexual and reproductive health, enhanced mental health, prevention of injuries and violence, and prevention of substance misuse.

The Surakshit Matritva Aashwasan has been launched by the Ministry of Health and Family welfare on 10th of October 2019 with the commitment to provide assured, dignified, respectful and quality healthcare at no cost and zero tolerance for denial of services for every woman and newborn.

She said that the basic objective of Kasturba Poshan Sahay Yojna is to facilitate adequate nutrition during pregnancy, cash support of Rs. 6000/- is given to all the BPL mothers. She concluded by saying that big gender issues need to be addressed to provide access to the reproductive choices to women.

TECHNICAL SESSION 2

THE SOCIO-ECONOMIC DIMENSIONS OF WOMEN'S REPRODUCTIVE HEALTH: ISSUES AND IMPLICATIONS

Dr. Padmini Ravindranath

Associate Professor, Department of Economics (MMV), Banaras Hindu University, Varanasi, Uttar Pradesh

The placard the protestors hold says "Perfectly qualified to make my own decisions about my own body".

There have been a lot of discussion on this issue of reproductive choice and rights, but those who are directly impacted are rarely heard on these issues.

- *Dr. Padmini Ravindranath*

Screenshot of the image Dr. Padmini Ravindranath used to start her presentation depicted women protesters who had assembled at Nairobi (ICDP +5) a few years ago in 2019.

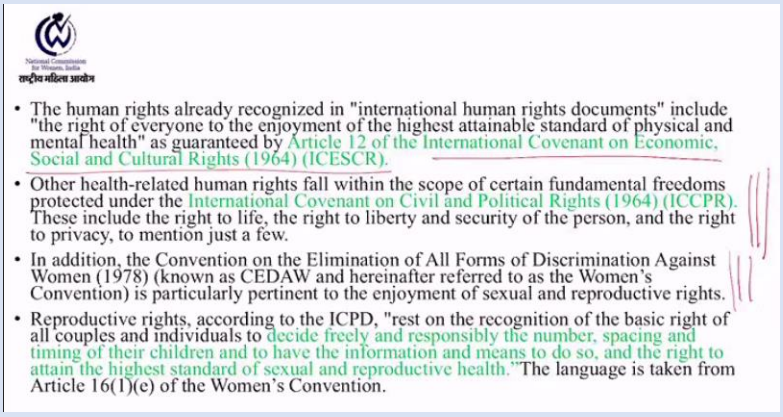
She also showcased a map from WHO website and emphasized how there's only one map available on the website. This also showcases how little importance is given to the issues of women. There is no comparative data to compare maternity health of pre and post COVID situations when access to health care services were severely limited for women.

A new paradigm was born with ICPD. Women were previously considered only to be a tool of reproduction. With this conference a new conception of health was born and reproductive rights were considered as a right and a more humane approach was adopted. The ICPD posits the human rights of women – their right to personal reproductive autonomy and to collective gender equality – as a primary principle in the development of reproductive health and population programs.

Those working in the field of women rights became more vocal about women's health in general and reproductive rights too. We give data on how much access to health care is available but at the same time we also need to discuss the status of women in society and pervasive gender discrimination. The reproductive health and rights approach adopted at ICPD

is premised on a view that values women intrinsically and is genuinely concerned about their health and well-being. Women's reproductive capacity was transformed from an object of population control to a matter of women's empowerment to exercise personal autonomy in relation to their sexual and reproductive health within their social, economic and political contexts.

In her presentation Dr Padmini Ravindranath emphasized upon various international conventions and gave a basic idea of how since 1964 such international conventions have helped shape and formulate the issue of reproductive choice as a basic human right for women.



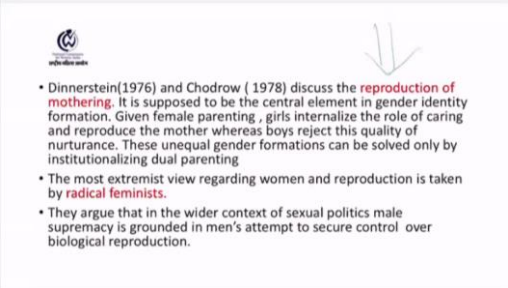
She emphasized that these are not just high-sounding words. Women's reproductive rights are an important component of the gender equality. Talking to the students she emphasized that they should read the chapter seven of ICPD document and learn for themselves how the reproductive health and rights are defined (**Paragraph 7.2**). The seed of these topics were sown in other documents and they culminated in this document. This has been going on since 1964.

She further emphasized on Article 12 of the International Covenant on Economic, Social and Cultural Rights (1964) (ICESCR). Besides these she also mentioned other conventions like the Convention on the Elimination of All Forms of Discrimination Against Women (1978) which include the right to life, the right to liberty and security of the person and the right to privacy.

She emphasized the reproductive rights according to the ICPD, "rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health." She used the language taken from Article 16(1)(c) of the Women's Convention.

The human rights already recognized in "international human rights documents" include "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" as guaranteed by Article 12 of the International Covenant on Economic Social and Cultural Rights (1964) (ICESCR).

In addition, the Convention on the Elimination of all Forms of Discrimination Against Women (1978) (known as CEDAW and referred to as the Women's Convention is particularly pertinent to the enjoyment of sexual and reproductive rights.



She further mentioned that at the fourth UN conference on women (Beijing) the PoA included the following paragraph- "The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence. Equal relationships between women and men in matters of sexual relations and reproduction, including full respect of the integrity of the persons require mutual respect, consent and shared responsibility for sexual behavior and its consequences."

She said that when women are defined solely as reproductive beings, it misshapes women's self image, giving the example of psychic pain around infertility. Adding to it she mentioned eminent authors like Firestone (1970) who claimed that prime site of this oppression is the nuclear family. Giving a perspective on Marxist feminists she said that they believe that women's work of biological and social reproduction in home supports an economic and political order dominated by men, while at the same time it prevents women from directly participating in that order. Recently a new perspective is emerging in which feminist theorists are opposing the cultural implication that women should be solely responsible for contraception. (Bailey, 2000)

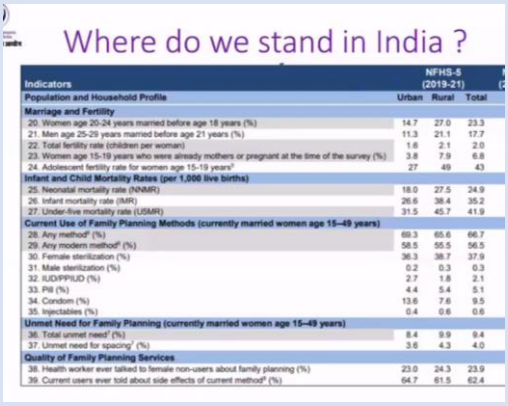
Speaking about the intersectionality of reproductive and economic empowerment she said that across the globe, women strive daily to balance their dual roles as workers in the labor market and as the primary caretakers of children. Relative to men, women face the added challenge of having reproductive years that heavily overlap with their most economically productive years. In developed countries, skilled women who have access to formal sector jobs and high wages are known to postpone marriage and childbearing to accommodate work and caring (Bertand et al. 2016; Blau and Kahn 2017). However in many contexts and in developing countries in particular, the pressures of combining childrearing with employment often relegate women to the informal sector, where they face insecure work arrangements and also lack important safeguards for pay and working conditions (United Nations, 2016).

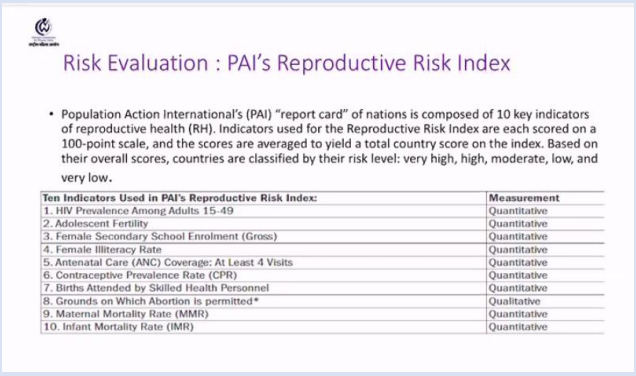
Quoting Vanet et al. and Verick (2014) she said that women are more likely then men to enter and rely on this sector for employment in their pursuit of flexibility, particularly their peak childbearing years.

She said tha in the developing world, efforts to balance care responsibilities with participation in the labor market often result in women being relegated to the informal sector. The "choice" of formal and informal work is also likely to vary by women's reproductive empowerment, which includes women's ability to make decisions around fertility, express their sexual rights,

and have access to full range of reproductive healthcare services (Quisumbing, Hallman and Ruel 2007; Radhakrishnan 2010).

She mentioned an example of Thiland, where Horn, et. Al (2013) found that home-based workers cited the ability to combine paid care work and childcare as the primary reason they engaged in home-based care. Moreover other researchers also found that in Malasia women who held low skilled jobs decided to start their own micro-businesses rather than return to formal work after having children.





Some slides from the presentation of Dr. Padmini Ravindranath.

She said that in economies where there is more formal employment and statutory rights to maternal and paternity leave, and where there is more extensive social protection and more effective labor market institutions, more women are likely to work in the formal economy. But even in more favorable contexts, with greater access to care provision, women often adjust their intensive margins of work and work fewer hours in paid employment after having children. For instance, Anna and Meil (2013) found that in Spain in 2012, while men returned to full-time jobs after paternal leave, only 55 percent of women did. 35 percent of women returned to part-time work, and 7 percent did not return at all.

She also mentioned Blundell et al (2011) who in their study of France, the United Kingdom, and the United States confirm that women with children tend to decrease their labor force participation and reduce their hours of work, but that these results differ by the availability of working and child tax credits – both features of developed country tax systems, that are likely to affect an individual's ability to access childcare and combine caring and work. Even in Sweden, a country with some of the most progressive and generous parental leave and publicly funded daycare, the median gender gap in wages is approximately 0.10 lower points (Albrecht et al. 2018).

While ending her presentation she said that there is a lot of conversation around reproductive health but actually women are treated as a tool of reproductive health. There is a whole lot of space opening up in reproductive health but until we take up ethical, moral, and legal issues it will be opening up many problematic areas soon.

TECHNICAL SESSION 3

REPRODUCTIVE RIGHTS OF WOMEN: A SOCIOLOGICAL ANALYSIS

Dr. Sangeet Kumar

Assistant Professor, Department of Sociology, Marwari College, T.M. Bhagalpur University.

Since we are from Bihar, we need to focus more on NFHS 5 data from Bihar and see how social and religious obligations impact the reproductive rights of women.

- *Dr. Sangeet Kumar*

Dr. Sangeet Kumar started his presentation by saying that we will focus on Bihar in reference to the recent NHFS 5 that has come up. He said that in India marriage is considered a religious and social obligation. It is very difficult for women to remain single or child less if she wants to. Child birth should be a matter of love, affection and choice. Standard of living also impacts, literacy level of parents, spousal interrelationship, infant mortality rate, age at the time of marriage all these impact childbirths.

He mentioned that male preference is rampant in Asian societies, it is a little bit low in American countries. A child should not be born out of force but out of love and affection. Especially in rural areas the level of education and awareness is low, and hence we are considering Bihar as a case study. The countryside of Bihar should be a concern of the country as a whole.

He mentioned that many factors impact the reproductive rights and pattern:

- Standard of living of the family
- Available health services
- Awareness level of the family and the women
- Literacy level of the family
- Family environment
- Social and religious obligations
- Relationship between the couple (spousal interrelations)
- Economic status of women
- Provision of social security
- Political status of women and,
- Infant mortality rate
- Age at the time of marriage

In western countries many of these indicators are positive and hence the fertility rate is low. Often this is below the replacement level and hence workforce from other countries moves in

there to find work. Women get a right to say “no” and pressure to procreate children and especially male child is not there.

He mentioned that in India marriage is considered an obligation and which is very difficult to escape and automatic corollary of marriage is motherhood. There are sociological implications of the reproductive rights. Nuclear family where men and women enjoy equal right is usually considered the best for overall development. He said that on the contrary Marxist theory is a little different. Angels was the first to mention that motherhood is not a matter of pleasure but of coercion and social obligation and women should fight against it. Angels said obligatory motherhood should be resisted and his theories also found a place in the social movements. Technological advancements also resulted in alternative means of conceiving child in western countries but in India such methods are confined to metropolitan cities only.

In countryside traditional insistence on marriage, child bearing and preference for male child and neglecting girl child still exists. If we look at the data of NHFS-5 in Bihar we can see that age of first marriage in Bihar is at 17.4 years. This means that women are married at a very young age so the time for reproduction also increases. Only 6% women of age 20-29 are never married which means that pressure for marriage on women is very high. NHFS-5 says there are 3 children per woman and this is a decline. This decline is comforting. Pertaining to Bihar the pregnancy outcome is 91% which is a good indicator and means mortality is very low. Abortion, miscarriage and still birth are three main factors we still need to consider.

Some abortions some abortions are related to unplanned pregnancy. Teenage pregnancy is rampant in Bihar and healthcare for them is a concern. He gave a lot of other data from NHFS-5 and emphasized how deferring child-birth can help in population control and also in managing other social indicators like poverty and unemployment. He mentioned that most of the times the second child is born within 2 years in 15% cases. There should be a gap between children and without it mother can’t pay attention to all the children properly. Women in generally buckling under the pressure to give birth to children. They have been unable to exercise their reproductive rights.

He mentioned an example where the religious duties which are one of the main reasons for pressure on bearing male child has been broken by the outbreak of COVID-19. This mindset has been changing slowly. People are aware of contraceptive measures. More than 90 percent of people know about the planning of child birth and about 40% of population was aware of emergency contraceptives.

While ending his speech he mentioned that women are slowly gaining the access to healthcare but early marriage and social obligations are causing a concern. In the case of Bihar we need to use government initiatives like “Kanya Protsahan Yojna” and other such initiatives to change the scenario. Reservations are also helping and self-help groups are doing their job too. He ended on a positive note.

TECHNICAL SESSION 4

LEGAL ASPECTS REPRODUCTIVE CHOICE OF WOMEN: COMPONENTS, FEATURES AND GAPS

Mrs. Sugandha Sinha

Assistant Professor of Law, Chanakya National Law University, Mithapur, Patna, Bihar

Reproductive health not only covers the physical aspects, but it includes all the mental and social aspects related to reproduction too. A comprehensive understanding of this issue will result in direct well being of women and as a corollary the society benefits as a whole.

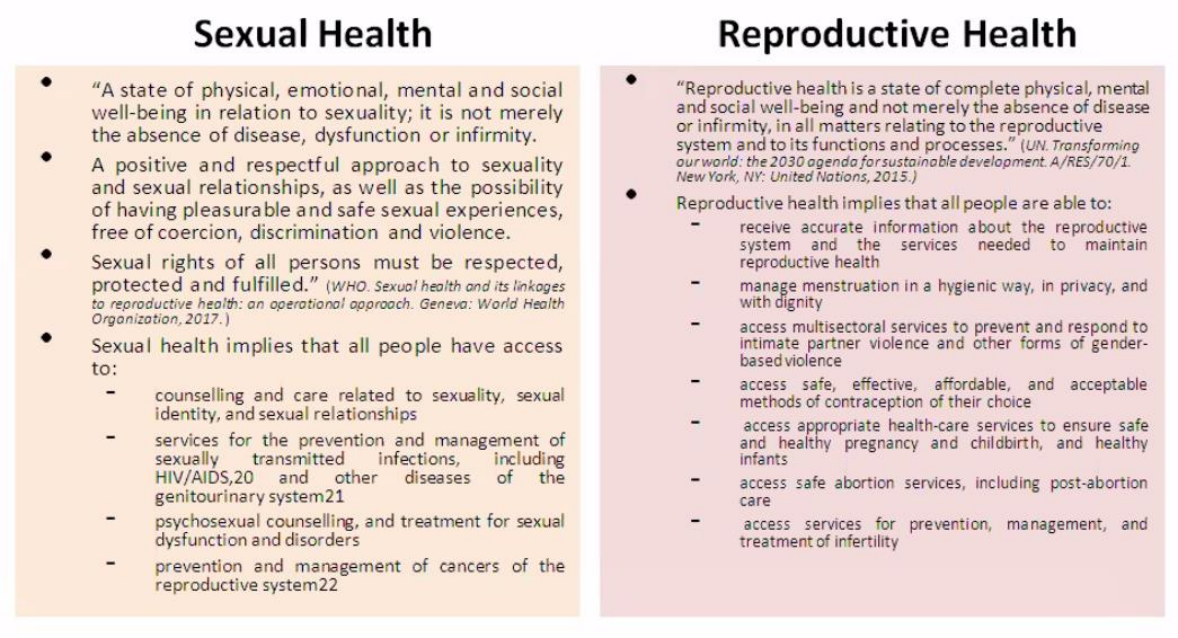
- *Mrs. Sugandha Sinha*

Mrs. Sugandha Sinha started her presentation with a set of questions.

a. What is Sexual and Reproductive Health and Right (SRHR)?
b. What is Reproductive Right?
c. What is Reproductive Choice?

She focused on the legal aspects of reproductive choice. She mentioned that there should be a state of physical emotional, mental and social wellbeing in relation to all aspects of sexuality and reproduction, not merely the absence of disease, dysfunction, or infirmity. A positive approach to sexuality and reproduction needs to be taken. Recognizing the part played by pleasurable sexual relationships, trust and communication in the promotion of self-esteem and overall wellbeing becomes important too. These rights pertain to a right to make decisions governing their bodies and to access services that support that right. She played a video to help realize the sexual and reproductive rights. She referred to "Accelerated progress – sexual and reproductive health and rights for all", report of the Guttmacher Lancet Commission (Lancet 2018).

She also mentioned the various components of Sexual Health and Reproductive Health:



A sample slide from the presentation of Mrs. Sugandha Sinha

Moving on she mentioned the various articles of Indian constitution which are related to the reproductive right:

a. Article 14
b. Article 15 (1, 2, 3)
c. Article 16
d. Article 21
e. Right to health as part of Right to life under Article 21
f. Part IV of the Indian Constitution

Talking about the genesis of reproductive rights she talked about the UN Human Rights Treaties (Article 12 of international Covenant on Economic, Social and Cultural Rights), ICCPR, CEDAW Article 12 of general recommendation. She moved on to the proclamation of Tehran, the final Act of the International conference of Human Rights, 1968 (Section 16) and declaration of Mexico on the Equality of Women and their Contribution to Development and Peace (Principle 12).

She also spoke about the Vienna Declaration and Programme of Action, adopted by the World conference on Human Rights in 1993. She emphasized upon the International Conference on Population and Development's (ICPD) Programme of Action Cairo, 1994 (comprehensive definition of Reproductive Health and Right – a Women's right to control their fertility and the State's duty to enhance women's sexual and reproductive health and education. Among other such important international conventions she talked about the Beijing Declaration and Platform for Action, Fourth World Conference on Women in 1995 (including their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents).

She said that through Millennium Development Goals (MDGs) the UN plan to reduce poverty worldwide by 2015, omitted sexual and reproductive health altogether. Sustainable Development Goals 2030 Agenda for Sustainable Development (Target 3.7, 5.6, no standalone attitude line MDG – gender equality as well as health care services) also becomes important in this regard.

Talking about reproductive rights she mentioned a diversity of civil, political, economic, social and cultural rights affecting the sexual and reproductive life of individuals and couples. She said that reproductive rights embrace certain human rights and recognizing the basic rights of all couples and individuals becomes important. In this regard we need to take care of:

- the right to decide freely and responsibly the number,
- spacing and timing of their children and to have the information and means to do so, and
- the right to attain the highest standard of sexual and reproductive health.

She mentioned that this also includes the right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in the human rights documents. She added that in Devika Biswas Case the Hon'ble Supreme Court of India has mentioned that they should be able to access a range of reproductive health information, goods, facilities and services to enable individuals to make informed free, and responsible decisions about their reproductive behavior.

Discussing reproductive choice, she said that according to the World Health Organization (WHO), sexual and reproductive health involves five key components, one of them being Ensuring contraceptive choice and safety and infertility services. It's the duty of states to treat men and women equally in relation to the rights to marry; a minimum age for marriage (the same for both sexes) that enables an informed and un-coerced decision must be set, and rules making the guardian's consent to marriage more important than the consent of the bride-to-be must be prohibited. She added the General Recommendations on Reproductive Rights by UNFPA to NHRIs which require all health services to be consistent with the human rights of women, including the rights to autonomy, privacy, confidentiality, informed consent and choice.

For the benefit of students, she added following cases which can be studied to gain a clearer perspective on the issue of reproductive rights:

- Laxmi Mandal vs Deen Dayal Harinagar Hospital and Ors. And Jaitun vs Maternity Home, MCD, Jangpura & Others (Delhi High Court) (on Right to health inalienable part of right to life)
- Sandesh Bansal V Union of India (MP High Court) (violation of article 21, financial constraint no excuse)
- Devika Biswas v Union of India & Ors
    - Article 21 includes the "reproductive rights of a person."
    - Reproductive rights of both part of the right to health as well as an aspect of personal liberty under Article 21.

    - Definition – "the freedom to exercise these reproductive rights would include the rights to make a choice regarding sterilization on the basis of informed consent and free from any form of coercion".
    - Government policies on female sterilization violations of women's substantive equality.
    - Obligation to ensure the "reproductive freedom" of economically and socially marginalized groups, expressing concern (lack of meaningful choice)
- Suchita Srivastava & Anr v Chandigarh Administration (2009) 11 SCC 409 – Reproductive choice is a dimension of Article 21
- Dr. Mangal Dogra & Others v Anil Kumar Malhotra & Others, CR 6337/2011; (Right to Reproductive Autonomy)
- Hallo Bi v State of Madhya Pradesh and Others, (Abortion of rape victim without judicial authorization)
- Joseph Shine versus Union of India (curtailing sexual autonomy is violation of dignity and equality)
- Justice KS Puttaswamy v Union of India (reproductive right as a part of right to privacy)
- Navtej Johar v Union of India (individual has sovereignty over one's body and it is the autonomy which creates and individual's identity and becomes a part of dignity in an individual)

She also mentioned the gap areas where we are still lagging. She said that we need to focus upon:

- Victims of Sexual Assault (specifically their abortion)
- Abortion (MTP Act and the recent amendments to it)
- Reproductive Autonomy as part of Right to Equality of as part of Right to Life/ Right to Privacy

Ending her presentation with ample information on what more can be read, she said that we can expect better status of reproductive rights only when the society is more informed and aware of the rights.

QUESTION & ANSWER SESSION AND CONCLUSION

Out of around 200 registrations that were made for this event around **140 participants** actively attended the complete webinar. Hence in the end some very pertinent questions related to the ethical issues related to abortion and the clash with right to choose, and freedom of exercising rights over one's own body were raised. A very important question on how the Article 21 pertaining to right to life clashes with the right to abortion was raised during the Question-and-Answer session.

Professors responded to this question by agreeing that medical data is still insufficient and we do not know from when a conceived child begins to feel or can be said alive. The issue of whose rights precede is also a much-debated issue. Whether the woman who is already alive and able to exercise her rights should get a precedence or should the unborn child about whom we don't know anything and he/she can't even exercise his/her rights should get a precedence is an issue that is being debated internationally.

It was concluded that these questions can be answered if we take a look at the international debates that are ongoing on this topic. Participants also got to know about 1987 article of Harvard Women's Journal by Janet Gallagher[4] on the fetal rights which would come in handy for law students who are willing to know more about it. The learned resource persons answered the questions raised to the satisfaction of the participants.

Once the question answer session was moderated by **Dr. Aman Kumar**, he thanked the participants who had patiently participated in the webinar even after it was running over the stipulated time period. He concluded by saying that a certification of attending the webinar would be provided to participants through a web link. He called upon **Mr. Chandan Kumar Sinha (Programme coordinator, CNLU)** to present the vote of thanks.

[4] https://heinonline.org/HOL/LandingPage?handle=hein.journals/hwlj10&div=6&id=&page=

VALEDICTORY (VOTE OF THANKS)

Mr. Chandan Kumar Sinha, Programme Coordinator, Child Rights Centre, Chanakya National Law University, presented the vote of thanks. He thanked the mentor Hon'ble Justice Smt. Mridula Mishra Ma'am, vice-chancellor, Chanakya National Law University, Patna. For inaugurating the session in spite of her busy schedule. He also extended gratitude to the respected Mnoranjan Prasad Srivastava Sir, Registrar, Chanakya National Law University Patna for glorifying this programme.

Mr. Chandan sincerely thanked all resource persons:

1. Prof. Bhavna Verma Professor, Department of Social Work, Mahatma Gandhi Kashi Vidyapith, Varanasi, Uttar Pradesh
2. Dr Padmini Ravindranath Associate Professor, Department of Economics (MMV), Banaras Hindu University, Varanasi, Uttar Pradesh
3. Dr Sangeet Kumar Assistant Professor, Department of Sociology, Marwari College, T.M. Bhagalpur University.
4. Mrs Sugandha Sinha Assistant Professor of Law, Chanakya National Law University, Patna, for your wonderful sessions.

He also thanked Mr. Ayush, student member of CRC, CNLU for his endless efforts in making this event a success.

He thanked his colleagues, Dr. Aman Kumar (Centre Coordinator, CRC, CNLU), Dr Fr. Peter (Training and Course Coordinator, CRC, CNLU) and Ms. Preety Anand (Advocacy and Outreach Coordinator, CRC, CNLU). He extended thanks to the CRC, CNLU all student members, and to CNLU support staff members for enthusiastically arranging this programme.

He especially thanked all members of the National Commission for Women, Government of India. In the end he thanked around **140 participants**, without whom this programme would not be a success. He ended by thanking everyone for joining the webinar.

ANNEXURE

Topic: "Reproductive Choice of Women: A Fundamental Right"

Date: 27th November 2021, 1pm-4pm

Agenda

Time	Session
1pm - 1:10pm	**Welcoming of Guest and Introduction of webinar** Dr. Aman Kumar, Coordinator, Child Rights Centre, Chanakya National Law University.
1:10 PM – 1:20 PM	**Special Guidance:** Hon'ble Justice smt. Mridula Mishra, Vice-Chancellor, Chanakya National Law University.
1:20pm – 1:25 pm	**Special Presence** Shri Manoranjan Prasad Srivastava (Retired District Judge), Registrar, Chanakya National Law University
Key Speakers	
1:25 PM - 2:00 PM **Topic-**	**Prof. Bhavna Verma** Professor, Department of Social Work, Mahatma Gandhi Kashi Vidyapith, Varanasi, Uttar Pradesh **"Social Impact of COVID-19 on Reproductive Health of Women and Adolescents"**
2:00 PM - 2:35 PM **Topic-**	**Dr. Padmini Ravindranath** Associate Professor, Department of Economics (MMV), Banaras Hindu University, Varanasi, Uttar Pradesh **"The Socio-Economic Dimensions of Women's Reproductive Health: Issues and Implications"**
2:35 PM - 3:10 PM **Topic-**	**Dr. Sangeet Kumar** Assistant Professor, Department of Sociology, Marwari College, T.M. Bhagalpur University. **"Reproductive Rights of Women: A Sociological Analysis"**
3:10 PM – 3:45 PM **Topic-**	**Mrs. Sugandha Sinha** Assistant Professor of Law, Chanakya National Law University, Mithapur, Patna, Bihar **"Legal Aspects of Reproductive Choice of Women: Components, Features and Gaps"**
3:45 PM – 3:55 PM	**Q&A Session**
3:55 PM – 4:00 PM	**Valedictory** Mr. Chandan Kumar, Programme Coordinator, Child Rights Centre, Chanakya National Law University.