

Right to Health and Neonatal Surgical Care: Constitutional and Human Rights Perspective

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ABSTRACT

The Indian Courts have recognized the right to health as a critical component and fundamental for life and it has been universally acknowledged as a basic and fundamental human right under personal life and liberty guaranteed which falls under Article 21 of the Indian Constitution. Newborns with congenital Anomalies are highly dependent upon Neonatal surgical care which ensures survival and quality of life. Despite existing legal provisions Minoritized groups in India often encounter challenges and significant barriers when it comes to access to timely, high standard quality and affordable neonatal surgical treatment. Through Directive principles of state policy and judicial interpretation under Indian Constitution neonatal care is part of the health service since it's the prerogative of the state to ensure it. This paper analyze the role of constitutional provisions, international human rights instruments and emanating judicial interpretation, that highlights the right to neonatal care and comprehensive rights-based legal framework for neonatal surgical care ensuring newborns rights receive not only life-saving surgeries but also post-operative rehabilitation in a just and impartial manner.

Keywords: Health, Neonatal Care, Human Rights, Congenital Disorder, Medical Care

1. INTRODUCTION

Health is a precondition for the enjoyment of life along with all other human rights which is considered to be the perseverance of life. Health encompasses both Mental and Physical health that also includes social wellness and not merely the absence of disease or infirmity has been ensured by the "World Health Organization (WHO)". The achievement of standard health is a fundamental right of every human being without any discrimination based on individual's religion, race, political views social or economic condition. In Indian context, the judiciary has been construed comprehensively that the right to health as inherent to the right to life guaranteed as life and personal liberty under the Constitution. Neonatal surgical care, the early life care residues are overlooked in the legal rights framework while health rights have gained constitutional recognition. Neonatal surgery involves the care for congenital disorder which is critical and necessitates early intervention to assure long term prognosis. The absence of sufficient surgical facilities, trained pediatric surgeons, and financial limitations out newborns in rural and socio-economically weaker sections of life-saving surgeries, resulting in preventable mortalities and disabilities. The Indian Constitution, through various provisions under the "Directive Principles of State Policy (DPSP)" and "Fundamental Rights" which mandates the states to ensure the promotion of public health in India. It's the states responsibility to provide healthcare facilities for all the citizens including vulnerable populations like newborns requiring surgical care has been consistently emphasized through judicial decisions. "The International Covenant on Economic, Social and Cultural Rights (ICESCR)" obligates the recognition of standard health, which includes specialized medical care for children.

2. CONSTITUTIONAL FRAMEWORK OF THE RIGHT TO HEALTH IN INDIA

Although it is not expressly mentioned, Right to Health has been recognized by Indian courts to form the fundamental component of constitutionally guaranteed fundamental right under the Indian Constitution. Health continues to be enhanced through "Directive Principles of State policy" and important judicial interpretation. The guiding principles for promoting

and enhancing health care access, including specialized services like neonatal surgical care provided through health care under Constitutional framework. The Constitutional guarantee of life and personal liberty in India affirms that "Without the established procedure by law no one's life or personal liberty shall be deprived". The Supreme Court of India has expansively interpreted life includes the right to dignified life which encompasses health and access to medical care necessary for maintaining such dignity.

Articles 38, 39(e), 41, 42, and 47 of the Constitution places responsibility on the state to ensure health and nutrition. This policy obligates the State to enhance nutrition level, raise living standards and develop public health. These non-justiciable principles guide governance by urging the establishment of a welfare promoting social order, ensures just working conditions and maternity leave, and improves nutrition and public health.

3. JUDICIAL RECOGNITION OF RIGHT TO HEALTH

The Indian Constitution guarantees and safeguards life and personal liberty which has been construed by the Indian Judiciary to include health. The Indian Courts have been pivotal in ensuring health as a fundamental component of Article 21 through various judgments under the Indian Constitution. "Paschim Banga Khet Mazdoor Samity v. State of West Bengal", In this case the Supreme Court through its judgement made a decision that the state has responsibility and to ensure and provide prompt medical facilities. The government hospital's failure to ensure prompt medical facilities constitutes a violation of the right to life. The state has the responsibility under Article 21 to provide medical assistance because saving human lives is essential. "Consumer Education & Research Centre vs Union of India", Medical Care and health as fundamental rights has been expressly recognized by the Indian Judiciary under Article 21 of the Indian Constitution concerning workers' safety and health. "Parmanand Katara vs Union of India", In this case, the court ruled that all doctors, whether in government or private hospitals, were obligated to render timely medical assistance for the preservation of human life notwithstanding procedural requirements. "State of Punjab vs Mohinder Singh Chawla", the Court through its decision held that the right to medical care and health are essential for the right to life which must be affordable and available to all citizens by the state. Right to health is a fundamental element of the right to life and to be ensured by the state to all of its citizens in India. "Vincent Panikurlangara vs Union of India", The Supreme Court emphasized the necessity for effective public health regulations and standards, ensuring maintenance of public health is fundamental to upholding life under Article 21. As a welfare state it is a responsibility of the state to provide conditions that help in good health.

history of women with coagulation disorder and all women on anticoagulant therapy were the exclusion criteria for this study. All the antenatal women were willing to participate and signed the informed consent document was enrolled in the study. Demographic characteristics included age, booking status, area of residence, socioeconomic status, and gestational age at presentation were noted. Clinical characteristics including presenting complaints, fetal heart sounds (normal, reduced, and absent), and obstetric factors were

4. INTERNATIONAL HUMAN RIGHTS INSTRUMENTS OF THE RIGHT TO HEALTH AND INDIA'S COMMITMENT

The Right to health is universally accepted and acknowledged as a human right which includes more than access to Medical care which includes the essential conditions for people to live with dignity, such as access to sanitation, drinking water, nutritious food and healthy environment. It is recognised through various International instruments, legal frameworks etc. India, as a state party to these international human rights instruments has made important commitments to uphold this right both in principle and practice. "The Universal Declaration of Human Rights" forms the General standard of attainment and achievement for all peoples and nations irrespective of their race, sex, gender etc. Adopted in 1948, the UDHR laid the basis for global human rights recognition. Right to life encompasses the right to a dignified human existence further it encompasses health safeguards and provides facilities for children to develop and grow in a healthy environment. Right to health in the context of neonatal care is the foundation for human equity and dignity. Under Article 25 of the "Universal Declaration of Human Right" recognizes right to health includes medical care along with special care for childhood and children to enjoy social protection. This Article of the "Universal Declaration of Human Rights" aligns with the concept that every mother and newborns have the right to access for special care which includes Neonatal care which ensuring survival and healthy development and Article 2 of the "Universal Declaration of Human rights" ensures all freedoms and rights for everyone irrespective of any differences including neonatal care for infants.

Under "International covenant on Economics, Social and Cultural Rights" Neonatal medical care shall be provided to the newborns particularly premature babies and ill newborns and the state has an obligation to provide the healthcare system. The state parties to this convention recognize physical and mental health for all. Under 12 of this covenant the healthcare system include neonatal care to reduce the still born birth, infant mortality for the healthy development of child. For the Protection and promotion of children's rights, the "Convention on the Rights of the Child", is the most Established international legal framework. Among its fundamental principles is the right to health includes access to healthcare, including neonatal care for child's survival and development. The right to health and providing neonatal care is not only a legal obligation under this convention but a moral duty and ensuring that every child has a healthy start in life which is equitable,

healthy and prosperous.

Under Article 6 and 24 of the “Convention on the rights of the child” ensures the right to health in the context of development and survival of the child and provides health facilities including appropriate measures to reduce infant and child mortality, prenatal and postnatal health care etc. Right to health includes the right of every newborn to survive and develop. The “World Health Organization” is the principal organization for public health. Health encompasses both physical and mental health which also includes social wellness and not only the absence of infirmity or disease. It strengthens that health is a fundamental right of every human being, not merely the absence of disease.

The “World Health Organization” focuses strongly on neonatal care as a vital component of the right to health, especially in achieving Universal Health Coverage and the Sustainable Development Goals. Since 1953, The United Nations International Children's Emergency Fund is officially the “United Nations Children's Fund”. The United Nations agency for children protects the rights of every child including the most marginalized and underserved. UNICEF plays a vital role in upholding the right to health specifically addressing maternal and child well-being. The prenatal care is foundational to a child's right to life and development. To ensure access to essential maternal health services UNICEF Partners with governments to provide through health care systems. Diminishing maternal mortality, prevention of complications during pregnancy, promoting safe childbirth practices especially in low- and middle-income countries are their focus through worldwide initiatives. UNICEF's State of the World's Children reports consistently regularly emphasizes prenatal care which helps in not only pregnancy outcomes but also prevent malnutrition, infections and other risks related to health among mother and child. The antenatal checkups, iron and folic acid supplementation, immunizations, and health education for expectant mothers are provided by community-based health actions and works to eliminate discrimination in maternal healthcare by addressing socio-economic, geographic, and cultural barriers.

5. NEONATAL SURGICAL CARE IN INDIA: CURRENT LANDSCAPE

Medical progress and enduring major public health concerns are the representation of Neonatal surgical care in India. The Immediate need for surgery which requires a significant number of newborns born with congenital disorders every year. However, India faces the severe insufficient trained period surgeons for its significant periodic population.

In 2022, Rural areas in India faced an 80 % deficit of gynecologists, pediatricians and surgeons and this resulted in newborns in the regions lacking adequate services experiencing delayed diagnosis and referral commonly reaching specialized centers in severe condition. Master's degree students' diminishing interest in surgical training in pediatric surgery is a further concerning trend. Limited job prospects, limited funds and lack of adequate mentorship undermining the motivation of young doctors from entering the demanding speciality. This tendency risks extended viability of neonatal surgical care in India. This tendency risks extended viability of neonatal surgical care in India. Despite this, there is still hope. Cost - effective innovative technologies like User friendly ventilators and devices for resuscitating newborns have been effective with limited resources. The major healthcare institutions including AIIMS instituting measures to decentralize care learning modules, Remote health care and extending services to rural areas.

There is an urge to prompt review of infrastructure for pediatric surgery and directions in India. It suggests enhanced budgetary allocation, National learning initiatives and integration of neonatal surgery in national primary health care programs. Combating these challenges is both medical imperative and developmental necessity. The reducing infant mortality and reaching national health goals shall be achieved by enhancing neonatal surgical care. To assure that the newborn in need of neonatal surgery receives promptly India must implement a comprehensive approach such as policy reforms, human resource development and accessible infrastructure. Infant surgery care in India has developed notable achievement in Urban specialize hospitals yet it persists significantly inadequate widely across the country. With an annual birth exceeding 25 million, a significant number suffer from congenital disorder that requires prompt surgical care within days or hours of birth. Still, the nation grapples with an alarming shortage of pediatric surgeons and this crisis is more intense in rural and semi-urban areas. The shortage results in hindrance in diagnosis and treatment leading to avoidable complications and elevated infant mortality which has been identified through rural India report about eighty percent of shortage in vital medical specialists including surgeons and pediatricians. Some Urban Public hospitals burdened by patients' capacity still provide emergency neonatal surgeries with restricted critical care resources. Inadequate prospectus specialist because a significant number of medical graduates comprehend the specialty as a considerably demanding with minimal financial return resulting in unfilled training position. The Training in pediatric surgery is an acute concern as it becomes diminishing interest among medical graduates. The broadening of neonatal surgical care despite states with advanced resources constrained by deficit of human resources. New advancements are developing regardless of these challenges. To elevate outcomes in settings with limited resources, accessible neonatal surgical care and consistent surgical protocols are gradually utilized. These economical innovations together with specialized training and skill exchange programs can potentially revolutionize neonatal care throughout India. There is a requirement for collaboration of Governmental bodies and professional organizations on establishing long-term solutions to deal with systemic inequities. These encompass the setting up of neonatal surgical intensive care in the hospitals at the district level encouraging specialists to function in areas lacking adequate services and forming mobile surgical teams for distant outreach. Telehealth platforms for tele-diagnosis and pre -

surgical planning that connect the disparity faced by rural patients and expertise available in urban centers shall be promoted by the policies. Public awareness initiatives for the Primary health care providers and parents are required to be trained to identify initial signs of Congenital disorders. Equitable surgical care in India needs to be based on comprehensive transformation. Constitutional guarantee of the fundamental right to health shall be fulfilled by India for the child irrespective of socioeconomic status or geography only by combating infrastructure deficits, workforce shortages and General awareness.

6. CONCLUSION

Article 21 of the Indian Constitution right to life has not been expressly recognized as fundamental rights but through judicial pronouncement it has been fallen under the scope of right to life and personal liberty. The enforcement of the interpretation is comprehensive when it comes to vulnerable groups of infants who are in need of surgical care and quality of life. The surgery for neonates being early time detection and resource intensive which is a constitutional mandate, Public health policy and human rights obligation. Through judicial pronouncements, health as a legally enforceable right leads to affirmation of the duty of the state to ensure accessibility and quality medical care. The effective implementation of this right is still critical when it comes to neonatal surgical care and there is a need for effective and integrated strategies to achieve the fruitful outcomes. Right to life which includes health that offers safeguarding of neonatal surgical care not only public policy but also constitutional mandate and ethical obligation. Timely surgical intervention for neonates not only upholds their right to life and health but also affirms dignity, equity and justice under Indian Constitution and human rights frameworks.

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