

Pregnancy and Patriarchy: Freedom of Women in Question

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Abstract: This paper reflects that women in a patriarchal social set up, particularly in developing societies like India, do not have autonomy concerning their reproductive rights. Instead, they are used as mere means of reproduction. Does a woman have reproductive rights? Is freedom of women a myth or reality? With these fundamental questions, the author philosophically analyses the matter of privilege concerning the reproductive right of women. Furthermore, there is speculation of current challenges to reproductive rights in terms of other issues like sex determination, sex-selective abortion and female foeticide.

Keywords: Women, Pregnancy, Choice, Patriarchy, Abortion, Reproductive Right.

Introduction

In a patriarchal society, a woman's reproductive nature which is otherwise unique to her is used as a medium to control, oppress and gain power over her. Due to this, women are subjected to injustice, exploitation, atrocity and discrimination. Consequently, particular social values, practices and the understanding of gender put women in a discreteness and an inferior place in society. Religion, caste and cultural values play an essential role in defining and controlling women's reproductive capacity. A woman is forced to carry the burden of motherhood rather than enjoy her reproductive freedom and choice. It is obstructive in the process of women empowerment. Even today, it is strongly believed that unless a woman becomes pregnant and gives birth to a baby, she does not become a complete human being. This fact had been presupposed in most societies from ancient times till date, but the changing times have raised doubts and questioned its relevance. Movements and issues related to the use of contraception(s) and the need for abortion are advancing. There are voices to demand both contraception and abortion rather than considering pregnancy essential. Eventually, such demands are also being recognised by law and society (Raup, 2010).

There are specific peripheral issues need to be considered for examination before initiating any discussion on reproductive rights. For example, can we say to deny a woman the access to abortion is to deprive her of her right to control over her body? How forced pregnancy, forced abortion and forced motherhood are a violation of women's autonomy and bodily integrity? Is an unwanted pregnancy or involuntary motherhood an obstacle for the emancipation of women? How reproductive rights give freedom to actualise women's agency, autonomy and power? How women's reproductive rights and choices are manifested in the decision-making process concerning an unwanted pregnancy? What causes the unfulfillment of the objectives of the Universal Declarations on reproductive health and rights? What policy action is essential to ensure that reproductive rights and choice are a reality for Indian women.

Therefore, this paper primarily focuses on an analysis of the impact that the reproductive rights have on the dignity, autonomy and social status of women. In this paper, there is an analysis of the ethical basis of reproductive rights, based on four-component principles: bodily integrity, personhood, equality and respect for diversity and in examining each of these principles, the emphasis has been given on their broader social implications (Chandiramani, 2007). This study relates to the situation in India and addresses the significance of the existing laws concerning reproduction and offers some suggestions wherever needed for revision.

Reproductive Right

Women's health movements around the world have recognised women's reproductive and sexual self-determination as a primary health need and human right. Reproductive rights have been defined broadly as fundamental human rights and are linked to primary health care. The right to health is comprehensive. It comprises a choice and claim. The choice reflects the option of exercising one's freedom as well as control over one's body and health. Excluding any external interference, it involves sexual and reproductive freedom as well. The satisfaction of the most formidable measure of well-being has been recognised as a fundamental right by the World Health Organisation (WHO) [1]. Health is the prerequisite for all other initiatives to improve the status of women. Because of their childbearing role, women are the transmitters of health to the new generation. Thus women's health affects the future of every society.

The Universal Declaration of Human Rights (UDHR) [2] mentions specifically the right to medical care in Article 25, which also states that motherhood and childhood are entitled to special care and assistance. 'Reproductive health' became a concept offering a complete and combined approach to health-needs related to reproduction. Women get central status in the process of recognition. In terms of medical care, this is a response to the needs of women and not just mothers. The concept of reproductive health received significant attention in the International Conference on Population and Development (ICPD) held in Cairo in 1994.

Moreover, the definition of reproductive health was expanded in the Fourth World Conference on Women (FWCW) held in Beijing in 1995. The United Nations sponsored both these events. The definition is as follows [3]:

Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies 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 if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.

It focuses on a woman's right to health and to control her body and fertility. The FWCW further explicitly recognised and reaffirmed of the right of all women to control all aspects of their health. In particular, their fertility as fundamental to their empowerment. It ensures 'equal access' to and 'equal treatment' of women and men in education and health care and enhancement of women's sexual and reproductive health as well as education. The Beijing platform declared "that 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." Free choice of maternity is increasingly recognised as an attribute of private and family life. Its proponents argue that individual may propose (choose) whether, when and how often to have children, they should be free from government control, accountability and coercion.

World Conference on Human Rights, held in Vienna in 1993, recognises the importance of women's appreciation of the highest standard of physical and mental health and their equal rights to access family planning services. Family planning services are essential to women's ability to control their fertility which in turn has far-reaching effects on the realisation of their economic rights and their health, including maternal mortality. As Simone de Beauvoir (2011) accepts, contraception and legal abortion would permit women to undertake their maternities in freedom. The greater availability of abortion has brought increased sexual and economic freedom to those who do not wish to be pregnant. The legalisation of abortion has changed the options open to women who find themselves involuntarily pregnant.

Reproductive rights are human rights; they support the right to control one's reproductive functions. Women's Global Network for Reproductive Rights' (WGNRR) Conference on women and health held in September 1993 in Kampala, Uganda defined reproductive rights as "women's rights to decide whether, when, and how to have children in social, economic, and political conditions that make decisions possible. The right for a woman to make a fertility decision must be possible regardless of nationality, class, ethnicity, race, age, religion, disability, sexuality, or marital status" (Dutting, 1993). Access to reproductive rights includes both abortion needs and the conditions to raise children. Since reproductive rights also mean the right to access to free and safe contraception and abortion, proponents of abortion argue that the availability of contraception and abortion have brought increased sexual and economic freedom to those who do not wish to be pregnant. Tangri (1976), taking the feminist perspective, argues,

...the interests of women themselves should be paramount in the area of fertility. This means not only the women should have the major control over population programs but also that the most important goal of such programs should be to give women control over their own bodies and reproductive capacities.

International human rights activists agree, with few exceptions, that women's access to contraception is an essential ingredient of their well-being, both because of reproductive control and because of AIDS. Women liberation movement started a movement to spread awareness about the responsibility of men in the matter of contraception. Use of condom protects from sexually transmitted disease including HIV/AIDs; it has no side effect and is also cheap and reliable contraception, sterilisation for men compared to women, is too simple, and has a lesser side effect (Moen, 1981).

Nevertheless, men neither prefer to use condom nor wish to sterilise themselves. Consequently, a woman has to carry the responsibility of choosing a contraception technique for herself. It also seems plausible that unimpeded access to contraception is the fundamental human rights of woman. It is especially urgent to protect the right for women who have no economic or social alternative to marriage and no resource against enforced intercourse within it (Nussbaum, 1999, p. 101). To be assured of control over reproduction, women must have economic independence, the freedom to bear or not to bear children regardless of marital status and power over the means of controlling reproduction. For Elisabeth Porter (1994), reproductive rights are part of reproductive freedoms that affirm ideals of equality and autonomy. Given women's body, sexuality and reproductive potential, reproductive rights affirm equality as an extension of the principle of bodily integrity and self-determination. Given the social position of women, a defence of autonomy is essential. Insofar as women are not only responsible for pregnancy but also usually for the care of children, women must be the ones who ultimately decide on contraception, abortion and childbearing.

In other words, complete control over one's body is an integral part of being an individual with rights. The right to bodily integrity means the right to security in and control over one's body. Bodily integrity includes a woman's right not to be alienated from her sexual and reproductive capacity (e.g. through coerced sex or marriage, genital mutilation, denial of access to birth control, sterilisation without informed consent etc.). Despite these given natural facts, women should be given the freedom to make their own decisions - against or in favour of abortion. Morality and immorality are highly contextualised and provide the meaning in varieties according to given situations. In light of this, women should be given the freedom to make their own decision, whether right or wrong for others or in her given condition. A woman should have the right to decide whether or not in her case abortion should be performed; each woman should have the right to abortion by appeal to the moral right. To determine whether to abort or to bear the child, irrespective of the fact whether it is a right or wrong decision, the woman should get to exercise the right to decide (Markowitz, 1990; Cudd, 1990).

A woman, as a free being, should have the right for the availability of abortion and choice to accept or reject the unintended pregnancy. They should be free to make decisions concerning themselves. The time has come to make reproductive autonomy genuine human rights and to set standards for its enforcement. The decision should be left, finally, up to the women themselves. The woman should be allowed to make her own moral choice on abortion and be allowed to implement that choice. A woman if granted the desired legal freedom to make her own abortion decision, should go about making that decision. It is reasonable and legitimate to say that a woman should be left free to decide on the light of her values.

Women should not be denied to take their own decision either in favour or against to the abortion; otherwise, the decisions of birth will be imposed on them without considering their will to give birth to the child. Abortion is a woman's fundamental and inalienable right to limit her reproduction. So the denial of abortion also infringes upon women's right to liberty, self-determination and physical integrity. Unintended pregnancy and childbirth are only the beginning of the hardships caused by the denial of abortion (Moller, 2011). For

example, in the case of a woman who has conceived as a result of rape, here the unborn child has not been brought into existence by any voluntary action of her. If one forbids the abortion one infringes the liberty of the mother. If we stop women termination their pregnancy according to their needs (personal & social), we are offending against the other principle requiring us to preserve liberty or choice (Hare, 1989).

By considering the natural facts that of women's reproductive capacity, one should consider their individuality in respect of human dignity. Women's right is related to their human dignity, freedom and choice. Pride is an intrinsic part of being human. It cannot be destroyed by compulsory pregnancy. Human dignity is the kind of inherent worth which attaches to a human being in his capacity of being a responsible person (Spiegelberg, 1971). As individual life's dignity has moral quality, there is a need to relate the respect of women without losing their respectful treatment.

According to Martha Nussbaum (1999, p. 5), human beings have the dignity that deserves respect from laws and social institution. The idea of human dignity is usually taken to involve a presumption of equal worth. It is connected to a picture of liberty to respect the equivalent value of persons, among other things, to promote their ability to fashion their life following their view of what is most profound and most important. On gender ground, women are widely marginalised in considering their opinion about such decisions. Despite being human, women are treated unequal class having dignity; they do not feel sure to be respected as free self determine, decision-making agent. We find that human dignity is frequently violated on the grounds of sex or sexuality. Many women all over the world find themselves treated unequally concerning employment badly safety and integrity, essential nutrition and health care, education, and political voice in many cases these hardships are caused by their being women. In many cases, laws and institutions construct perpetuate these inequalities (Ibid.).

In society, we commonly observe that woman's rights do not consider despite their natural privileged of reproductive character. Their freedom is denied in the name of virginity, the sanity of marriage life and other social and different cultural tradition. Under these circumstances, women need to hold their firm opinion about the decision and give them the right to decide what best for them. Abortion decision also related to personal morality, including quality of life, freedom and responsibility. However, the goals and self-interest will have no trouble solving the moral problem in such cases. Daniel Callahan (1972, p. 493) recommends that abortion decision should be left to the women. It is a personal decision and women are capable enough to make their own moral choice. So enforced pregnancy and unwanted children are against the women's freedom. Women should be allowed to have full and free control of their reproductive lives. The word 'allowed' may be contested. Whether women should be 'allowed' to stand in the way of their happiness or not is another question to ponder.

We criticise that system in which women are used only as sexual object and machinery for reproduction. So emancipation of women is not complete until women are free to avoid unwanted pregnancy. Otherwise, women will be remaining as part of these needless forms of slavery dependency and merely the subordinate. Lawrence Lader (1966, p. 167; 1973, p. 16) suggests avoiding the unwanted pressure on women, to continue the pregnancy is the blind following of the process. There should be the legal provision for the abortion to

maintain freedom for them. It is only the remedy and just inevitable answer to the quest for feminine freedom. All other solutions will merely the fact of compromisation.

Indian Situation

New means of contraception and new technology have encouraged women towards liberation. In patriarchal Indian society, womanhood, wifehood and motherhood are constructed as an ideal way that is obstructive for women empowerment. In the process of the perfect mother, this fact is rejected that she is also a person. Even on the name of freedom from unwanted pregnancy, the nasty tendency of female foeticide has an increase in society that is obstructive for women's liberation, gender equality and empowerment.

In India, Medical Termination of Pregnancy Act, 1971, provides legal permission for an abortion. India was one of the first countries to adopt population control policy among countries. Here, women, impoverished women, were targeted for many, well-known population control activities from 'family planning' to 'family welfare' and now 'reproductive health'. The right to abortion has never been at the centre of much debate since it is seen as a measure to control population growth. Family planning has been a central focus of governmental programmes for economic development. Population control policies tend to be coercive toward poor women. During the Internal Emergency of 1975-77, the government carried out this policy led the government to target women as an object of family planning policies gradually. It was a violation of women's reproductive rights.

The International Conference on Population and Development (ICPD), Cairo, 1994, Chapter 7 integrates language from previous international instruments to define 'reproductive rights' as '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'; 'the right to attain the highest standard of sexual and reproductive health'; and the 'right to make decisions concerning reproduction free of discrimination, coercion and violence' (Neidell, 1998). Just what does 'freely' and 'responsibly' mean? A violation of reproductive rights has taken place because the element of coercion is so clear. However, how should the international community respond to more ambiguous policies, such as China's one-child policy, or India's use of economic incentives to encourage sterilisation? Can a government take steps to ensure that its subjects exercise their right to reproductive decision making 'responsibly'?

In India, the medical technologies which offer to detect the abnormalities of the fetus, it is suspected that the real aim is to discover the sex of the fetus. It intends to 'misuse' the facility of such technologies. In a society where value is given to sons, daughters have been aborted as a result of such tests. Whose choice would that have been? Some women may have been pressurised into abortions by husbands or their families.

Moreover, some late abortions are painful and inevitably distressing procedures. Others may have made a choice themselves because they wanted to bear a son and felt no direct pressure from others, but it would be difficult to call such a choice 'free' when it results from the low value put on women. Are such women ultimately better off for the availability of more excellent choice? It is certainly questionable. What then does the 'reproductive right' mean for the oppressed? If we question whether the right to choose has

been genuinely exercised when a woman decides to abort a female fetus because of the more value put on sons.

However, decisions to abort are shaped by factors like the stigma of illegitimacy, a lack of social facilities for child care, and economic constraints. Women who abort a female fetus should not be punished at all. This stand is justified because women who choose this option are not exercising their free will but have been indirectly influenced by the prevailing social ethos or compelled to act by husbands and family. Sex-selection challenges the concept of reproductive rights. Pro-sex-selection argues that women have the right to test and get rid of an unwanted pregnancy. Nevertheless, if in society, women are treated as inhuman due to their failure to born a son; it cannot be regarded as a choice. Sex selection abortion cannot be considered as free choice in which a woman uses her will.

To declare sex selection as a crime is not the only step that will stop violence against women, it is necessary to affirm some substantial changes. There is a need to change all norms and practices which ascribe a second position to women, that is laws regarding unequal distribution of property, limited opportunities of education and employment, the structure of a family or caste. Philosophical dilemmas arise when abortion is considered a right which women who select to abort female fetuses must be denied. The limits to and precarious nature of the right to abortion in India are shown to be circumscribed by medical discretion and balanced on patriarchal assumptions. A pregnant woman cannot avoid explaining to avail of abortion. She cannot merely state that it is an unwanted pregnancy. She is required to furnished explanations to fit into the conditions listed in the act. However, today also, most women do not have access to safe abortion services. Legalised abortion services are not readily available, and women have to try to abort their pregnancy by unsafe means. Illegal abortion is one of the main reasons for detonating health and death of women. Throughout the world, millions of unsafe abortions are performed. And, due to unsafe abortions in India, thousands of women die every year. Women's movement for abortion rights is a struggle for safe abortion for women and also spreads awareness among women about the dangers of unsafe abortion. If we provide safe and reliable contraception to women, including girls, it may help reduce the demand for abortion. Inexpensive, effective contraceptives must be available, and their use must be promoted in society.

Conclusion

A woman cannot have full rights over her own body in the presence of unequal gender relation. For this, there is a need for radical changes in men and women relationship. An effective way to handle issues regarding reproductive health and rights in family, at the state level will be if the perspective of women is considered as a broad reference while ascertaining their need. Same way at the policy level, this issue may be significant when policy-makers consider the interrelation between public health and social-economical situations. Legal rights cannot guarantee justice; neither can they guarantee real freedom or equality. Unless our society is fundamentally changed, only a few women will be able to make a choice that is not determined by their economic situation. Hence, except for those fortunate few, the legal freedom to decide whether or not to abort will not result in genuine freedom of choice. Thus, women's rights will not be equal. Without the right of reproductive choice, each of the other social and economic rights has only limited power to advance the well-being of women.

The struggle of Indian women's reproductive rights has to inter beyond their reproductive freedom into the sphere of social, political and economic rights. In the battle for the right to abortion for women, it is believed that to abort a female fetus after selecting sex is a violation against the female sex. We should try to change the material situation of society that results in females becoming 'unwanted being' in society. Nevertheless, motherhood should be voluntary and not because of any external pressure, and women should not be forced to kill their potential daughters either. So, abortion must be available to women who want it, while selective abortion of female fetuses must be stopped.

Notes

- [1] For WHO's principles which are set out in the preamble to their Constitution, see <https://www.who.int/about/who-we-are/constitution>
- [2] For UDHR, see <https://www.un.org/en/universal-declaration-human-rights/>
- [3] Definition of the 'Reproductive Health' given by the *United Nations Fourth World Conference on Women* retrieved from <https://www.un.org/womenwatch/daw/beijing/platform/health.htm>

References

- Beauvoir, S. d. (2011). *The Second Sex*. United Kingdom: Vintage.
- Callahan, D. (1972). *Abortion: Law, Choice and Morality*. United Kingdom: Macmillan.
- Chandiramani, R. (2007). Why Affirm Sexuality? *Arrows for Change: Women's, Gender and Rights Perspectives in Health Policies and Programmes*, 13(2), 1-12.
- Cudd, A. (1990). Sensationalized Philosophy: A Reply to Marquis's "Why Abortion is Immoral". *The Journal of Philosophy*, 87(5), 262-264.
- Dutting, G. (1993). The concept of reproductive rights: reflections from experiences. *Newsletter (Women's Global Network on Reproductive Rights)*, (44), 2-3.
- Hare, R. (1989). A Kantian Approach to Abortion. *Social Theory and Practice*, 15(1), 1-14.
- Lader, L. (1966). *Abortion*. Boston: Beacon Press, 1966.
- Lader, L. (1973). *Abortion II: Making the revolution*. Boston: Beacon Press.
- Markowitz, S. (1990). Abortion and Feminism. *Social Theory and Practice*, 16(1), 1-17.
- Moen, E. (1981). Women's Rights and Reproductive Freedom. *Human Rights Quarterly*, 3(2), 53-60.
- Moller, D. (2011). Abortion and Moral Risk. *Philosophy*, 86(337), 425-443.

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- Neidell, S. (1998). Women's Empowerment as a Public Problem: A Case Study of the 1994 International Conference on Population and Development. *Population Research and Policy Review*, 17(3), 247-260.
- Nussbaum, M. C. (1999). *Sex and Social Justice*. Oxford University Press.
- Porter, E. (1994). Abortion Ethics: Rights and Responsibilities. *Hypatia*, 9(3), 66-87.
- Raup, C. (2010, June 10). Abortion. *The Embryo Project Encyclopedia*. Retrieved from <https://embryo.asu.edu/pages/abortion>
- Spiegelberg, H. (1971). Human Dignity: A Challenge to Contemporary Philosophy. *The Philosophy Forum*, 9(1-2), 39-64.
- Tangri, S. S. (1976). A Feminist Perspective on Some Ethical Issues in Population Programs. *Signs*, 1(4), 895-904.