

**Mandates of the Working Group on the issue of discrimination against women in law and in practice; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences**

REFERENCE: AL  
IND 3/2015:

11 March 2015

Dear Mr. Reddy,

We have the honour to address you in our capacities as Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 23/7, 24/6, 25/13, and 23/25.

In this connection, we would like to bring to the attention of your Government information we have received concerning allegations of the establishment of **substandard and unsafe sterilisation camps which resulted in the deaths of 13 women and the critical condition of 70 others in the state of Chhattisgarh.**

According to information received:

Female sterilisation camps are routinely established in India under state policies and programs that set targets for female sterilisations and are funded through the country's national health program. Following a 2005 court case, the Supreme Court ordered state governments to regulate healthcare providers who perform sterilisation procedures and to compensate women who suffer complications due to substandard care and the families of the women who die from botched operations. Accordingly, in 2006 and 2008, the Central Government adopted national sterilisation guidelines and standards, however reports of substandard care, abuse, and discrimination in sterilisation camps remain widespread. Between 2010 and 2013, there was a monthly average of 14 deaths, 20 cases of complications and 541 failed surgeries across the country following sterilisation procedures.

On 8 and 10 November 2014, 13 young women died and scores more experienced grave medical complications as a result of substandard conditions in government-sponsored sterilisation camps in the State of Chhattisgarh. The camps targeted women from social-economically marginalised communities who already had children and wanted to prevent further pregnancies.

The State Government of Chhattisgarh sponsored four sterilisation camps in November 2014 in Takhatpur Block in Sakri, Bilaspur District. It is reported that in the largest camps, a single doctor operated on 83 women in less than three hours. The camp was located in the Namichand Jain Hospital and Research centre, a non-functional health facility that has been abandoned for many years. Within 24 hours of undergoing the procedure, almost all of the women started experiencing complications, including low blood pressure, repeated vomiting, burning in the throat, and abdominal pain. For 13 of these women these complications resulted in death, while others remained in critical conditions requiring further medical treatment.

According to reports received, in the camps, sterilisations were conducted without the free and informed consent of the women. There was no provision of alternative means of contraception to sterilisation, and an absence of prior specific counselling. Women in Chhattisgarh seeking to avoid future unwanted pregnancies were ‘motivated’ by government health workers to undergo sterilisation, without being provided information on the risks associated with sterilisation and alternative methods of contraception available. Further, Camp officials did not read consent forms aloud to women who could not read, asked women to sign blank sheets of paper, and denied women adequate time to read the forms.

One of the women who died was a 22 year old mother of two. She had been sick with jaundice for a month so when a health worker visited and told her that she could go to the local health centre for treatment, she readily agreed. The health worker accompanied her to the camp. Her husband was handed a blank form to sign. She thought that she was going to receive treatment for jaundice, but was in fact sterilised. A day after the surgery she started vomiting and sought treatment at a local health centre. The medical staff referred her to the Bilaspur District Hospital, which was a three-hour drive away. She died on the way to the hospital.

Another victim was a 24 year old mother of two. She and her husband decided to have the sterilisation because of their economic condition and because the local health worker had told them it was best to have a small family. Upon arrival at the camp they were handed a consent form, which neither of them had time to read. Following the procedure she was in pain and repeatedly vomited for 48 hours. She died on the way to the hospital.

Officials in Chhattisgarh permitted the camps to be held in a health facility without beds, with broken window panes and filthy rooms and corridors covered

with dust, termites and cobwebs, and surrounded by piles of biomedical waste and resting equipment. The camp officials allowed 83 women to be sterilised by a single surgeon using only one laparoscope. According to national sterilisation standards, one surgeon may perform a maximum of 30 procedures a day with three different laparoscopes. It is reported that the surgeon operated on a woman everyone to one-and-a-half minutes. The standards require procedures at an interval of at least five to six minutes. Further, basic infection prevention practices were not observed as evidenced by the failure to properly disinfect the operating room prior to the procedures, and the failure to change gloves or sterilise instruments between the procedures. This is in breach of the Central Government's Infection Prevention Protocols.

There were further violations of post-operative care standards. Chhattisgarh officials breached standards requiring a shift from laparoscopic sterilisation to a less invasive procedure known as minilap, to reduce the post-operative distress experienced by women. Additionally, following the women were placed on the floor and discharged as early as half an hour after the procedure without having been seen by a doctor and without being provided with copies of their medical records. Central Government standards require a separate recovery room, discharge only after at least four hours from the conclusion of the procedure and evaluation by the doctor. It further requires the provision of a discharge card with written and verbal post-operative instructions. Such a discharge card was not provided.

In Chhattisgarh, the District Quality Assurance Committee is tasked to monitor the quality of care in sterilisation camps. However, it is reported that, As of 10 November 2014, the members of the Committee had never met and never conducted any inspections of the camps. In addition, the lack of a camp manager and site medical office to ensure the quality of care received by the women violated the national quality assurance standards for sterilisations.

The Government of Chhattisgarh actively promotes sterilisation as the principal method of family planning, with state policies providing incentives for sterilisation and none for other contraceptive methods. While the Central Government has committed to a target-free approach to sterilisation numbers, the Chhattisgarh Programme Implementation Plan promotes 'expected levels of achievement' which outline the annual sterilisation targets that must be reached by the State. The Central Government hands out awards to providers who meet a certain number of sterilisations. The doctor who performed the sterilisations in the camps on 8 and 10 November 2014 received one such award for conduction over 100,000 sterilisations.

The incentives for women to undergo sterilisations are disproportionately targeted at marginalised communities. Compensation money is used to lure women to camps where mass sterilisations are performed in substandard and unsafe conditions. It is mostly poor women who come to these camps since the

sterilisation is performed for free and compensation money is offered. The women who attended the sterilisation camps on 8 and 10 November 2014 were reportedly provided with compensation money of 600 rupees.

It is reported that the ciprofloxacin tablets given to the women post-surgery were contaminated, however post-mortem examinations conducted in two hospitals have found that in at least the first seven cases, women had developed infections either during or after the operation that may have led to septicaemia resulting in their death.

The government has paid compensation to the families of the victims and promised to provide free health care and education to their children. The doctor responsible has been arrested and is facing charges of negligence and attempted culpable homicide.

While we do not wish to prejudge the accuracy of these allegations, grave concern is expressed at the reported unsafe, substandard and unethical practice of sterilisation of women in the state of Chhattisgarh resulting in deaths and medical complications, which would imply a failure to ensure the quality of healthcare provided, and a lack of compliance with national standards concerning sterilisation procedures. In addition, this practice goes against the right to life, to be free from torture, cruel, inhuman and degrading treatment, and the right to the highest attainable standard of health for all, including sexual and reproductive health and rights, which includes, among other interventions, the provision of high-quality contraceptive information and services.

In connection with the above mentioned facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide details of measures taken to ensure that sterilisation procedures are conducted in accordance with international and national standards.
4. Please provide details of measure taken to ensure everyone who undergoes a sterilisation procedure has given their full and informed consent.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any persons responsible for the alleged violations.

Your Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Mr. Reddy, the assurances of our highest consideration.

Emna Aouij

Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice

Dainius Pūras

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

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## **Annex**

### **Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to refer your Government to the International Covenant on Economic, Social and Cultural Rights, acceded by India on 10 April 1979, and in particular to article 12 which provides that States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

In this connection, we would like to refer your Government to General Comment 14 of the Committee on Economic, Social and Cultural Rights, which indicates that States are under the obligation to respect the right to health by, *inter alia*, abstaining from imposing discriminatory practices relating to women's health status and needs, and that reproductive health means that women and men have the right to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice. Regarding the above alleged facts and concerns, we would also like to underline that safeguarding an individual's ability to exercise informed consent in health, and protecting individuals against abuses is fundamental to protecting these rights (A/64/272, para. 19).

The right to health of women is reflected in the Convention on the Elimination of All Forms of Discrimination against Women, to which India acceded on 8 July 1993. According to article 12 of the Convention, States should take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning. Article 16 (1) of the Convention further holds that States should take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular should ensure, on a basis of equality of men and women, the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.

In its latest concluding observations on India (CEDAW/C/IND/CO/4-5), the CEDAW Committee expressed concern at the scant budgetary resources allocated to health services, the disparities in maternal health care, including between urban and rural areas, the limited availability and accessibility of modern forms of contraception, including emergency contraception to prevent unwanted pregnancy, the lack of information and education on reproductive and sexual health, conditional maternity benefits that exclude some women and the lack of a mechanism for universal and accurate reporting of maternal deaths. It urged the Government to review reproductive health policies to make them more inclusive, with a view to increasing high-quality maternal health services and that they effectively cover urban and rural areas. It also urged India to adopt a policy for mandatory and accurate reporting of maternal deaths, irrespective of whether the deaths occur in public or private health facilities, homes or on the way to a health facility, and to establish a system to monitor the delivery of transparent health-care services effectively.

In connection with the above alleged facts and concerns, we deem it appropriate to make reference to the Commission on Human Rights Resolution 2005/41 on the Elimination on Violence against women, which provides that women should be empowered to protect themselves against violence and, in this regard, stresses that women have the 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. In this context, we would also like to draw your attention to the Platform for Action of the Beijing World Conference on Women and the Programme of Action of the Cairo International Conference on Population and Development, which reaffirm 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.

We would like to underline that violence and violations of women's reproductive health may result either from direct State action, via harmful reproductive policies, or from State failure to meet its core obligations to promote the empowerment of women. Direct State action violative of women's reproductive rights can be found, for example, in government regulation of population size, which can violate the liberty and security of the person if the regulation results in compelled sterilization and coerced abortion or in criminal sanctions against contraception, voluntary sterilization and abortion. State failure to meet its core obligations, on the other hand, can be found, for example, in a failure to effectively implement laws, which thus leaves women more vulnerable to numerous forms of violence perpetrated by private individuals and institutions (E/CN.4/1999/68/Add.4, para. 44). States should take appropriate measures to monitor reproductive health services and ensure that these services are offered without any form of discrimination, coercion or violence, and that information disseminated by health workers is comprehensive and objective (Ibid, para. 88).

In this context, we wish to draw the attention of your Government to article 4 (c) and article 4 (d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms. (Adopted by General Assembly resolution 48/104 on 20 December 1993).

International, regional and national legislative and human rights bodies are increasingly applying a human rights approach to contraceptive information and services. They recommend, among other actions, that States ensure timely and affordable access to good quality sexual and reproductive health information and services, including

contraception, which should be delivered in a way that ensures fully informed decision making, respects dignity, autonomy, privacy and confidentiality, and is sensitive to individuals' needs and perspectives.

In this connection, WHO recommends, that there be no discrimination in the provision of contraceptive information and services, and that that access to comprehensive contraceptive information and services be provided equally to everyone voluntarily, free of discrimination, coercion or violence, and be based on individual choice. Regarding informed decision-making, WHO recommends the offer of evidence-based, comprehensive contraceptive information, education and counselling to ensure informed choice. Recommend every individual is ensured the opportunity to make an informed choice for their own use of modern contraception (including a range of emergency, short-acting, long-acting and permanent methods) without discrimination.<sup>1</sup>

Regarding concerns that the practice of sterilisation of women in the state of Chhattisgarh would go against the right to be free from torture, cruel, inhuman or degrading treatment or punishment, we would like to remind your Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which India signed on 14 October 1997, and article 7 of the International Covenant on Civil and Political Rights, (ICCPR), acceded by India on 10 April 1979.

We would also like to draw the attention of your Government to paragraph 2 of General Comment No. 20 of the Human Rights Committee, which provides that is the duty States party to afford everyone protection through legislative and other measures as may be necessary against the acts of torture and ill-treatment, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity. (Adopted at the 44th session of the Human Rights Committee, 1992).

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<sup>1</sup> WHO Guidance and recommendations for ensuring human rights in the provision of contraceptive information and services (2014).