

## **Compensation for Female Sterilisation Victims**

### **--CUTS' Successful Advocacy**

*The aftermaths of sterilisation operations under the National Family Planning Programme like complications and deaths brought into focus the sheer medical negligence in Rajasthan. When the issue of 44 deaths in one year echoed in the Rajasthan Assembly in 1988, CUTS initiated a sustain advocacy campaign – from highlighting the issue to studying its causes and filing public interest litigations against the mistreatment, meagre compensation of Rs 10,000 to educating the people on family planning and advocating with the government to stop targeting. While some successes took place along the campaign, a major success was achieved in 2006, when the Government of India raised the compensation to Rs 200,000 under an insurance cover.*

### **Medial Negligence during Sterilisation**

Between 1986 and 1989, medical negligence in sterilisation operations under the National Family Planning Programme, caused many women and their families to pay a very heavy price in Rajasthan. Due to sheer negligence in these operations, there were many fatalities and morbidities. Cases of Suman Sethia, Geeta Rawal, Mohini, Manbhari were some of the known victims of medical negligence that were brought into focus by CUTS. While the unfortunate women died, leaving behind a trail of problems for their families, their small children grew up motherless.

### **Uproar in the Assembly**

The issue was highlighted in the Rajasthan State Legislative Assembly in the summer of 1988 when Pushpa Jain and two other MLAs, demanded an enquiry on the number of deaths under the programme. At this, the Assembly witnessed a pandemonium when it reported 44 confirmed deaths, a figure which was higher than the acceptable benchmark created by the WHO. Shiv Charan Mathur, the then Chief Minister of the state, accepted the lapses during operation. However, what was more disappointing was a meagre compensation of only Rs 10,000 that was offered to the next of the kin, but no compensation was paid to the 'living dead' i.e. morbid cases.

### **CUTS Intervention**

In the face of growing number of such incidents, CUTS took up the gauntlet by initiating sustained advocacy on the issue and extending a helping hand to the victims. First of all, CUTS gathered complete information about all such incidents, including data from other states where this programme was being implemented. After a thorough analysis, the reasons responsible for the tragedy that made the population control programme a big failure were found to include: forced sterilization; policy of pressuring volunteers; unrealistic aims of the government; temptation of reward; lack of proper medical equipment, and medical negligence.

Apart from the above reasons, we found that in the male-dominated society, women were forced to go for sterilisation though male sterilisation was safer and feasible. Males had a common belief that sterilisation would weaken their sexual prowess and other abilities, hence, they were reluctant to undergo such operations.

### **Advocacy and PIL in the High Court**

While carrying out advocacy for the victims, not only CUTS wrote letters to the concerned government departments, but also through articles and press releases, it sensitised the people and government. CUTS' advocacy focused on reducing targeting for sterilisations that the government had set and giving clear direction to the doctors as well.

CUTS took up the issue of Suman Sethia and Geeta Rawal, who were lodged in the SMS Hospital, Jaipur, at the Rajasthan High Court by filing a Public Interest Litigation (PIL) under Article 21 (Right to life and liberty). Adopting a sympathetic note, the High Court observed that the compensation amount was not in accordance with the damage done and directed the Health and Family Welfare Department to increase the compensation, as well as provide free medical treatment of the victims.

### **CUTS Report and Enquiry Committee**

After preparing a detailed report based on facts and figures, CUTS filed another PIL in the Rajasthan High Court. In retaliation, the Health Department came up with an illogical assertion, “if the sterilised women were paid hefty amount, then their husbands would kill them after the sterilisation and go for another marriage”. At this, the High Court ordered the department to raise the compensation amount to Rs 20,000. The High Court further directed the government to establish enquiry committees on all sterilisation accidents that could occur thereafter, which should also include representatives of the NGOs. Taking a cue from the High Court, the Rajasthan Government created district level Assurance Committees to investigate the complications or deaths after the sterilisation operations.

### **Testing the Consumer Law**

CUTS took the case of another victim Sushila Pareta to the State Consumer Commission under the Consumer Protection Act, 1986, as a test case in the year 1988. The State Commission dismissed the claim by citing that there is no quid pro quo, hence the victim cannot be covered under this law. Then an appeal was filed before the National Commission, where it was argued that since Brij Mohan Pareta, the husband of Sushila Pareta, paid for health care as part of his salary he should be considered as consumer. But the National Commission also dismissed the case. Finally, CUTS filed an appeal before the Supreme Court of India, which while accepting the reasoning provided by the complainant, remanded the case back to the State Commission for further review. Alas, the State Commission dismissed the matter. CUTS filed an appeal against the summary dismissal before the National Commission but that too never came up for hearing, and we were quite exhausted to push the matter. It is a sad story that the victims of medical negligence, committed in government facilities, are yet to be defined as ‘consumers’.

### **Continuing work**

Because of a large number of cases of medical negligence, people generated a fear against the family planning programme. And before the sterilisation camps were put up in the villages, people used to say, “Sterilisation people are coming, please be alert”. It was realised that people need to value the National Family Planning Programme as a national welfare project, and thus CUTS worked towards this end by running awareness generation camps in select areas of Rajasthan, with success. From time to time, CUTS continued to work on the grey areas in the programme and provide valuable suggestions to the Government of India, including how the programme should be implemented in order to elicit the maximum benefits with minimum risks. A CUTS study “*Numbers, at what cost?*” was brought out in the year 2000 to highlight the issues concerning the sterilisation operations. One of the major suggestions in the study was to provide insurance cover to volunteers and medical staff, so that their risks could be covered.

### **And the Success**

Success finally came about in 2006, after a long wait. The Government of India announced a scheme to provide insurance cover to medical staff and victims of sterilisation operations. As a result, the compensation, which was a mere Rs 10,000-20,000, has now gone up to Rs 200,000.