Joint Statement by Jan Swasthya Abhiyan and All India People's Science Network
June 29th, 2020

Ensuring the Right to Healthcare services for Covid-19 and non-Covid-19 Patients

The crisis in healthcare access:

People are facing huge problems in trying to access both Covid-related and non-Covid related healthcare. There are growing reports that in the high incidence States/cities/districts, sick persons with symptoms of Covid-19 infection are reaching designated Covid-19 hospitals, including government hospitals, and being turned away citing multiple reasons. These patients then have to spend hours searching for beds across different hospitals, while facing great difficulty in finding transport. This is leading to long delays, higher costs and many deaths and this is contributing to further spread of the disease.

In parallel, critical healthcare services for maternal, neonatal and child care, communicable and non-communicable diseases including diabetes, cardio-vascular disease, cancer, and mental health, and emergency services have shrunk or been suspended both in the government and private sectors. Patients have been denied treatment for non-Covid health problems unless they came with a Covid test report.

The rates charged by many private sector hospitals are exorbitant. Some States have belatedly introduced price ceilings, which are still too high for most people. Moreover, many private hospitals do not follow this rate regulation and continue to charge higher rates blatantly or by exploiting the loopholes. Some states have used PMJAY packages for treatment however their usage has been very poor. The creation of different classes of treatment facilities for better-off sections and the poor amounts to inequity and denial of access to health care for the poor.

There are also widespread reports of persons with symptoms being denied testing, and instead asked to go into home isolation with poor or no arrangements for follow up. Restrictive ICMR guidelines for testing are hindering the much higher rates of testing required, and several States are deliberately reducing testing in order to hide high growth of cases. Along with this it is also evident that government has failed to design and implement an effective prevention strategy. Prevention messages (masks, distancing etc.) are not getting through or are not possible to follow in certain situations and this is exacerbating the situation.

The build-up to this crisis:

The above crisis must be seen in the background of the current status of the pandemic and government response to the same. The number of Covid- 19 cases in India has crossed 5 lakh cases. This increase is from only 1 lakh cases a mere month ago (May 18th) and 2 lakh cases in the beginning of June. In this same one-month period the total number of deaths, has jumped from 3000 to 13,000 deaths. Daily the number of new cases is over 14,000 and deaths are over 350. There is greater increase and higher growth of cases in some States/Cities. In an increasing number of states/cities, the health system is already flooded while new cases and number of deaths continue to rise.

The extent of preparation of health systems during the extended lockdown period has fallen far short of what is required. Procurement and supply of medical products was delayed and when test

kits and PPEs started to be supplied, they were still not adequately available and there were several complaints about their quality. But the big missed opportunity was in preparing for hospital care. Throughout the lockdown period new beds were not created, and there was no significant hiring of doctors, nurses, laboratory technicians, community health workers and other healthcare workers who were needed. Some states recruited doctors and nurses, but only for a very short time, for few months. Nor was any firm plan made on how to contract or control beds and staff available in the private sector. All that was done was re-purposing existing public hospital beds and staff- by withdrawing other services. The expansion of hospital capacity that could have been done during April and May has begun only now. While most States have lagged in this task, there was no push or guidance from the Central Government, which has taken on overwhelming powers under the National Disaster Management Act.

A false narrative is now being built, especially by the Centre whose example is often followed by several States, that India has one of the lowest per capita case rates and death rates in the world. There are reports of health care workers and media being threatened or persuaded not to report poor performance and conditions in hospitals, poor follow-up leading to higher death rates, poor conditions in quarantine and isolation facilities, and under-testing. All these amount to a denial of health care and treatment. We are seriously concerned that this denial of treatment especially to poor persons is not only a violation of their health rights but is contributing to the spread of infection in the cities, which have rapidly rising rates.

It should also be emphasized that due to a law and order approach to disease containment governments at the Centre and most States are seriously under-performing on the preventive and containment side. While much of this is due to chronic weaknesses of the health care system, there is also a huge problem with lack of direction, hesitation by political and administrative leaders to cede leadership roles to epidemiological and medical professionals, a failure to trust and engage communities and poor access to testing facilities. The example of the densely populated Dharavi, Asia's largest slums, which has seen sharp drop in case rates over recent weeks due to intensive contact tracing, isolation, testing, door-to-door surveillance, and taking the community into confidence shows that the task can be accomplished given requisite will and determination. The option of lockdown, used prematurely and ineffectively is more or less exhausted and is no longer enforceable nor very effective except in smaller areas. In more than 500 districts, mainly the rural areas of the north and east, the pandemic is only beginning, and we can expect to see a rise there leading toa more severe effect on the health system and on patients.

The JSA- AIPSN Demands:

Therefore JSA and AIPSN demand that testing and treatment for Covid-19 and non-Covid illnesses must be reiterated as a basic human right- that is available for all. We also maintain that unless this core obligation is respected and fulfilled, India would fail to control this pandemic,

To implement this we call for a simple legal and administrative guarantee, namely that *any sick patient reaching a public or private hospital with symptoms suggestive of COVID 19 or any other illness must be provided appropriate care and not denied appropriate healthcare.* Implementing such a **right to healthcare for Covid-19 and non-Covid-19 patients** would require in the least the following essential measures:

For non-Covid-19 patients:

i. The government must ensure continuity of essential healthcare services for non-Covid patients while ensuring adequate capacity and services for Covid-19 patients in public hospitals.

ii. In case public hospitals are converted into COVID facilities, a system for referrals must be set up to ensure referral, transport and admission to referral facilities and the full transport and treatment cost must be borne by the government.
iii. The government must ensure that information about operational non-Covid services is made publicly available.
iv. Treatment to non-Covid patients must not be denied or delayed for want of a Covid negative report.

For Covid-19 patients:

i. *If there are no beds available in the designated Covid-19 public hospital to which the patient has come, it would be the duty of that hospital to transfer the patient in a timely manner to the nearest designated government Covid-19 hospital.* If no beds are available at any government Covid-19 hospital, to the nearest private designated Covid-19 hospital where beds and appropriate treatment are available, using Covid-19 designated ambulances. Such patients must be provided necessary care while transfer arrangements are made. It must not be left to the patient to locate and reach an alternative hospital.
ii. *Both treatment and the transfer of Covid-19 patients at Government Hospitals must be free of charges. If* the patient has to be transferred and admitted in the private sector, then all charges of that hospital must be borne or reimbursed by the government. The duty of the government hospital should be not just to refer and transfer patients, but also ensure availability of beds and admission at the hospital where the patient has been transferred. It must be a cashless service for the patient that includes free treatment; food and other essentials and this must be made clear through notifications and also told to patients' families.
iii. *While government must ensure cashless treatment of Covid-19 in the private sector for everyone referred by them, it must set fixed rates for treatment of COVID-19 for people going directly to private hospitals.* The price caps must include treatment for co-morbidities, medicines, PPE and investigations. Many private hospitals have started providing isolation for mild cases and homecare packages at huge fees. The rates for these services also need to be fixed.
iv. *Help Desks should be set up and managed in all designated Covid-19 public hospitals* where persons coming for Covid-19 care are assisted, counseled, registered etc. Help desk would also follow-up if patients are transferred to other facilities. Counselors and social workers of government would manage these help-desks along with paid volunteers of trade unions and civil society organizations who are supported by the government for this purpose. It is essential to also assign empowered and senior officials of the government as nodal persons for real time oversight of public and private hospitals. There must be greater involvement of the government in private treatment, and also for public information (such as bed occupation etc.) to be provided accurately and frequently.
v. *If there is a death due to Covid-19, the designated Covid-19 hospital would make timely arrangements for mortuary*, body bag, sterilization and hearse van for transport to the funeral site. Designated municipal/other functionaries would conduct funeral as per specified procedure.
vi. *The government must maintain, update in real time and display in the public domain* through App/Website and display at each designated Covid-19 hospital (public and private) the number of beds that are available for admission of Covid-19 patients in different categories (free, paid at capped rates, uncapped rates) across the city/district.
vii. Hospitals, public and private, must ensure a dedicated communication channel through which families of admitted patients can get information on status of the patients. Families

must not be forced to travel to hospitals and unnecessarily expose themselves to the risk of infection in order to obtain information on their patient.

viii. *The government should maintain a help-line* where any affected person or patients attendant can contact to find out where a bed is available in public sector or in private sector, nearest to their residence and be able to call in the necessary patient transport vehicle or ambulance that it takes to reach it. The helpline must ensure support to the patients in getting admission and ensure patients are not left running from one hospital to another. The government should also acknowledge and coordinate with district level help-lines run by non-government organizations. Such additional support lines are essential to ensure greater community engagement and greater accountability of government systems. The government should issue a government order or preferably a legal ordinance that makes compliance with the above mandatory.

ix. Wherever necessary as per projections, especially in cities with high and rising case loads, re-purposed stadia or other large buildings, or purpose-built field hospitals for isolation of mild or asymptomatic Covid-19 patients so as to take pressure off the hospital system necessary for moderate and severe patients should be made ready in the next 2 weeks.

x. Where the government has to resort to home isolation or patients insist on the same these must be allowed along with proper, assistance counseling and supervision as indicated below*. In addition, home visits by health personnel to ensure that there is no deterioration in clinical status and to monitor strict quarantine and early detection of disease of others at home would be essential.*

xi. *Strictly implement home quarantine guidelines* for contacts of Covid-19 patients and ensure that governments provide adequate assistance & counseling to persons in home quarantine. A thorough assessment must be done on whether a person is able to quarantine or isolate at home. Institutional quarantine must be insisted upon only after such a thorough assessment.

xii. *Rights of healthcare workers must be protected.* Government should take immediate steps to fill existing vacancies of all cadres of healthcare workers in hospitals to ensure that the existing staff members are not overburdened. Health care workers must receive proper training and PPE for conducting their duties to protect themselves against possible infection.

Other essential measures:

i. *Possible under-reporting and fudging of deaths due to Covid-19* are of great concern. It must be made mandatory for all healthcare facilities to inform about all deaths in Covid-19 patients who have tested positive, as well as in those who have clinical features suggestive of Covid-19 but who have not been tested or test reports are not available. Government hospitals, private hospitals, ambulances, deaths certified as home deaths, deaths in isolation centers and even funeral grounds should inform such deaths to the designated city/district/local authority, as per existing protocols and procedures. This also needs to be done for non-Covid deaths.

ii. *All symptomatic patients should be offered free testing at request* and, if necessary, incentivized to come forward, irrespective of whether they have a contact history. Where symptoms are clearly present, no further prescription should be required. Similarly all healthcare providers, sanitation workers and those on police duty should also be allowed testing at request. Intensified efforts at containment including door-to-door surveillance, contact tracing, monitored home or institutional isolation for 'chasing the virus," along with mitigation measures in hotspots, are necessary in the coming weeks.

iii. *A large number of patients with existing disease conditions*, such as those with chronic illnesses, those needing surgeries, pregnant women etc. are testing positive for Covid-19. This complicates their existing treatment and exposes them to high risk of

complications/death. Any strategy needs to specifically address issues of people who are most at risk.

iv. *Scaling up the numbers of beds, health workers, diagnostics, equipment, medicines are required to deliver on the above rights is feasible for the government to do immediately.* If it had begun at the time of the first lock-down these inputs would have been in place. But at least now these can be readied.

v. *The government must take steps to ensure that blood donors can donate blood* without harassment, long waits and risk of infection. To this effect mobile drug donation camps can be set up from time to time with positive messaging and encouragement to donate blood.

vi. *There is also a need to initiate a major effort at expanding counseling care* particularly for healthcare workers at the front-line, those affected by gender based violence, and to those affected by the disease and their families.

vii. Finally, *all blocks/cities and districts should formulate Covid-19 containment plans* with due approval of the local bodies for effective prevention and full utilization of the health facilities under their jurisdiction both for Covid-19 positive persons and patients suffering from other diseases. We urge the government to learn from earlier errors and gaps and learn from the Kerala model. The major learning from the Kerala model is that active engagement with the community and community-based institutions and local self-governments is essential to prevent spread of the pandemic. Also important learning is the recognition that lockdowns have limited impact, acting at best to delay the rise of cases. Testing for all those who are symptomatic irrespective of contact history, and appropriate testing for all those who have close contact irrespective of symptoms must be the focus. This should be accompanied by people-friendly but strict institutional isolation for those who test positive and quarantine-home or institutional, as circumstances dictate, should be the other core strategy. Active promotion of physical distancing based on public health understanding of how virus spreads instead of unthinking law and order approaches should be the third mandatory strategy.

Covid-19 raises an imperative to reaffirm the commitment to the right to health of the governments, with the right to health providing a framework to prevent, test, treat, and respond to this pandemic across the country. The action on Covid-19 should in no way compromise the right to health care services for non-Covid related essential services. Governments must urgently prioritize strengthening the public health system in rural and urban areas. Governments, both Centre and State must recognize their obligations under the right to health in framing responsibilities. Hence:

- We call upon the government to immediately implement the above measures
- We call on the legal community and civil society organizations to build pressure on the government and move the legal process if necessary so as to bring about the above essential steps
- We call on political parties and workers organizations to unite in protest against the denial of care to people with Covid-19 infection and other conditions.