

A Study on Reproductive Rights and Health of Women in India

RESHMA. P

Independent Researcher

Abstract—In the case of Independent Thought vs. Union of India in the context of reproductive rights of girls SC held, “The human rights of a girl child are very much alive and kicking whether she is married or not and deserve recognition and acceptance”. In general terms, Reproductive rights are the rights of individuals to decide whether to reproduce and have reproductive health. This may include an individual's right to plan a family, terminate a pregnancy, use contraceptives, learn about sex education in public schools, and gain access to reproductive health services. This paper synthesizes about the laws in India which encompasses the reproductive rights, hygiene and health of Woman. The purpose of this research paper is to analyze the importance of women health and policies to safeguard their sexual and reproductive rights and to brief on the challenges faced by the country for the better services.

Key Words—Human Rights, Reproductive Rights, Women Health, Reproductive Hygiene, Public Health.

I. INTRODUCTION

Reproductive Choice of woman is a Fundamental Right encompassed under the umbrella of Article 21 of Indian Constitution. This may include an individual's right to plan a family, terminate a pregnancy, use contraceptives, learn about sex education in public schools and gain access to reproductive health service. However, the sexual and reproductive rights of a woman still remains negligible. Reproductive rights in India are only understood as selective issues like child marriage, female infanticide, sex selection and menstrual health and hygiene. But it also includes as Right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children. It also includes Right to information and means to do so right to highest standard of reproductive health, right to make decisions concerning reproduction free of discrimination, coercion and violence. Empirically, Courts have been at the forefront of expanding, protecting, and promoting reproductive rights.

Reproductive and Sexual Rights are the need of the young minds for the better understanding of themselves and their partner. India has articulated for the commitment of the young people and introduced policies and programs for promoting reproductive and sexual rights. This paper synthesizes about the laws in India which encompasses the reproductive rights, hygiene and health of Woman. The purpose of this research paper is to analyze the importance of women health and policies to safeguard their sexual and reproductive rights and to brief on the challenges faced by the country for the better services.

II. MATERIALS AND METHODS

For this analysis, the data and documents were collected from various sources which includes newspaper articles, google scholar and the verified articles published in the blogs. The data was collected from the various sources and verified for the authenticity.

III. RESULT AND DISCUSSION

Reproductive Rights

The International Conference on Population and Development (1994) Programme of Action defines reproductive health as “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 the 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.”

According to Centre for Reproductive Rights, there are twelve basic Reproductive Rights for a woman which are basic human rights protection. The key fundamental reproductive rights of every woman which includes:

- The Right to Life
- The Right to Liberty and Security of the Person
- The Right to Health
- The Right to Decide the Number and Spacing of Children
- The Right to Consent to Marriage and Equality in Marriage
- The Right to Privacy
- The Right to Equality and Non-Discrimination
- The Right to be Free from Practices that Harm Women and Girls
- The Right to be Free from Torture or Other Cruel, Inhuman, or Degrading Treatment or Punishment
- The Right to be Free from Sexual and Gender-Based Violence
- The Rights to Education and Information
- The Right to Enjoy the Benefits of Scientific Progress

Judicial Recognition of Reproductive right as a fundamental right

There are many occasions where Honorable Supreme Court has interpreted the Right to Health as an integral part of Right to Life.

In Suchita Srivastava and Another vs Chandigarh Administration, the court held that reproductive autonomy is a dimension of personal liberty under Article 21: “It is important to recognize that reproductive choices can be exercised to procreate as well as to abstain from procreating. The crucial consideration is that a woman’s right to privacy, dignity and bodily integrity should be respected. This means that there should be no restriction whatsoever on the exercise of reproductive choices such as a woman’s right to refuse participation in sexual activity or alternatively on the insistence on the use of contraceptive methods. Furthermore, the women are also free to choose birth-control methods such as sterilization procedures. Taken to their logical

conclusions, reproductive rights include a woman’s entitlement to carry a pregnancy to its full term, to give birth and to subsequently raise children.”

Laws to address reproductive health and rights in India

- **Abortion- Medical Termination of Pregnancy, 1971**

Abortion is the ending of a pregnancy by removal or expulsion of an embryo or fetus. An abortion that occurs without intervention is known as a miscarriage or "spontaneous abortion" and occurs in approximately 30% to 50% of pregnancies. 15.6 million abortion happens in a year worldwide.

Law regarding Abortion

Indian Penal Code, Section 312- punishment for causing miscarriage- 3 years of imprisonment for the person who illegally wants termination of pregnancy and 7 years of imprisonment for the women who undergo illegal abortion.

Reasons for legal termination of Pregnancy in India:

- due to physical and mental disability of the women
- due to physical and/or mental disability of the child
- due to the rape
- due to the failure contraception with the married men by her wife

Opinion of the doctor for abortion:

- Termination during 1-12 weeks of pregnancy needs opinion from one doctor
- Termination during 12-20 weeks of pregnancy needs opinion from two doctors

Consent for terminating pregnancy:

- She can give consent for herself
- If the girl is below 18 years, the consent of parents or guardian is valid
- The consent of husband is not mandatory for terminating pregnancy

- **Pre-Conception and Pre-Natal Diagnostic Techniques (Regulation) Act (PCPNDT), 1994**

In India, the urge of having male child rather than female child was high and abortion of female child were in practise predominantly. To stop or eradicate such practice from our country, the Government of India launched PCPNDT Act in 1994 and amended in the year 2002.

Punishment for misusing the provisions of this Act:

- imprisonment up to 3 years and fine of Rs.10,000 for the first offence

- imprisonment up to 5 years and fine of Rs.50,000 for subsequent offence
- Doctor's licence will be suspended from medical practice for 2 years for the first offence
- Doctor's licence will be suspended from medical practice permanently for the subsequent offence

IV. CHALLENGES

- According to World Bank and UNICEF India data, India has the highest Maternal rate compared to others countries. The country does witness around 45,000 maternal deaths every year. Researchers states that every 12 minutes, India does count a maternal death.
- The third leading reason for the highest maternal rate is Unsafe Abortion. Researchers report that one third of pregnancies are unintended and this is the reason for abortion. The researchers' data states that 22% of the abortion does takes place through public or private institutions.
- In India, there is a preference of male child rather than female child which leads to female infanticide and female foeticide. In this case, the women are not concerned and their consent is not taken as priority to continue with the pregnancy or termination of pregnancy.
- In some cases, the termination of pregnancy with the women's choice is not allowed. Doctors ask for concern from the women's parents and/or husband. The Law does state that the concern of the women is all enough for the termination of pregnancy. This leads women to search for unsafe abortion centers, particularly public hospitals, and stigma and attitudes toward women, especially young, unmarried women seeking abortion, contribute to this.
- According to the Medical Termination of Pregnancy Act (1971), the termination of pregnancy is allowed up to 20 weeks. In case of termination after 20 weeks, the women should should get permission from medical board and judiciaries. The Law does not think about the non-medical problems of the couple like economic costs of raising a child, effects on career decisions, or any other personal considerations.

V. CONCLUSION

As in the words of Swami Vivekananda "It is impossible to think about the welfare of the world

unless the condition of women is improved. It is impossible for a bird to fly on only one wing." Sexual and reproductive rights in India must include:

- a concern with maternal deaths,
- access to maternal care,
- access to contraceptives,
- recognition of adolescent sexuality,
- prohibition of forced medical procedures such as forced sterilizations,
- removal of stigma and discrimination against women, girls and LGBTI persons on the basis of their gender, sexuality and access to treatment,
- Access to legal and safe abortion

The responsibility also lies with civil society and development actors to bring up these issues for public debate and in demands.

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