



## WOMEN'S REPRODUCTIVE NATURE AND RIGHT IN INDIA

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### ABSTRACT

Women in the world is known as a great valuable property and creature their role is playing vital and significant role in procuring, begetting, preserving and protecting the entire human race. To all the creatures women have been foundation and founder in terms of giving shape, image, life, career, needs, life and other needful things. Their birth gives succeeding birth, life and human beings without an end, this is a miracle and marvelous things are happening consecutively and continuously in this world atmosphere since beginning of the ecosystem and ecological system. Among the much more wonders in this world women have been as an eternal and everlasting wonder in the global and social history thereby all types of growth, improvement, development and important are happening in nook and corner of the world system, other hand global nothing else unless women role, in next way there is no meaning in all persons life unless women has reproductive system, this system leads global political, economics, society and other things in a proper and structured ways. In this aspect women are meant one of the strong base and place of the social system from which all needs, happiness, necessities and fundamental things are emerged out to meet all human beings needs. On other hand women are meant or understood by all the male people as water and male as a earth, both are depending on each other until the age of this world, through which men are able to grow and attain success in their life to develop entire family system. Both men and women are being in soil as a coeternal and coefficient toward creating and establishing a family system. By their cooperative presence all types of feelings, emotions, ambitions, happiness growth, development, civil system, ethical characters and moral behaviors are taking places in the social ambit.

**KEYWORDS: WOMEN, LIFE, CAREER, REPRODUCTIVE LAW, RISKY, NATURE, NATURAL RESPONSIBILITY.**

### IMPORTANT OF REPRODUCTIVE SYSTEM

World has been composed and filled by the collections of trees, forest, flora, fauna, earth, mountain and rivers this is a gift and offers of the natural system (god) wherein all needs and necessities are attained and harvested by the human beings without any flaw and shortages. In this wonderful scene and pictures women have been as asset of the entire ecosystem which generates, reproduce and causes lot of human beings for attain their need in the god given gifts and also enabling them search their needs in the god given fossils and archives of the nature. Reproductive system is not belonging to any law which was established by the any country but it belongs to natural law, duty, liability and responsibility of the women to beget the children according to the god made natural law. An original, actual and factual duty of the men and women duty in this world are given by the god by birth itself than established by any law because responsibilities, duties, commitments and other sincere works are derived from natural law or god given law thereby entire system has been directed and governed properly without any miss directions and wrong directions. For the human being life, happiness, promotion, sentiments and other success this reproductive system of the women have been one of the unforgettable element. Women is known as a initiative and destructive one of the human being life because, all items are beginning from there and all persons are surrendering

there without an alternative ways because this is god made law where global system starts and ends. world is nothing but except having gravitations of the both male and female whose gravitations are fetching all types of success and benefits which both male and female have to respect each other to make success in their life. Reproductive system is a word which deeply touches about generating nature and producing characters of the women to protect men life in the social system.

Historically, the reproductive rights movement in the U.S. has seen many controversies due to the moral, ethical, and religious undertones of birth control, abortion, and family planning. Today, the subject of reproductive rights continues to be an emotionally and politically charged issue, especially in light of new technologies and recent laws.

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, 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 RIGHTS IN INDIA: THE CURRENT SITUATION

Although India was among the first countries in the world to develop legal and policy frameworks guaranteeing access to abortion and contraception, women and girls continue to experience significant barriers to full enjoyment of their reproductive rights, including poor quality health services and denials of women's and girls' decision-making authority.

Historically, reproductive health-related laws and policies in India have failed to take a women's rights based approach, instead focusing on demographic targets, such as population control, while also implicitly or explicitly undermining women's reproductive autonomy through discriminatory provisions such as spousal consent requirements for access to reproductive health services. Despite a national law penalizing marriages of girls below 18 years of age and policies and schemes guaranteeing women maternal healthcare, in practice India continues to account for the highest number of child marriages and 20% of all maternal deaths globally.

Although India's National Population Policy guarantees women voluntary access to the full range of contraceptive methods, in practice state governments continue to introduce schemes promoting female sterilization, including through targets, leading to coercion, risky substandard sterilization procedures, and denial of access to non-permanent methods.

Also, courts in India have an important role to play in ensuring women's reproductive rights as guaranteed by their constitutional and human rights.

## ABORTION AND REPRODUCTIVE AUTONOMY

The Puttaswamy judgment specifically recognized the constitutional right of women to make reproductive choices, as a part of personal liberty under Article 21 of the Indian Constitution. The bench also reiterated the position adopted by a three-judge bench in *Suchita Srivastava v Chandigarh Administration* which held that reproductive rights include a woman's entitlement to carry a pregnancy to its full term, to give birth, and to subsequently raise children; and that these rights form part of a woman's right to privacy, dignity, and bodily integrity. Reproductive rights are essential to the realization of all human rights. They encompass a spectrum of civil, political, economic, and social rights, from the rights to health and life, to the rights to equality and non-discrimination, privacy, information, and to be free from torture or ill-treatment. States' obligations to guarantee these rights require that women and girls not only have access to comprehensive reproductive health information and services but also that they experience positive reproductive health outcomes such as lower rates of unsafe abortion and maternal mortality and the opportunity to make fully informed decisions free from violence, discrimination, and coercion about their sexuality and reproduction.

Violations of reproductive rights disproportionately harm women due to their capacity to become pregnant and legal protection of these rights as human rights is critical to enable gender justice and the equality of women. The Constitution of India recognizes many of these same rights as fundamental rights that the government has an obligation to uphold, including the right to equality and non-discrimination (Articles 14 and 15) and the right to life (Article 21) which is understood through jurisprudence to include the rights to health, dignity, freedom from torture and ill treatment, and privacy.

India is also a signatory to numerous international conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); and the Convention on the Rights of the Child (CRC), all of which recognize reproductive rights. Article 51(c) of the Indian Constitution and the judiciary has established that the government has a constitutional obligation to respect international law and treaty obligations.

The government of India also bears a constitutional obligation to ensure legal remedies for violations of fundamental rights and human rights. Article 39(a) requires the government to promote equal access to justice and free legal aid as a means to ensure that opportunities for justice are not denied to any citizen by reason of economic or other disabilities.

## JUDICIAL RECOGNITION

The Supreme Court of India and several state high courts have made important strides in recognizing the denial of reproductive rights as violations of women's and girls' fundamental and human rights. This section highlights key decisions that have broken ground in clearly establishing that women's and girls' legal rights to reproductive healthcare and autonomy give rise to a range of government obligations, including providing affordable, timely, and quality maternal health care; guaranteeing access to the full range of contraceptive methods in a non-coercive, quality, and target free manner; preventing child marriage; and ensuring freedom from forced pregnancy through access to safe, legal abortion.

U.N. human rights experts and bodies have raised concerns to the Indian government about human rights violations arising from a range of reproductive rights issues, including maternal mortality and morbidity, unsafe abortion and poor quality of post-abortion care, lack of access to the full range of contraceptive methods and reliance on coercive and substandard female sterilization, child marriage, and lack of information and education on reproductive and sexual health. These experts and bodies have called for India to address these violations, as well as disparities in access to reproductive health care. Courts in India have an important role to play in ensuring women's reproductive rights as guaranteed by their constitutional

and human rights.

## JUDICIAL RESCUE

The Supreme Court has been extremely progressive on women's reproductive rights.

- By decriminalizing adultery and homosexuality in the landmark judgment of Navtej Johar the court has held clearly, that women have a right to sexual autonomy, which is an important facet of their right to personal liberty.
- The Puttaswamy judgment specifically recognized the Constitutional right of women to make reproductive choices, as a part of personal liberty under Article 21 of the Indian Constitution.
- In the case of Independent Thought v. Union of India<sup>[4]</sup> 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.

These judgments have an important bearing on the sexual and reproductive rights of women. The right to safe abortion is an important facet of their right to bodily integrity, right to life and equality and needs to be protected.

Locating reproductive health rights within the constitutional provisions, the realization of reproductive rights is interrelated with, and dependent on, the protection and fulfilment of various human rights like the right to life, the right to health, the right to non-discrimination, and the right to protection from gender-based violence

In India, the reproductive rights of individuals and couples can be located in a constellation of laws and policies relating to health, employment, education, provision of food and nutrition, and protection from gender-based violence. Certain fundamental rights are guaranteed under Part III of the Constitution of India.

Article 13 prohibits the State from making any law that takes away or abridges the fundamental rights. The right to life, the right to equality before law, the right against non-discrimination, and the right to freedom and expression are some of the fundamental rights recognized in Part III of the Constitution of India.

Article 14 prohibits the State from denying to any person equality before the law or the equal protection of the law within the territory of India. Article 15(1) prohibits the State from discriminating against any citizen on grounds of religion, race, caste, sex, place of birth, or any of them. Article 15(2) and Article 15(3) permit the State to make special provisions for women and children, and for any socially and educationally backward classes of citizens or for Scheduled Castes and Scheduled Tribes.

Article 16 guarantees equality of opportunity in matters of public employment, and provides that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence, or any of them, be ineligible for, or

discriminated against, in respect of any employment or office under the State. Article 21 provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. While the right to health (or reproductive rights) is not expressly recognized as a fundamental right in the Constitution of India, several Supreme Court decisions have interpreted the right to health and the right to timely and adequate medical treatment as integral to the right to life. In *Parmanand Katara v Union of India*, which was a public interest litigation (PIL) pertaining to the provision of emergency medical treatment to injured victims of motor accidents, the Supreme Court held that Article 21 obligates the State to preserve life, and doctors at government hospitals are duty bound to extend medical assistance for preserving life.

No law, procedure, or State action can void or impede this obligation of medical professionals. In *Paschim Banga Khet Samity v State of West Bengal*, it was held that the State is obligated to provide adequate medical facilities, and denial of timely medical intervention to a person in need of such treatment by a government hospital is a violation of Article 21.

The Supreme Court in *Suchita Srivastava and Another v Chandigarh Administration* stated that reproductive autonomy is a dimension of personal liberty as guaranteed under Article 21. It held: 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 the insistence on the use of contraceptive methods. Furthermore, women are also free to choose birth-control methods such as undergoing sterilization procedures.

Taken to their logical conclusion, reproductive rights include a woman's entitlement to carry a pregnancy to its full term, to give birth and to subsequently raise children. Several provisions in Part IV of the Constitution of (Directive Principles of State Policy) are related to issues of health. Vide Article 47; it is among the primary duties of the State to raise the level of nutrition and the standard of living of its people and to improve public health. Article 39(e) proclaims that the State should direct its policy towards ensuring that the health and strength of both men and women workers, and of children, are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength. Article 39 provides that States must take steps to ensure that children are given opportunities and facilities to develop in a healthy manner.

## Conclusion

From the beginning of the earth system women is called an important element in running the family system, nurturing the children, guiding the people in a moral path and

bringing all types of success, their role is giving plenty of offer and success in men life thereby they do get catchment and gift on women to rune and conduct family without gap and misunderstanding. Owing to men's cooperation and assistance to women are able to give birth ad yield human being as children, after that equipping, building knowledge and arranging needs and necessities to their children are being as one of the fundamental and unavoidable role and duty of the both men and women. On other hand reproductive system is not an established law but is was given by the god to all people for make social and civic system, in terms of bringing all shape and structure of the politics, social, economic and other fields women and men alone have being playing vital role, due to their reproductive role society seems to be seen as a society I which all types of rules, formality, norms, procedures and customers are taking places.

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