

REPRODUCTIVE RIGHTS AS HUMAN RIGHTS: A CONCEPTUAL STUDY

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Abstract:

This study examines the sexual politics of the Manusmriti, an ancient legal literature in India, from the perspective of women's sexual and reproductive health rights. The text, translated into English by Wendy Doniger and Brian K. Smith, denies women rights to marriage, contraception, divorce, and bodily integrity. Women are often depicted as secretive, crafty, promiscuous, and objectified, leading to a devaluation and objectification of their bodies. The findings highlight the need for a human rights and gender perspective on religious and cultural texts. This study explores the definition, significance, nature, and extent of reproductive rights, highlighting their importance and availability before and after India's independence. It examines the exercise of reproductive rights under various laws, including the Medical Termination of Pregnancy Act, 1971, Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, and provisions relating to miscarriage under the Indian Penal Code, 1860. The study also examines the boundaries of reproductive rights in the context of assisted reproductive technologies like surrogacy.

Keywords: *Reproductive Rights, Reproduction, Abortion, Assisted Reproductive Technology, Menstruation Health, Surrogacy, Medical Termination, Pregnancy, and Marriage.*

Introduction:

Human civilization is based on living things, including men and women. Marriages require both contributions. Women, embodying bravery and strength, must continue fighting for their rights globally. Sexuality and reproductive roles are crucial for women's independence. Reproductive rights are essential in today's world, as having children and medical treatments determine a woman's social standing. Reproduction, health, and women's rights are interconnected. Women's independence and rights are characterized by their participation in all spheres of life. Despite improvements, women's situation remains far from ideal. The women's rights movement emphasizes the importance of women's rights for freedom, equality, and personhood.

Reproductive health care is crucial for women's position in communities, as they bear an uneven burden due to their inability to contribute effectively to development initiatives. The right to procreate requires women's freedom to make reproductive decisions, state intervention, and a supportive social environment, ensuring these requirements are met through state laws. Courts defend women's reproductive rights, promoting privacy, but no government

involvement. Equal participation in all life spheres, including economics, is crucial for women's choice to have children.

Pregnancy impacts women's autonomy and social marginalization, leading to concerns about biological reproduction, resulting in social and biological inequalities between women and men. Women's struggle for societal independence requires safeguarding their reproductive rights, including their status, duty as mothers, and control over their ability to procreate. Conventional norms explain biological sexual identity limitations, but biological factors do not significantly influence societal status of men and women. Women's reproductive concerns are a significant issue, with limited control over conception, unintended pregnancies, and childlessness, making meddling with women's reproductive abilities as old as civilization.

Historically, women were not given the authority to make reproductive decisions at home, leading to their acceptance of contraception, abortion, and menstrual extraction. Despite advancements in reproductive technologies, women still lack control over their reproductive potential, raising questions about whether these practices improve or worsen women's lives. Research on human reproductive technologies has significantly impacted society, allowing fertility management and influencing health perceptions. Infant mortality has decreased due to immunization campaigns, disease awareness, and hygiene improvements. However, reproductive technology presents social, legal, and ethical challenges. It has also provided women with unprecedented opportunities for autonomy and liberation.

The article explores women's reproductive rights and their role in empowerment, focusing on reproductive health, which includes choice, dignity, successful childbearing, and gynaecological disease-free living.

The International Conference on Population and Development (ICPD) emphasizes the importance of reproductive health, defined by the World Health Organization (WHO) as a state of physical, mental, and social well-being in reproductive system matters at all life stages, including reproductive age group, the period of time during which a woman is actively fertile, beginning at the age of 12–14 years with menarche and ending approximately 45–49 years with menopause.

The reproductive health of women in the third world is concerning, with varying maternal mortality rates and stark differences between developing and industrialized nations. Women's rights advocates are increasingly focusing on reproductive health, as early literature acknowledged women's secretive suffering from various disorders. Women are advocating for their rights regarding sexual and reproductive health, arguing for physical autonomy, reproductive choice, and rights. Despite gaining acceptance in communities with gender inequality and poverty, marginalized populations still lack access to advancement benefits.

India faces significant challenges in women's obstetric care, particularly in rural areas where most healthcare is provided at home. Community-based research is needed to understand maternal health and care-seeking behaviour. India has made international commitments to

improve women's health, including signing the Universal Declaration of Human Rights and promoting women's autonomy, reproductive rights, and health. Initiatives like the Janani Suraksha Yojana, National Rural Health Mission, and Reproductive and Child Health Programme are suggested. India has made significant strides in developing non-urban health systems, incorporating international commitments, amending the Constitution to include the "Right to Health" and introducing acts for women's reproductive health.

Significance of the Study:

Reproductive rights are essential for women's independence and social growth, but cultural norms and religious beliefs can hinder their achievement. International legislation has incorporated reproductive rights, but more work is needed to respect them at home. Despite progress, many Indian women who were born after independence may not understand the importance of reproductive rights. Reproductive rights study is crucial for safeguarding human rights, promoting gender equality, improving maternal and child health, addressing demographic trends, enhancing public health, advancing social justice, and empowering vulnerable populations. It involves multidisciplinary research, addressing legal, social, cultural, and ethical dimensions to ensure informed reproductive health decisions.

The researcher is examining reproductive rights in India to analyze factors contributing to poor implementation and identify solutions for issues related to rights enforcement.

Scope of the Study:

Reproductive rights study covers legal, ethical, social, and medical aspects of reproductive health, including contraception, abortion, assisted technologies, prenatal care, childbirth, and postpartum care. This research examines the demographic and socio-economic factors influencing reproductive health indicators in India, focusing on the late 1990s replacement fertility levels. It also examines reproductive laws and policies for women, analyzing maternal and child health services used by them.

This research explores women's health issues during delivery and postnatal periods, examining demographic and socio-economic factors. It provides insights into healthy reproductive practices in India and detailed reproductive health service delivery systems. The study of reproductive rights is a multidisciplinary field involving law, medicine, public health, sociology, ethics, and gender studies, aiming to promote autonomy, bodily integrity, and individual well-being.

Methodology:

The current study is mostly based on a doctrinal approach, with data collected from both primary and secondary sources. The principal sources include international declarations, treaties, conventions, domestic legislation, findings from various commissions and committees, and case law. The secondary source comprises a review of critiques,

commentaries, and analyses of research reports and debates on the issue of reproductive rights, as well as personal interviews with people, diagnostic centres, and observations at a gynaecology department. The difficulties surrounding reproductive rights are attempted to be comprehended using descriptive and explanatory methodologies.

The study is descriptive in nature, as it seeks to provide a comprehensive explanation of the relevance, nature, and scope of reproductive rights. It addresses the barriers that impede women from exercising their right to reproduce and provides a clear argument for the importance of all laws aimed at strengthening that right, making it understandable. To obtain vital information, one can consult a variety of sources such as books, dictionaries, legal journals, reports, documents, newspapers, and court decisions. This study attempt aims to outline all of India's reproductive rights.

Objectives of the Study:

- Analyze women's reproductive rights from Vedic civilization to Indian Constitution.
- Explore constitutional guarantees for reproductive rights and other fundamental human rights in this category.
- Evaluate criminal law provisions for crimes against women's reproductive rights.
- This study aims to connect the laws governing women's reproductive rights in India to specific enactments like the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and the Medical Termination of Pregnancy Act, 1971.
- The goal is to assess accessibility, affordability, acceptability, and convenience of reproductive health care services, including family planning, for all users.
- Propose policies to empower women by describing ways to support reproductive rights.
- Identify issues affecting women's reproductive rights.

Major Findings of the Study:

- The fight for the recognition and realisation of reproductive rights continues in every corner of the world, and the establishment of reproductive rights is directly dependent on women's empowerment, which includes women's contributions to creating a just, reasonable, and fair social and economic order.
- The early Vedic period effectively created male and female equality, which is extremely difficult to achieve today, and women's reproductive independence was much stronger than it is today.
- Though the Indian Constitution protects women's reproductive rights, the need of the hour is to broaden the scope of reproductive rights through Article 21 of the Indian Constitution.
- Access to these technologies is frequently limited for marginalised or economically disadvantaged communities, resulting in unequal healthcare results. However, rigorous regulatory frameworks are required to combine innovation with safety, ethical considerations, and patients' rights, as well as to address the quickly developing nature of this technology.

- The unborn child's legal rights can only be exercised indirectly through the mother, and the child's contingent interest becomes vested only after birth.
- The regulations relating to abortion and sex determination must be strictly enforced because their misuse is still on the rise, which has a negative impact on women's reproductive liberty.

Conclusion:

There is no denying that the institution of family is as old as humanity. The concept of family contributed to the development of human civilization. Previously, men and women were unaware of family planning, resulting in a huge family unit. However, over the centuries, global social, cultural, and economic patterns have evolved. People became aware of the quality of life they were living. This has sparked international and national concern about reproductive health, particularly among women, and has resulted in reproductive rights being recognised as an essential component of human rights. Today, the government promotes family planning schemes in order to improve people's quality of life by boosting their standard of living.

A variety of reproductive methods have also been developed. The new perspective on women's reproductive processes, combined with advancements in reproductive technologies, has made it possible to investigate real-life situations and their influence on women. It is critical that these technologies be used to benefit women and so serve as a tool for their emancipation. Women's lives revolve around reproduction, and women can only have autonomy in life if their reproductive rights are protected by legal framework.

In a society where women live in constant fear of being sexually molested both within and outside the family, where the evil of dowry is still prevalent despite the dowry prohibition Act, where daughters or daughters in law are thrown out of the house for giving birth to a girl child, where there are no social and economic security for women, where there are no emotional, financial, and cultural security for them, reproductive rights can be a helpful tool for them.

Women were traditionally regarded as the weaker sex worldwide. Women's rights and position have steadily improved throughout the years. Various laws and regulations have been enacted to empower women or, more accurately, to better women's conditions. There are a variety of rules in place to protect their interests; all that is required is an honest intention to serve and strict execution of current regulations. Though international and national instruments, such as population planning regulations, judicial declarations, mass media, and global human rights movement, facilitate reproductive rights, they do not necessarily do so in ways that empower women.

Suggestions:

The researcher has conducted a thorough study on reproductive rights and various laws and policies that support women's rights, aiming to provide suggestions to improve female reproductive health and streamline the exercise of reproductive rights in India.

- The Indian government is attempting to improve the Medical Termination of Pregnancy Act, 1971, but should also introduce a national legislation called "The Protection of Reproductive and Sexual Rights," focusing on female reproductive issues and establishing reproductive autonomy. This would be a comprehensive and consolidated law.
- The judiciary has actively addressed reproductive concerns of females and LGBTQ in India by interpreting Constitutional articles and broadening Article 21's scope.
- The Medical Board constitution addresses granting permission to abort a child over the 24-week time limit, but lacks a prescribed time limit for decision-making. Time is crucial in unwanted pregnancies.
- India's sex education system is inadequate, with students not mature enough to understand consequences of immature activities like illegal sex and trafficking. Central and state governments must incorporate more chapters.
- NGO's play a crucial role in protecting female reproductive rights in India. They should highlight cases of rights violations and assist those affected, ensuring societal awareness of the mental and physical suffering.
- Media, as the fourth pillar of democracy, can highlight reproductive rights violations and pressure India's government to develop policy frameworks for female reproductive rights protection.
- India needs a strict policy framework for sterilization camps, including statutory provisions for infrastructure and specialized surgeons to conduct surgeries with consent.
- Medical fraternity should organize counselling sessions to educate individuals on reproductive rights, promoting healthy reproductive autonomy and balancing professional and personal lives.

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