

June 2022 —Vol. 4, Issue 8

CENTER OF POLICY RESEARCH AND GOVERNANCE

A newsletter for public policy and governance enthusiasts'



SURROGACY & ABORTION LAWS



JUNE HIGHLIGHTS



Source: Business Standard

- The State Bank of India (SBI) has increased its home loan external benchmark lending rate (EBLR) by 40 basis points to 7.05 percent, while the RLLR would be 6.65 percent plus CRP.
- PM Modi embarks for Germany to attend G7 Summit.
- Senior Congress leaders gather at Jantar Mantar to protest against agniveer agnipath.
- The rupee plunged to a new all-time intra-day low of 78.59 per dollar after closing at record lows in each of the previous four trading sessions.
- Assam, a state prone to flooding and erosion, has been inundated with flooding and the resulting landslides for the past five days, with 28 districts reporting flooding.
- The Ministry of Rural Development (MoRD) launched the National Mobile Monitoring Software (NMMS) app, a new application meant for “improving citizen oversight and increasing transparency” in National Rural Employment Guarantee Act (NREGA).

- India’s power demand touched a record high of 211 MW even though the coal shortage continued with coal stocks available only for eight days.
- Registration of Agniveer to begin from June 24 in IAF, training to start in December.
- Jammu and Kashmir to host G20 meeting in 2023.
- The Controller General of Accounts (CGA) released the fiscal deficit for 2021-22, which improved to 6.71 per cent of the GDP over the revised budget estimate of 6.9 per cent.
- India and Israel adopted a ‘Vision statement’ for strengthening defence cooperation in future. The statement marked 30 years of diplomatic ties between the two countries.



Source: News 18

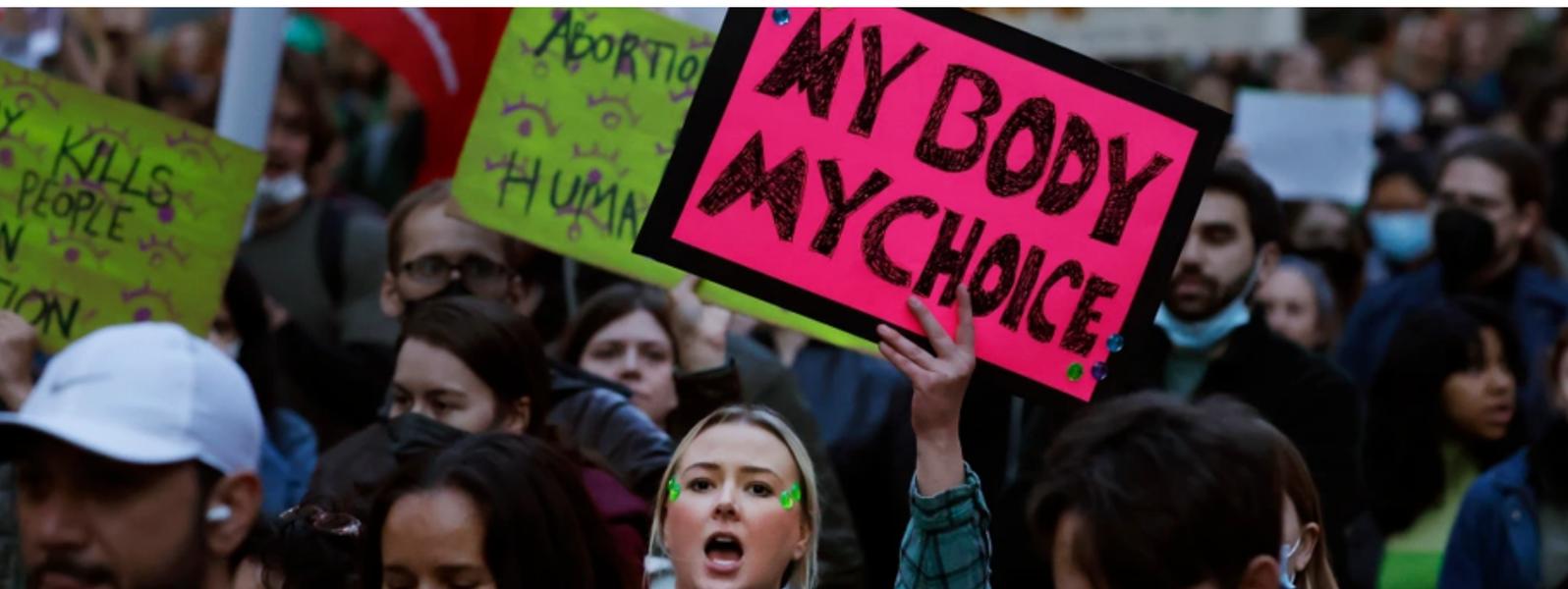


Source: Govt.in

- India's first liquid-mirror telescope, the International Liquid Mirror Telescope (ILMT) has been set up on the campus of the Devasthal Observatory of the Aryabhata Research Institute of Observational Sciences (ARIES) in Nainital, Uttarakhand.
- India is heading towards a non-fossil fuel energy target as announced by PM Modi at COP26.
- Andhra govt to generate revenue of Rs 3,755 cr from green energy projects.
- BJP-led NDA announces Draupadi Murmu name as Presidential candidate for the upcoming Presidential elections 2022.
- Parameswaran Iyer has been named the new chief executive of the NITI Aayog.
- As per the Union Ministry of Commerce and Industry, the United States has become India's largest trading partner, surpassing China.
- Prime Minister Narendra Modi inaugurated the new premises of the Ministry of Commerce and Industry, Vanijya Bhawan on June 23, 2022.
- Former Punjab DGP Dinkar Gupta has been appointed as the new Director-General of the National Investigation Agency (NIA).



Source: The Economic Times



Source: Al Jazeera

FEMINIST PERSPECTIVES ON REPRODUCTION

One of the most often carried out procedures in the field of gynaecology is claimed to be the termination of pregnancy, generally known as an induced abortion. For a very long time, the only reliable option for abortion had been invasive treatments, but from the late 1980s, medical physiological procedures have been available for the early termination of pregnancy. Since its inception, the feminist discourse on women's rights has placed motherhood and reproduction at its centre. The right to an abortion and public acceptance of motherhood have been major topics in the discussion of reproduction for the first and second feminist movements. Feminists have fought for women to have the right to vote, to be recognised for their intelligence, expertise, and special skills, and for equality in the workplace and educational possibilities. Women today live pretty different lives in large part because of the work of what was previously considered as radical feminism. On one hand, in the middle of the 20th century, the feminist movement used abortion as a focal point for advancing women's independence. On the other hand, the pro-abortion movement received so much attention that some women felt inferior for choosing to become mothers. As a result, in a more recent debate, the importance of motherhood has emerged as a critical component of feminist theory. This change necessitates a

reassessment of the abortion debate in light of the importance of motherhood.

The Right to Abortion

Prior to the 1960s, practically all nations throughout the world either outlawed abortion completely or only permitted it when the mother's life was in danger due to the pregnancy. Most of the other justifications for an abortion sought by women were disregarded by the laws as being invalid. When Norma McCorvey filed a lawsuit against the State of Texas in 1960 using the alias Jane Roe, the case known as *Roe v. Wade* was brought to the United States. She asserted a right to an abortion performed on her at her request by a qualified, licenced doctor in safe and clinical circumstances, without a medical necessity or rape. Because of rulings like *Roe v. Wade*, many contemporary nations started to loosen their legal limits on abortion after the 1960s. Although the majority of feminists support some form of the right to an abortion, the abortion debate cannot simply be boiled down to men's vs women's interests. However, on both sides of the abortion debate, women are present as decision-makers, activists, and supporters. The right to an abortion is typically discussed as a restriction on liberty and a right to privacy. This idea of the right is in line with some libertarian feminism traditions, but it also runs against other significant ideas in feminist theory. Conversations about the right to abortion often take place within an individualist framework that is centred on issues of sex, gender, and the physiology of reproduction. This way of discussing the right to an abortion has significant similarities to the paradigm that the United States Supreme Court used in *Roe v. Wade*. The right to an abortion is brought up as a matter of gender equality for women, both in government circles and in society at large which makes the right essential, especially in a case where a man impregnates a woman against her will, she should have the option of either carrying the pregnancy to term or having the foetus aborted. Even though making the choice is gut-wrenching, this is a better condition than being forced to have an undesired child.

However, a number of important factors are overlooked if abortion is exclusively seen in terms of personal freedom or as a conflict of rights.

Due to their inherent femininity, women have a distinct voice that is equal to but distinct from that of men. Without highlighting her distinctive viewpoint, this desire for equality permitted society to



Source: Monthly Review

marginalize a woman who made the decision to become a mother. Feminist advocates today acknowledge that motherhood has an inherent value equivalent to that of social qualifications or professional accomplishment in order to end society's history of the subordination of women. As moms, women may play different responsibilities, but those duties are just as vital as any other roles they may choose. This is being acknowledged by feminist authors, who are updating their theories to reflect it.

Pro-Life or Pro-Choice?

Many legal experts consider *Roe v. Wade* to be a turning point since it widened the gap between advocates of "pro-life" and "pro-choice" causes in American culture.

According to the essay "What Is Missing from the Rhetoric of Choice - A Feminist Analysis of the Abortion Dilemma in the Context of Sexuality" presented by Krisztina Morvai at the Annual Meeting of the Law and Society Association (1994



Source: The Guardian

Phoenix, Arizona), both the "pro-life" and the "pro-choice" labels refer to entire packages of concepts, and it is assumed that the components of each package are closely related to or even originate from one another. In political discourse, someone who identifies as "pro-life" is assumed to hold specific conservative attitudes on women in addition to being committed to the idea that life begins at conception. A "pro-lifer" is specifically thought to be a defender of the status quo who believes that women are natural mothers who, by terminating their pregnancies, reject their "natural duties." The following are further characteristics of the presumptive (and frequently actual) pro-life mindset:

1. The status quo could be maintained if abortion was outlawed because women would continue to have children.
2. In addition, the female body was intended for sexual reproduction, not for personal gratification, but those who "choose" to have abortions clearly engaged in sexual activity, likely for pleasure rather than sexual reproduction.

According to this set of assumptions, those who support abortion are "anti-women" since they oppose women's rights. The primary issue is not that this "package-approach" is unduly general and, as a result, frequently inaccurate and unfair to individuals who merely have particular ideas about when life begins, a topic on which consensus is extremely challenging, if not impossible, to obtain. She stated that "The danger comes from the conclusion that being pro-choice instead of pro-life is equal to being pro-woman."

Abortion is a crucial option for all women, according to pro-choice activists, even if the majority may never need it. Susan Sherwin writes in her article "Abortion Through a Feminist Ethics Lens" that many women fall ill during pregnancy, often to the point where they are unable to continue with their careers, education, or household duties: "Not every woman is able to put her job, career, and studies on wait." Women who believe themselves to be too young, too elderly, or who are unable to maintain stable relationships may know that they will not be able to care for a child appropriately at this time. Life goals may be disrupted by a child, which has effects on the woman for the rest of her days.

However, according to Krisztina Morvai, liberation and "choice" are linked in the rhetoric. While abortion can spare a woman from an undesired pregnancy, it rarely liberates anyone. Liberation entails not having to make this decision. True liberty for women should include more than just the agonising options of getting an abortion or carrying an unintended child. The customary definition of

choice," which is also given a positive connotation in the context of abortion, does not accurately capture the reality of the situation for the majority of women. Most women who seek abortions do not voluntarily "choose" to do so. In contrast to what pro-choice rhetoric would have you believe, they are forced to make a choice that is the result of their lack of self-determination rather than an act of self-determination. When undergoing abortions, women do not have control over their bodies and sexualities. Since most women would have chosen not to become pregnant and have an abortion if they had complete control over what happened to their bodies, it stands to reason that they have abortions because they previously did not have full control over their bodies and sexuality. This is something we should be fighting for as a whole, and the right to abortion is an important factor in it. Authors largely refrain from drawing a firm conclusion in revisionary works on abortion of pregnancy. Pro-choice feminists use the topic's contentiousness as justification for why legalising abortion is necessary. It would be safe to assume that feminism grew in popularity among those who had been victimised by patriarchy for many years. However, the "right" to abort a pregnancy, which upholds male authority in circumstances of gender imbalance, can only help to a certain extent to protect women from male aggressiveness and dominance over them. There is a wealth and diversity of feminist writing on the family and reproduction. Feminists have altered the discipline by requiring traditional political theory to consider the significance of the family for social justice, the same way that our existing social practices of starting families and having children are still very much works in progress. However, feminism has only existed on this globe for a maximum of two centuries and a half centuries. Until pro-choice and pro-life groups are given an equal chance, supporters, feminist viewpoints should be expressed, encouraged, and allowed to infiltrate more. Women face injustice, oppression, and aggression on a daily basis, thus debating whether or not abortion is morally acceptable will only be feasible after people of both sexes are eventually treated equally.



INTERNATIONAL LAW AND ABORTION

The debate around abortion has raged across the world since the very conception of the idea. The arguments, both for and against abortion are heated and polarized. As a result, international law has had to examine whether abortion is legal in its eyes on multiple occasions.

Since international law is ultimately based on consent, it therefore represents the views and actions of states themselves. This means that the debate on the international stage too, has elements of religion, faith, and culture involved. Further, states don't like being lectured, and directed on what to do. That leads to a situation where meaningful international norms, at times, are unable to emerge with consistency and uniformity. However, in the past, there have been a number of instances where the international community has acted in cases of abortion, both codifying abortion and defining the responsibilities and rights associated.

It is worthy to note, initially, that there are no international treaties or specific conventions relating to abortion rights or contraception in general. Rather, abortion is addressed in normal human rights and women rights treaties, and is considered related to those legal instruments only.

To this end then, the first legal instrument of interest is the International Covenant on Civil and Political

Rights (ICCPR) and specifically the UNHRC's General Comment No. 36 on Article 6, on the Right to Life and the Right to Abortion. Given that the UNHRC's General Comment is considered the final authoritative interpretation of the ICCPR as per the treaty itself, it would be valid to consider the concerned General Comment.

The General Comment is interesting to note for a variety of reasons:

In particular, the most far-reaching proposition

is the fact that the UNHRC affirmed safe, effective and legal abortion as an essential human right protected under the ICCPR, especially under the Right to Life. Further, in response to the argument that legal abortion deprives the "child" of its right to life, the General Comment says that it considers life to begin at birth, and not at conception. This means that the right to life concept would only apply after the birth of the child, thereby preventing a legal contradiction.

This is one of the most important international legal benchmarks in the case of abortion laws. However, not all international law or state practice considers abortion to be legal, and the practice is heavily prohibited at times. This case is especially true for countries with heavy religious influences in their state policy. For example, the Latin American region, which is highly influenced by the Catholic Church, has been among the region where abortion is prominently banned across countries, with only a few exceptions.

Similarly, some schools of Sunni Islamic thought prohibit abortion in cases where the mother's life is not at risk. Holistically speaking, abortion law greatly varies from country-to-country even within the Islamic world.

This varied spectrum of responses is a common theme, even outside the Islamic World. Since there is a lack of a defined international convention with respect to abortion, international law on abortion is largely derived and understood from customary international law which consists of state practice, and *opinio juris*.

As per Article 38 of the International Court of Justice's Statute, this state practice must be uniform and consistent, for it to be considered established law. Similarly, the countries carrying out the activity must be doing it with the feeling that it is a legal obligation, this is the component of *opinio juris*. This means that the barrier of an activity being considered customary international law is very high, since this component is difficult to prove.

However, in the case of abortion, even the state practice is not uniform and consistent, and *opinio juris* is even more convoluted. Hence, it becomes difficult to quantify the extent of international legal application in abortion.

In spite of these complexities and problems with universal legal codification, we continue to see norms and judgements come out of different bodies of importance that advance the codification process and help abortion find some footing under international law.



Source: Time



Source: OHCHR

Perhaps the most well known of these is the *KL vs Peru* case that was brought before the UNHRC, which involved a 17 year old minor having to carry the pregnancy to term because of being illegally denied an abortion at the hospital, even though Peru has legalized abortion.

When the case was brought to the UNHRC, it ruled that the denial of access to abortion was a clear violation of international humanitarian standards related to violence against women,

and the prevention of cruel, inhumane and degrading treatment. This directly held the state of Peru responsible. Similarly, in the case of *Mellet vs Ireland*, the victim had a fatal fetal impairment and requested an abortion, which was denied due to abortion being illegal in Ireland in all cases apart from when the women's life was at risk. This meant that Mellet had to travel to the UK to get an abortion, which was also followed by complications. Mellet then individually filed a complaint with the UNHRC, which ruled that Ireland was guilty of violating her right to privacy, cruel and inhumane treatment, and discrimination on the basis of gender. The important component that needs attention here is the violation of the right to privacy. In this elucidation, the HRC stated that the decision to get an abortion fell under the woman's right to privacy, and was therefore only her decision. However, within the same judgement, the HRC also said that the balance the state had to strike between the foetus' rights and that of the women were not justified in this case.

Having analyzed the different international legal instruments, state practice, and judgments, we see a pattern emerging. Even though international law seems to be confused about abortion, there is an overall developing regime that tries to protect women rights and autonomy through different ways. As seen in the judgements, the denial of abortion is considered illegal due to other inviolable rights it violates, and similarly, the mention of the right to privacy opens the doors to further codification of the right to abortion and protection of women.

The future of abortion and women rights shows a striking contrast; on the one hand there are traditionally conservative countries regularly legalizing abortion such as Thailand, Argentina, Mexico, etc, and on the other hand there are historically progressive countries such as the USA removing federal protections for abortion. In spite of these challenges, one fact remains clear, international progress and diplomacy is likely to build international public opinion in favor of abortion, and therefore be useful in building legal frameworks of mutual cooperation in the field of abortion, and it must continue.



**THE MORAL, SOCIAL
AND ETHICAL
ASPECTS OF THE
SURROGACY
(REGULATION) ACT
2021 :
IS IT SOCIALLY
RELEVANT IN THE
21ST CENTURY**

Nature has bestowed to women the capability of procreation. The right to reproduction is a personal choice, and the individual freedom of a person and the desire for a child is a universal phenomenon. According to most, parenthood is an endearing experience, and the inability to fulfill this desire often brings unprecedented grief.

In any population, infertility or inability to rear children can be found. It is merely amplified by the sheer number of the Indian population. The inability to have children is viewed as a result of karma, payback for crimes done in another birth. The only alternative many people have is adoption and Surrogacy, the latter being more popular, both of which are taboo.

As the educated and enlightened youth of the nation, It is important to question the surrogacy act to know more about it and truly understand Surrogacy as a practice, its legal provisions, its ethics, and the moral sentiments surrounding it. Further, with the recent abolishment of article 377, there is all the more reason to try and attempt to evaluate the legal, moral, and religious aspects of the Surrogacy (Regulation) Act 2021 and understand if it is truly relevant in modern society, especially since the decriminalization of gay sex and the social movement around it.

About Surrogacy and what does the Surrogacy (Regulation) Act, 2021 entail?

Surrogacy is a legal agreement wherein a woman agrees to bear a child on behalf of another person/couple who are or will become the child's parents. Surrogacy is an assisted reproductive technology undertaken when pregnancy risks are too dangerous or medically impossible for the intended mother or when a single male or male couple wishes to have a child.

Surrogacy types -

1. Commercial Surrogacy- any surrogacy arrangement in which the surrogate mother is compensated for her services beyond reimbursement of medical expenses. Commercial Surrogacy is often done through third parties.
2. Altruistic Surrogacy- refers only to those arrangements in which the surrogate does not receive compensation for her services beyond reimbursement for medical costs and other reasonable pregnancy-related expenses. Many of these arrangements are between family members or close friends.

Methods of Surrogacy -

1. Traditional Surrogacy- Also known as straight or natural Surrogacy, is where the surrogate's egg is inseminated through In Vivo by the intended father or donor sperm—using the donor's sperm results in a child that is not genetically related to the couple—using the intended father's sperm results in a child that genetically belongs to both the surrogate and the intended donor.
2. Gestational Surrogacy- Also known as host or full Surrogacy. It occurs when an embryo created by in vitro fertilization technology is implanted in a surrogate, Known as the gestational carrier. Gestational Surrogacy has three forms-
 - The incipient baby is made utilizing the planned dad's sperm and the expected mother's eggs.
 - The incipient baby is made utilizing the planned dad's sperm and a contributor egg.
 - The incipient baby is made utilizing the planned mother's egg and contributor sperm.

The government of India introduced The Surrogacy (Regulation) Act, 2021 as a way of regulating the surrogacy market in India, which is estimated at a high of \$2.5 billion a year to help the surrogate mother, who are often exploited for their womb and ill-treated at times by or because of the intended couple.

The Act's main objective is to stop the exploitation of surrogate mothers and create provisions for their welfare. Moreover, the Act wishes to do away with commercial Surrogacy completely and only allows for altruistic Surrogacy wherein no money is exchanged while regulating surrogacy clinics where commercial Surrogacy is encouraged.

However, the Act falls short of guaranteeing reproductive liberty and bodily autonomy. Even though the idea behind the Act is quite noble, the Act itself has some flaws. While protecting one group of citizens (The surrogate mother), the Act



Source: Telegraph India



Source: The Telegraph

is essentially taking away some fundamental rights of other groups. For example, The Surrogacy Act does not guarantee surrogacy methods to LGBTQ+ people, live-in couples, and single guardians. Even the people who can benefit from surrogacy opportunities are expected to have an authentication of essentiality, expressing that it is naturally impossible for the person(s) to have a kid by using other methods. The Act does not consider other ailments that make the pregnancy less secure and more complicated, despite the fact that they do not make women barren.

The Act does not consider situations where women might not have any desire to go through pregnancy because of vocation-related responsibilities. Consider the instance of a sportswoman, whose profession length will, in general, correspond with her kid-bearing age. In such a case, the woman might not be barren, but being pregnant would mean putting off her professional career. In such a scenario, either adoption or Surrogacy would be the only method to have a child. This makes one wonder: Should a woman need to think twice about having a baby and a career?

Surrogacy (Regulation) Act 2021 is an Act passed by predominantly male parliament members who might not fully understand the bodily restrictions that have cropped up because of the Act. Here are some of the socio-legal shortcomings of the Surrogacy Act, 2021 -

It puts unjustifiable limitations on a would-be surrogate's substantial independence and regenerative privileges. The public authority has offered no sensible reason why unwed and childless women should not be surrogates. This disregards the privileges ensured under Article 21, as reproductive freedoms fall under personal freedom.

The Surrogacy Act's arrangement of limiting Surrogacy to wedded hetero couples with pre-decided age groups likewise oppresses individuals from the LGBTQ community, more seasoned couples, and unmarried individuals who cannot have kids. The Act disregards their right to individual freedom and conflicts with the standards of liberty given under Article 14 of the Indian Constitution.

The Act's meaning of barrenness - used to lay out couples' qualifications for Surrogacy - is excessively limited. It covers, as it were, "those couples who cannot conceive following five years of unprotected intercourse." It does not cover couples who experience the ill effects of ailments, for example, uterine fibroids, that might permit a woman to conceive. However, it keeps her from carrying a child to term. It likewise does not cover a woman who does not wish to carry a kid to term.

The Act gives the natural guardians no say in whether to proceed or end a pregnancy; it condemns not just the ones who fill in as surrogates yet additionally their life partners and family members, and a lawful outlining that moves the obligation to prove anything onto those spouses and family members could prompt an expansion in malignant arraignments.

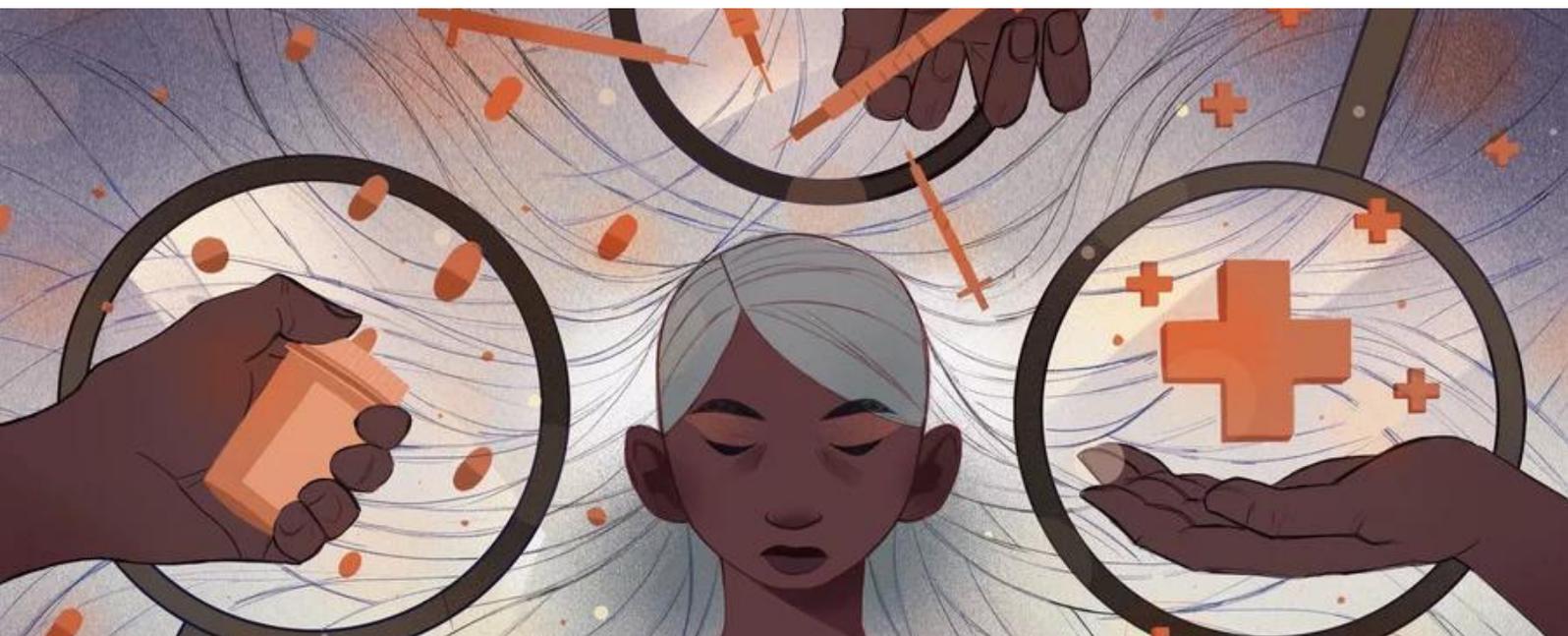
While the sentiments behind the legislation are quite noble and justifiable, however, commercial Surrogacy is often the last resort for many infertile couples, same-sex couples, or for other reasons. So, banning commercial Surrogacy and only allowing for altruistic Surrogacy (Which rarely happens) essentially denies these couples some of their most important fundamental rights.

Further, the Act is vague about certain concepts, thus increasing its loopholes and reducing its applicability. There is a fear that the enactment of this Act will lead to unprecedented exploitation of surrogate mothers as the industry will tend to shift to the underground economy. Also, the Act only allows married heterosexual couples to go in for Surrogacy, that too altruistic Surrogacy, and even then, they have to provide proof that they are infertile.

There is an urgent need to do something to stop the exploitation of surrogate mothers, but this Act, with its current regulations, might not be the best way to correct this problem. With its many loopholes, this Act needs provisions for protecting the surrogate mother and providing a safe environment for her instead of entirely scraping off the surrogate industry.

Retaining the Surrogacy (Regulation) Act, 2021 is not an issue but rather a welcome change regarding the surrogate mother's deplorable conditions and exploitation. However, the makers of this Act did not consider the various reasons why Surrogacy was introduced – Surrogacy can be an extraordinary journey and a gratifying experience that everyone deserves a chance to live through if they want. For intended parents, it is the chance to complete their family and realize their dreams of parenthood finally, and for the surrogate mother, it can be a means to end financial problems. Even though the Act comes from a heart to do good by the surrogate mothers, the Act unknowingly might be leading to even more significant problems for both the intended parties.

We need an Act that ties up all loose threads and leaves no gray area and is inclusive for all sections of the society concerning their right to equality at the same time. It also needs to be sensitive to the driving force of the surrogate mothers in this role without harming either intended party.



ABORTION LAW IN INDIA

A law on abortion has always remained a matter of contention since time immemorial. Right from ancient times, many considered it taboo. With modernisation setting in and awareness being heralded around the fact that each human has bodily integrity, liberalisation of the legal mechanisms on abortion has occurred. However, a dilemma has always persisted between a woman's right to make her reproductive choices and the state's right to protect life which should extend to protect the life of the fetus.

Strict legal provisions existed in the past till the passing of the Medical Termination Act, 1971. Many women were left with no option but to use incompetent facilities. These practices were mostly unhygienic and involved the usage of crude methods of abortion. Over the top, such methods were expensive, insecure and constituted high risks of morbidity and mortality. In order to reduce such cases and create a safe space for women to access abortion facilities, an attempt to liberalise the law began to surface in the discussions of the Central Planning Board of the Government of India in 1964 as a family planning measure. Thus in 1964, the government of India set up a committee under the chairmanship of Shanti Lal Shah to study the question of liberalisation of the then-existing law of abortion, and to suggest measures for

reform in the strict provisions of the Codes which makes all abortions or miscarriage punishable under Section 312, unless undertaken to save the life of the woman.

In India with the passage of the Medical Termination of Pregnancy Act, 1971, the Indian government legalised abortion. As per Section 3(2) of the Act, abortion is permitted for up to 12 weeks of pregnancy. The termination of pregnancy is further permitted within 12 to 20 weeks if at least two



medical practitioners consider it to be in good faith of the mother and child. The MTP Act permits access to abortion under certain conditions including the woman's consent, the stage of the pregnancy, the woman's mental and physical health, as well as the health of the fetus. With the progress made in the field of medical science with respect to safer abortions, the

Medical Termination of Pregnancy Act, 1971 came as a cornerstone judgement. However, the 1971 act did not permit termination of the pregnancy beyond 20 weeks and The Amendment Act of 2021 brought forth further important changes. Article 21 of the Indian Constitution states that no person shall be deprived of the right to life and personal liberty except according to the procedure established by the law. This law, while granting various rights and liberties to each citizen, also gives rise to a dilemma around the right of the unborn child to live.

However, The Supreme Court held that Article 21 of the Indian Constitution extends to include the liberty of a woman to make reproductive choices in a broader sense and this was clearly laid out in the landmark case of Suchita Srivastava in 2009. Such a decision came from an emphasis on the woman's right to privacy, personal liberty, dignity and bodily integrity as enshrined by Article 21. It was stated that the right to abortion falls under the purview of a woman's right to privacy and hence the state was responsible for protecting women, as a result of which, the right to abortion was made a fundamental right. With the winds of change coming in, the Medical Termination of Pregnancy Act was amended in 2021 focussing on providing universal access to reproductive health services and expanding the access to safe and legal abortions on therapeutic, eugenic, humanitarian and social grounds to ensure universal access to comprehensive care.

In case of failure of contraceptive method or device, the act allows for a termination of pregnancy up to 20 weeks by a woman. The amendment is different from the 1972 Act and raised the upper ceiling of permissible abortion up to 24 weeks of gestation period in the case of special categories of vulnerable women incorporating victims of incest, survivors of rape, differently-abled women and minors among others. Another important aspect was the inclusion of an unmarried woman's right to abortion as well. Further, the Act allows abortion after 24 weeks only in cases where substantial foetal abnormalities are diagnosed by a Medical Board. Thus, Writ Petition remains the only recourse for a case that requires abortion due to rape but exceeds 24 weeks. On the bright side, the new laws also aim at realising various sustainable development goals (SDGs) which target reducing maternal mortality ratio and increasing access to sexual and reproductive health and rights. The amendments will also raise a woman's dignity, autonomy, confidentiality and justice in the matters pertaining to abortion and termination of pregnancy.



Source: Amnesty

STIGMAS ENGULFING ABORTION

ABORTION

A medical procedure called Abortion terminates a pregnancy. For millions of women, girls, and anyone capable of getting pregnant, it is a basic healthcare requirement. Every year, an estimated 1 in 4 pregnancies worldwide result in abortions.

While the need for abortion is widespread, those who may want abortion services are far from guaranteed access to safe and legal abortion services.

Limiting access to this essential medical treatment is one of the most contentious issues in the world, and the argument is tainted by false information about the effects of doing so.

Here are the basic facts about Abortion that everyone should know:

Does Criminalising abortion does not stop abortions

If we stop someone from accessing a particular procedure does not mean they stop needing it. Because of this, efforts to limit or outlaw abortions have little effect on the number of abortions; instead, they just drive women to dangerous abortion clinics.

According to the World Health Organization (WHO), unsafe abortion is "performed either by personnel lacking the essential skills or in a setting that does not confirm to

minimal medical standards, or both, to terminate an unplanned pregnancy."

Unlike legal abortion, unsafe abortion can have fatal consequences. So much so that, according to the WHO, unsafe abortions are the third most common cause of maternal deaths globally and are responsible for an additional five million completely avoidable impairments.



Source: BBC UK

Criminalising or restricting abortion prevents doctors from providing basic care

Medical professionals are prevented from performing their duties effectively and from offering their patients the best care options per accepted medical standards and their obligations under their professional and ethical codes when abortion is criminalised and subject to restrictive laws.

The criminalization of abortion has a "chilling effect," in which medical practitioners may not be aware of the legal limits or may interpret them more strictly than is necessary. This could be due to a variety of factors, such as personal convictions, the stigma around abortion, and unfavourable preconceptions of women and girls. Additionally, it discourages women and girls from obtaining post-abortion care for issues resulting from unsafe abortions or other pregnancy-related issues.

Criminalising abortion further fuels the stigma

First of all, refusing medical care, even for reasons of reproductive health that only some people need, is discrimination. Restrictive abortion laws are considered discrimination against women by the committee for the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), also known as the Treaty for the Rights of Women. As the CEDAW Committee has confirmed, this applies to all women and those who are capable of becoming pregnant. As a result, discrimination against lesbian, bisexual, and/or transgender women is prohibited, especially in light of the unique kinds of gender-based discrimination they experience.

Secondly, the criminalization of abortion and other restrictive abortion laws and regulations are directly related to the stigma associated with abortion and gender stereotyping. Healthcare professionals, family members, and the judiciary, among others, stigmatise women and girls just because they believe abortion is wrong or unethical. Women and girls who seek abortions run the risk of being harassed and discriminated against. Some women have claimed that when seeking abortion services or post-abortion care, medical professionals assaulted and degraded them.

Social stigma in Indian society regarding abortion

Despite the fact that abortion is now legal in India, many Indian women still hesitate to have one due to stereotypical beliefs. There are limitations on who can obtain safe abortion-related information and services. Young individuals, especially those who are single, find it challenging to receive services connected to abortion because of the stigma associated with the procedure. The two main ideals of womanhood that society holds dear are the nurturing of motherhood and the sanctity of sexuality.

Because abortion is a sign that a woman has engaged in "non-procreative" sex and is trying to impose control over her own reproduction and sexuality, it is stigmatised.

Even though abortion is now permitted in India, many Indian women still hesitate to get one because of preconceived notions. Who can access safe abortion-related inf

ormation and services is subject to restrictions. The stigma attached to abortion makes it difficult for young people, especially those who are single, to access services related to the operation. The nurture of maternity and the sacredness of sexuality are the two fundamental concepts of womanhood that society cherishes. Because it indicates that a woman has engaged in "non-procreative" sex and is making an effort to impose control over her own reproduction and sexuality, abortion is stigmatised.

No one connected to abortion, such as a woman seeking an abortion, abortion supporters, or medical personnel performing abortions, is immune to the stigma associated with it. It is important to realise that stigmatising or criminalising abortion will not make it less common. Instead, it encourages illegal and dangerous abortions, endangering the lives of millions of women.

Contributors

Team CPRG, New Delhi

Dr. Ramanand Nand, Director CPRG

Chirag Sharma, Sanyukta Singh, Sargam Choudhary, Disha Agarwal, Akira Joshi,

Deepti Kushwaha, Jagriti Singh, Rupal Kalebere