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Reproductive and Sexual Rights of Women in India

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(This editorial is based on the article 'A half written promise' which appeared in 'The Hindu' on 23rd April, 2019. The article talks about sexual and reproductive rights of women in India and the challenges it faces.)

It has been 70 years since India got independence and there cannot be a more right time to analyse the position and 'space' that women in India enjoy today.

The journey women's emancipation in India has been truly dynamic with women participating in nationalist movements, to being pushed into the domestic household space, to their resurgence as super-women today; women in our country have seen it all.

However, the recognition of sexual and reproductive rights of women in the country still remains negligible. Reproductive rights in India are understood only in the context of selective issues like child marriage, female foeticide, sex selection and menstrual health and hygiene issues.

This is reflected in election manifestos of various parties where political parties have promised to make registration of marriages compulsory, implement the laws prohibiting child marriages, provide reproductive and menstrual health services to all women across India, make marital rape an offence and to ensure strict implementation of the Pre-conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (PCPNDT) Act.

Challenges

- **According to UNICEF India and World Bank data, India counts among the highest number of maternal deaths worldwide. India witnesses 45,000 maternal deaths every year, coming to an average of one maternal death every 12 minutes.**
- **Unsafe abortions are the third leading cause of maternal deaths in India. Researches have shown that half the pregnancies in India are unintended and about a third result in abortion. Only 22% of abortions are done through public or**

private health facilities.

- **Lack of access to safe abortion clinics, particularly public hospitals, and stigma and attitudes toward women, especially young, unmarried women seeking abortion, contribute to this.**

Doctors refuse to perform abortions on young women or demand that they get consent from their parents or spouses despite no such requirement by law. This forces many women to turn to clandestine and often unsafe abortions.

- **The Medical Termination of Pregnancy Act, 1971 provides for termination only up to 20 weeks.** If an unwanted pregnancy has proceeded beyond 20 weeks, women have to approach a medical board and courts to seek permission for termination, which is extremely difficult and cumbersome.

The law does not accommodate non-medical concerns over the economic costs of raising a child, effects on career decisions, or any other personal considerations.

The silence around unsafe abortion leads to deaths of women and hides important problems that lie at the intersection of these concerns, such as the formidable barriers for adolescent girls to access reproductive health services, including abortion services.

Judicial Rescue

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

- **By decriminalising adultery and homosexuality (Navtej Johar judgment) 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 recognised 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 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.

Way Forward

- Sexual and reproductive rights in India must include:
 - a concern with maternal deaths,
 - access to maternal care to safe abortions,

- access to contraceptives,
- recognition of adolescent sexuality,
- prohibition of forced medical procedures such as forced sterilisations
- removal of stigma and discrimination against women, girls and LGBTI persons on the basis of their gender, sexuality and access to treatment,
- **The MTP Act needs to be reformed comprehensively so, that it can be more inclusive and sensitive towards the plight of married women who are forced to conceive and carry a pregnancy to term against their will. It should also include the economic burden a woman has to undertake in raising a child.**
- **Access to legal and safe abortion is an integral dimension of sexual and reproductive equality, a public health issue, and must be seen as a crucial element in the contemporary debates on democracy that seeks to provide the just society that abhors all sort of discrimination.**
- The responsibility also lies with civil society and development actors to bring up these issues for public debate and in demands.

Over the years, women have made great strides in many areas with notable progress in reducing gender gaps. Yet realities of women and girls getting trafficked, maternal health, deaths related to abortion every year has hit hard against all the development that has taken place, even negating it sometimes.

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.”

Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (PCPNDT) Act

- **The act was enacted in 1994 and amended in 2003 and is an important tool for addressing sex selective eliminations.**
 - **Objectives** - The main purpose of enacting the act is to ban the use of sex selection techniques before or after conception and prevent the misuse of prenatal diagnostic technique for sex selective abortion.
 - **Salient features** - Offences under this act include conducting or helping in the conduct of prenatal diagnostic technique in the unregistered units. Sex selection on a man or woman, conducting PNDT test for any purpose other than the one mentioned in the act. Sale, distribution, supply, renting etc. of any ultrasound machine or any other equipment capable of detecting sex of the foetus.
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