

## REPRODUCTIVE RIGHTS WOMEN IN INDIA

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### ABSTRACT

The reproductive rights of women in India encompass a wide array of legal, social, and healthcare-related concerns, including the availability of contraception, abortion services, maternal healthcare, and protections against forced sterilization. Reproductive rights are fundamental to the well-being and autonomy of individuals, particularly women. There must be active elimination of gender, race, socioeconomic, or any other discrimination that infringes on the rights of people. India’s reproductive rights landscape is complex, with legal progress often clashing with social attitudes and practices. Landmark cases such as the 2022 MTP case and the decriminalization of homosexuality reflect a growing acknowledgment of individual rights and the importance of personal autonomy in reproductive decision-making.

**Keywords:** Reproductive rights of women, human rights of women, maternal health of women, protection of women, gender equality

### Introduction

The reproductive rights of women in India encompass a wide array of legal, social, and healthcare-related concerns, including the availability of contraception, abortion services, maternal healthcare, and protections against forced sterilization. While there has been considerable progress in the recognition of women’s reproductive autonomy in India, several obstacles remain, especially in relation to accessibility, awareness, and the prevailing social stigma.<sup>2</sup>

**Reproductive rights are fundamental human rights:** guaranteeing everyone’s freedom to decide what’s best for their own bodies and reproductive health. Access to contraception, safe and legal abortion, maternal health services and education are necessary for

gender equality and personal freedoms. This article examines the importance of reproductive rights, the obstacles to guaranteeing their protection and international initiatives to achieve universal access to these rights.<sup>3</sup>

**Reproductive Rights in India:** Reproductive rights are fundamental to the well-being and autonomy of individuals, particularly women. These rights encompass the ability to make informed decisions about one’s reproductive health, including access to contraception, safe and legal abortion, and the ability to choose when and how to have children. In India, reproductive rights have evolved over the years, with legal advancements that reflect a broader understanding of gender equality, health, and

<sup>2</sup> <https://www.tsclcd.com/reproductive-rights-under-the-indian-constitution>

<sup>3</sup> [https://www.reproductiverights.org/sites/default/files/documents/RRareH\\_R\\_final.pdf](https://www.reproductiverights.org/sites/default/files/documents/RRareH_R_final.pdf)

individual freedoms. However, the situation remains complex due to societal norms, legal frameworks, and political stances.<sup>4</sup>

**Maternal Health Services:** Sufficient nutrition, medical care during labor and delivery, and educational classes regarding childbirth are all parts of accessing maternal health services, which also makes sure that both the caregiver and the child are properly taken care of through quality prenatal and postnatal care.<sup>5</sup>

#### **Sexual and Reproductive Health Education:**

All people need to be provided with informative sexual and reproductive health education to enable them make informed choices about their bodies, health, and relationships. Topics such as the use of contraceptives, STIs, and consent are central in fostering reproductive rights for all and as such must be taught.<sup>6</sup>

**Protection from Discrimination:** There must be active elimination of gender, race, socioeconomic, or any other discrimination that infringes on the rights of people. All individuals should be able to enjoy their rights without discrimination, force, or public ridicule.

#### **Landmark Cases: Legal Triumphs and Struggles**

##### **The 2022 Supreme Court Judgment on Abortion Rights (X vs. Union of India)<sup>7</sup>**

In a major development, the Indian Supreme Court in 2022 allowed a woman to terminate her pregnancy beyond the 20-week limit under the Medical Termination of Pregnancy (MTP) Act. The case involved a woman who had conceived after being sexually assaulted and who sought an abortion when

the fetus was found to have a severe abnormality. The Supreme Court ruled that the 20-week limit for abortion could be relaxed in exceptional cases, emphasizing the need to respect a woman's autonomy over her reproductive choices. This judgment was a significant step in affirming the rights of women to make decisions about their bodies and reproductive health.

##### **The 2020 Puttaswamy Judgment and the Right to Privacy**

While not directly related to reproductive rights, the landmark **K.S. Puttaswamy v. Union of India (2017)** case, which upheld the fundamental right to privacy, laid the groundwork for future reproductive rights cases. The Supreme Court's judgment declared that privacy is a fundamental right protected by the Constitution. This decision has far-reaching implications for reproductive rights, as it grants individuals the autonomy to make decisions about their bodies without state interference. It has been referenced in cases regarding the right to contraception, abortion, and even surrogacy, reinforcing the notion that reproductive choices are deeply personal and should be free from governmental intrusion.

##### **Section 377 Judgment: Decriminalizing Homosexuality**

While the **Navtej Singh Johar v. Union of India (2018)** case primarily decriminalized same-sex relations, its broader implications are significant for reproductive rights as well. The judgment was a victory for LGBTQIA+ rights and set a precedent for recognizing diverse family structures and sexual rights. This has implications for reproductive rights as it highlights the importance of recognizing non-heteronormative family models, which were previously marginalized or invisible in India's

<sup>4</sup> <https://reproductiverights.org/sites/default/files/documents/Reproductive-Rights-In-Indian-Courts.pdf>

<sup>5</sup> <https://nhm.gov.in/index1.php?lang=1&level=2&sublinkid=822&lid=218>

<sup>6</sup> <https://www.un.org/esa/socdev/unyin/documents/UNFPA SexualReproductiveHealth.pdf>

<sup>7</sup> <https://lawschoolpolicyreview.com/2023/11/27/uncertainty-of-abortion-a-case-comment-on-x-v-union-of-india/#:~:text=Based%20on%20these%20factors%2C%20the,and%20all%20Dencompassing%20sense%E2%80%9D>

<sup>8</sup> Writ Petition (Civil) No 494 of 2012; (2017) 10 SCC 1; AIR 2017 SC 4161

reproductive rights discourse.<sup>9</sup>

### The 2021 Surrogacy Regulation Bill: A Step Toward Equity and Control

The **Surrogacy<sup>10</sup> (Regulation) Bill, 2021** was introduced to regulate commercial surrogacy and allow ethical, altruistic surrogacy arrangements. The bill, however, was also met with criticism for its restrictions on surrogacy arrangements, particularly the ban on foreign nationals and the requirement that the intended parents be married. Advocates for women's rights have pointed out that while the bill seeks to protect surrogate mothers, it still imposes limitations that restrict access to reproductive choices for some individuals, particularly same-sex couples and single parents.

### The Need for Reform: Future Projections

While India has made considerable progress in recognizing and securing reproductive rights, challenges remain. The country's legal framework requires further modernization to ensure the equitable access and protection of reproductive rights for all citizens, particularly women and marginalized communities. For instance:

**Access to Abortion:** The relaxation of abortion laws beyond 20 weeks, as seen in recent Supreme Court rulings, should be further expanded to include a wider range of situations and ensure that all women have access to safe, legal, and timely abortions.

**Contraceptive Access:** Despite the widespread availability of contraceptives, societal stigma and misinformation continue to hinder their use. Public health campaigns that promote reproductive health literacy and correct misinformation are crucial in empowering individuals to make informed choices.

**Support for Marginalized Groups:** Women in rural areas, tribal regions, and economically disadvantaged communities still face significant barriers in accessing reproductive health services. Ensuring that reproductive rights reach these populations requires a tailored, culturally sensitive approach that addresses local challenges and provides financial support where needed.

**Comprehensive Sex Education:** A holistic sex education system in schools can equip young people with the knowledge and skills to make informed decisions about their reproductive health and rights. This could help address rising rates of adolescent pregnancies and STIs while fostering a deeper respect for reproductive autonomy.

### Conclusion

India's reproductive rights landscape is complex, with legal progress often clashing with social attitudes and practices. Landmark cases such as the 2022 MTP case and the decriminalization of homosexuality reflect a growing acknowledgment of individual rights and the importance of personal autonomy in reproductive decision-making. However, there is still much to be done to ensure that all citizens, regardless of their gender, sexuality, or socioeconomic status, can exercise their reproductive rights fully and without stigma. As societal norms evolve and the legal framework adapts, it is crucial to continue pushing for reforms that safeguard reproductive freedoms for all.

<sup>9</sup> <https://privacylibrary.ccgnlud.org/case/navtej-singh-johar-and-ors-vs-union-of-india-uo-i-and-ors>

<sup>10</sup> The term "surrogacy" refers to the practice of using a woman's womb to carry a fetus until birth to be raised by another