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**Reproductive Rights of Women in a Patriarchal Society****INTRODUCTION**

Women are gifted with the miracle of proliferating life from within them but unbeknown to the future prospects, this gift draws a lot of malice from various sections of society. Since ages, women have been exploited in unspeakable ways from the dominating section of society to benefit their own selfish desires. Women have been a prey to the selfish desires of men in the name of reproduction and health has been strayed away from the path of development and has been tamed like some livestock only for the purpose of breeding the future progeny.

The very feature of reproduction has been a prey to patriarchy and the control of fertility and sexuality of women were not in their own hands. The societal setup has seen women reduced to mere passive objects for the conception and raising the child to be a man. The continuation of the process of reproduction was assumed as the main job for women by the society and as for the male counterpart, their job was based on the physical makeup of their body, so, they were the given the task of physically demanding work. This led to women being equated to 'means of

reproduction' and men were entitled with 'means of subsistence', establishing patriarchy in the society.<sup>1</sup>

### **REPRODUCTIVE RIGHTS IN INDIA**

The reproductive rights of women are considered as the most of the pivotal rights awarded to women. The World Health Organization (herein afterwards referred as WHO) defined reproductive rights as follows- "Reproductive rights rest on the recognition of basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have information to do so, and right to attain the highest standard of sexual and reproductive health. They also include the right of all to make decisions concerning reproduction free of discrimination coercion and violence."<sup>2</sup> Reproductive rights are inclusive of the following and they are as follows-

1. Right to legal or safe abortion.
2. Right to control ones reproductive functions.
3. Right to access to reproductive choices free from coercion, discrimination and violence.
4. Right to access about the know-how of contraception and sexually transmitted disease (from herein afterwards referred as STD).
5. Right to be protected from gender based practices like female genital mutilation (FGM) and male genital mutilation.

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<sup>1</sup> Maureen Mackintosh, *ReproductionAnd Patriarchy: A Critique of Claude Meillassoux, Femmes, Greniers et Capituax* Available at <<http://www.google scholar.com>> on August 26<sup>th</sup>, 2020.

<sup>2</sup>Gender and Reproductive rights. Available at <<http://www.who.int/reproductive-health/gender/index.html>> on August 26<sup>th</sup>, 2020.

India has come a long way in terms of participating in conferences related to women health and reproduction which can be adjudicated by its participation in the International Conference on Population and Development, 1994. This conference was aimed at including ethical and professional standards in family planning services along with recognition of right to personal reproductive autonomy and collective and collective gender equality.<sup>3</sup>

Family planning is a subset of reproductive right accessed by women and the modern medications for so is mostly available to the urban population and not to the rural population. India offers a wide range of contraceptive supplies to women but the same is out of the reach of women belonging to rural areas and to the add to all of these, health centers and sub centers are inadequate lacking the basic facilities also.<sup>4</sup> Not much choices of contraception are available to the rural population and mostly it includes surgical methods like tubectomy or lacoscopic sterilization. Specialists having the knowledge of conducting these procedures relocate to nearest camps, whilst, rural women are not left with much of options to choose from, thereby, meddling with their reproductive rights.<sup>5</sup>

### **ABORTION**

Unwanted pregnancy in India is considered as a taboo and with the patriarchy running so deep in the family, the women conceiving the child is thrown to the quacks or doctors for abortion when the ensuing baby is a girl. Abortion in India is seen as a pro-choice from legal perspective. The process

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<sup>3</sup> United Nations International Conference on population and development, 5-13 September 1994 Cairo. Available at <<http://www.iisd.ca/cairo.html>> on August 26<sup>th</sup>, 2020.

<sup>4</sup> IMPROVING QUALITY OF CARE IN INDIA'S FAMILY WELFARE PROGRAMME ( Koenig M, 1999).

<sup>5</sup> Srinivas Kosgi et al, *Women Reproductive Rights in India: Prospective Future*, 10 Online J Health Allied Scs 2, (2011).

of abortion was regulated by introducing an Act<sup>6</sup> to safeguard the interests of pregnant women.

The option of abortion is however, not available to all class of women. This problem came into light when a mentally challenged orphan girl at Nari Niketan was raped by four guards.<sup>7</sup> The recommendations made by the multi-disciplinary board were taken into consideration by the Punjab and Haryana Court but the same was challenged by the NGO in the SC which overruled the decision of the High Courts and ordered the continuity of pregnancy. This raised the contentions of unequal protection of women in reference to their special status of mental retardation because the MTP Act does not deal with the abortion of women with mental retardants, urging a strong need to bring the Indian legal framework in line with the International Legislation.

Articles 12 and 16 of the Convention on the Elimination of all forms of Discrimination Against Women, 1978, allows women to make free decisions about health care and medical treatment including fertility and sexuality. The right to informed consent and confidentiality are considered as the fundamental principles of reproductive health service which requires no authorization from the third party.<sup>8</sup>

### **WOMEN EMPOWERMENT TO REPRODUCTIVE HEALTH**

Reproductive rights are a subset of human rights and inadequate reproductive health care takes a steep toll on women's health in terms of unwanted pregnancies, unsafe abortion, injury as a result of pregnancy and childbirth. The patriarchy prevailing in the society restricts women from realizing their reproductive goals by sabotaging women's voice and needs.

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<sup>6</sup> Medical Termination of Pregnancy Act, 1972.

<sup>7</sup> KAMAYANI BALI MAHABAL, WOMEN CHOICE, ABORTION LAW'S GREY ZONE: RETATRDED MOTHERS, (India Together, 2009).

<sup>8</sup> *Women's Health Journal*,(2003).

It is to be noted that the reproductive health of a woman is not limited to herself alone rather it brings in the family dynamics also into question. So, equal participation of women into the policy making is the need of the hour.

The following components are a sine quo non to the reproductive health and they are as follows:-

1. **Family Planning-** Family planning garners the support of government and well-trained service providers to be culturally sensitive to the client's need. The knowledge of contraceptive choice and consent should not get in the way of privacy.
2. **Safe Motherhood Program-** Women should have free access to safe and sound medical facility. The problems related to post pregnancy should also be addressed ensuring a proper knowledge of family planning, immunization and good health.
3. **Abortion and Post-abortion care-** It is one of the most crucial public health law and in cases where abortion is not against law, quality care should be taken to reduce maternal mortality rates.
4. **Prevention & treatment of STDs-** The cultural and biological factors make women more prone to STDs than men.<sup>9</sup> Family planning processes can improve and reduce the risk of sexually transmitted disease.
5. **Including men in reproductive health programs-** The main aim of including men in reproductive health care programs is to advance gender equality and the welfare of family. Men and women coming out on their sexual issues would result in gender equality, better reproductive health to ascertain rights on.

## CONCLUSION

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<sup>9</sup> *THE GLOBAL BURDEN OF SEXUALLY TRANSMITTED DISEASES, HIV, MATERNAL CONDITIONS, PRENATAL DISORDERS AND CONGENITAL ABNORMALITIES*, 3 Harvard University Press (1998).

Patriarchy is a social system wherein men have power over women; it's a male-dominant structure of society. With power comes privilege, men hold power over so many things and wield abundant privileges like the control of the property, political leadership, moral authority etc. However, it strictly determines the role of a woman and creates massive inequality between men and women leading to the poor living standard, discrimination, exploitation and denial of basic human rights to the women in patriarchal society. Women in patriarchal society should at least be permitted to exercise this basic human rights of theirs.

Reproductive rights are the most important rights for a women. Reproductive health is a state of complete mental, physical and social well-being and not merely the absence of disease or information in all matters relating to the reproductive system and its function and processes.

Reproductive health and reproductive rights go hand in hand and connotes a wider interest of society<sup>10</sup>. The reproductive rights ensure the well-being of the individuals as well as for the family. The reproductive rights of women have to be protected because of the patriarchy taking over the society and sensationalizing it as a taboo. There is also an immediate need to take care of the plight of the mentally challenged individuals who are not able to exercise their reproductive rights which demands for sensitization of judicial system of the process of consent to abortion.

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<sup>10</sup> Available at: <https://www.unfpa.org/sexual-reproductive-health#:~:text=Good%20sexual%20and%20reproductive%20health,how%20often%20to%20do%20so> [Last accessed on 25<sup>th</sup> August, 2020].