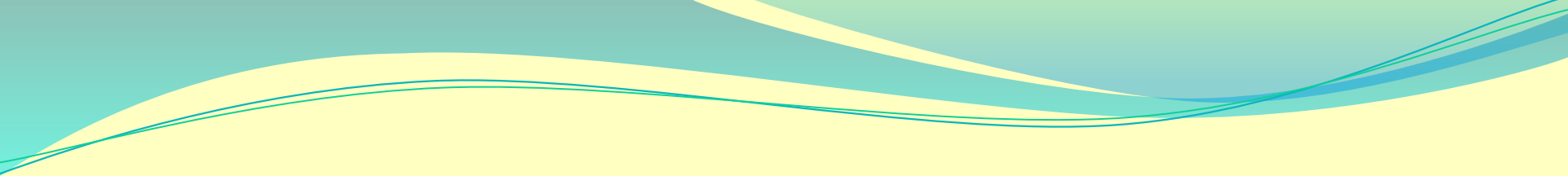


# Gender and Reproductive Rights



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Session time: 45 Minutes

Methodology: Power Point Presentation

# **What are Reproductive Rights**

**The Promotion of Reproductive rights should be the Fundamental basis for Government, community sponsored policies and Programmes**

**The Government must consider the reproductive right fundamental part of the laws it enacts, the policies it puts in place and the programmes it creates**

# **Right to EQUALITY in Reproductive Decisions**

- **The Right to Equality in Reproductive Decisions includes the right to:**
- **Choose whether and when to marry and start a family;**
- **Marriage should be with the full, free and informed consent of both individuals**
- **Decide freely and responsibly the number and spacing of your children**
- **You have the right to make reproductive decisions when it comes to your body, your health and your family**

# **Right to Sexual and Reproductive SECURITY**

- **The Right to Sexual and Reproductive Security gives you the right to:**
- **Live a life free of gender – based violence**
- **This includes sexual violence, incest, trafficking, dowry related violence, and rape based on the fact that you are female**
- **Protection of physical and mental integrity**
- **You have the right to live a life free of mental harm and violence based on the fact that you are female**

# **Right to Reproductive and Sexual HEALTH SERVICES**

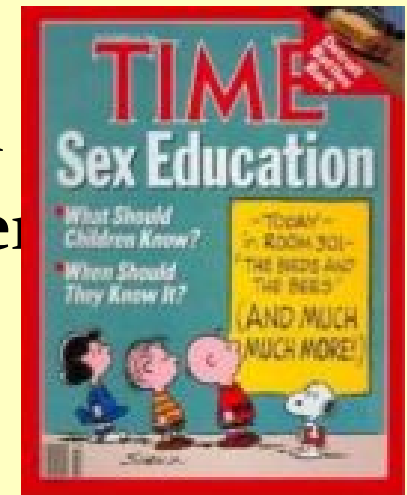
- **The Right to Reproductive and Sexual Health Service includes the right to:**
- **Safe and affordable methods of family planning.**
- **If you decide to have children, you will be able to do so in a safe environment with medical care and assistance**
- **If you decide to use family planning services, you will have access to these services in a safe hygienic environment**
- **Safe motherhood,**
- **You have the right to survive Pregnancy!**
- **Nearly one lakh women die each year during child – birth**
- **A fifth of these Pregnancies are unwanted**

# Right to Reproductive and Sexual Health Services

- Management of gynecological problems, infertility, prevention: and
- Treatment and prevention of sexually transmitted diseases sexually transmitted infections, and HIV/AIDS
- If you are HIV/AIDS positive or have an STI, you have the right to medical treatment:
- The high incidence of sexually transmitted diseases, infections, and HIV/AIDS reflects the practice of unsafe sex:
- Those living with HIV/AIDS have to live not only with the disease, but also the stigma that goes with it

# Right to Access Information and Education

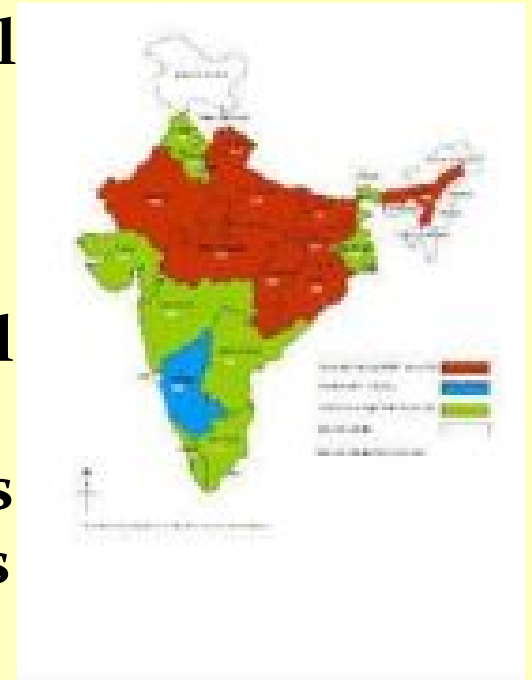
- The Right of Access to Information and Education include the right to:
- Access information regarding sexual and reproductive issues so that you can make informed decisions:
- This information must be provided in a clear, complete and sensitive manner





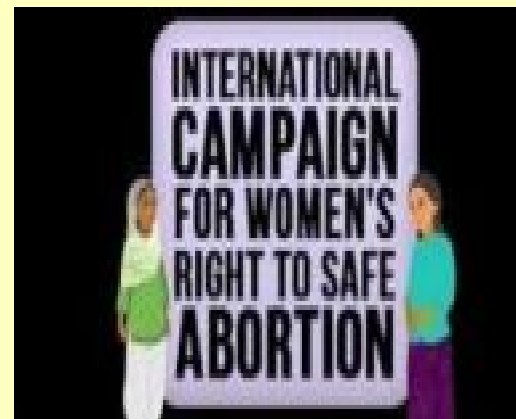
# Maternal Mortality

- India accounts for 20% of the maternal deaths worldwide
- MMR average: 240
- Some states 480
- One in 70 women is at risk of maternal death
- A women in India dies every 8 minutes from childbirth related complications
- China - 45, Ireland - 0, US -12.
- About 75% of these death are preventable where have access to family planning services and emergency obstetric care.



# Abortion

- Termination of Pregnancy – Safe and simple Procedure
- 1/5 of pregnancies in India are unwanted or unplanned.
- In India 2/3 of all abortions are unsafe – Infertility, death.
- Significant contributor to India's MMR
- Every hour, 8 women and girls die from unsafe abortions.
- About 18000 women a year



# Coercive Population Control

- **Sterilization**
- **Number 1 form of birth control in India (no access to other forms of birth control)**
- **Targets and incentives coercion**
- **(unethical)**
- **Unsafe environments**
- **Hysterectomies**
- **No informed consent**
- **Class/Social Group**



# Broadly Speaking

- **Access to good quality family planning services, Counseling that respects the reproductive needs of Individuals and couples and prevention of unwanted pregnancy:**
- **Provision of safe motherhood services and infant care during and after pregnancy:**
- **Prevention of unsafe abortion and management of the consequences of unsafe abortion:**
- **Prevention and management of reproductive disorders, Including sexually transmitted diseases and sexually infections:**
- **Prevention and treatment of HIV/AIDS: and**
- **Empowering adolescents by giving them comprehensive reproductive and sexual health information and education**

# Reproductive Rights Issues

- MM (Maternal Mortality)
- Abortion
- Coercive Population Control
- Right to food ( anemia, poverty)
- Housing
- Child marriage
- HIV/AIDS , Malaria
- Cruel inhuman treatment  
discrimination
- Contraception
- Sex Education
- Sex ratio
- Surrogacy
- Clinical Trials
- SC and ST
- Youth sexual health
- Gender based

# **SURROGACY**

**SURROGACY** means a practice whereby one woman bears and gives birth to a child for a couple with the intention of handing over the child to the intending couple after the birth

# ALTRUISTIC SURROGACY

**Altruistic surrogacy means** surrogacy in which no charge, expense, fees, remuneration or monetary incentive of whatever nature are given, except the medical expense incurred on the surrogate mother and the insurance coverage for the surrogate mom

# COMMERCIAL SURROGACY

**Commercial Surrogacy means**

**commercialization of surrogacy services or procedures, including selling or buying of human embryo by way of giving monetary incentive in cash or kind, to the surrogate mother or her dependents or representative, other than the medical expenses incurred and the insurance coverage for the surrogate mother**



# Surrogacy: Scenario

- A study conducted in July 2012, backed by the UN, put the surrogacy business at more than \$400 million with more than 3000 fertility clinics all over the country.
- The research states that clinics do not provide the mother with a copy of the contract that is signed by the adoptive parents.
- In order to escape stigma pregnant women often stayed in shelter homes that provided them with lesser security and assistance than required.
- Surrogate mothers end up being exploited for a much larger number, more often than not, giving Child birth one after the other

# Surrogacy: Government's Initiative

- **2002: Commercial surrogacy is legalized**
- **2005: Introduction and implementation National guidelines for accreditation, supervision and regulation of Assisted Reproductive Technology (ART) clinic in India by ICMR, MoHFW, GOI**
- **December 2010: Introduction of ART Draft bill**
- **2016: The Surrogacy Regulation Bill 2016.**

# The Surrogacy Regulation Bill 2016

## Highlights of the Bill

- Surrogacy is an arrangement whereby an intending couple commissions a surrogate mother to carry their child.
- The intending couple must be Indian citizens and married for at least five years with at least one of them being infertile. The surrogate mother has to be a close relative who has been married and has had a child of her own.
- No payment other than reasonable medical expenses can be made to the surrogate mother. The surrogate child will be deemed to be the biological child of the intending couple.
- All registered clinics will have to maintain records of surrogacy for 25 years.

# Case Study

**Necessity of legal protection was enforced through the case of Baby Manji vs Union of India.**

**A Japanese couple commissioned a surrogate mother in India but they ended in a divorce. The single male parent wasn't granted custody of the child and the mother refused to accept it. Japan gave the child humanitarian visa and allowed the grandmother to take the child on behalf of her son, given his genetic relation with the baby. During the case, however, the Supreme Court recognized that the parent of a surrogate child may be a male and recognized surrogacy as a positive practice.**

# Highlights

- **Central and state governments will appoint appropriate authorities to grant eligibility certificates to the intending couple and the surrogate mother. These authorities will also regulate surrogacy clinics.**
- **Undertaking surrogacy for a fee, advertising it or exploiting the surrogate mother will be punishable with imprisonment for 10 years and a fine of up to Rs 10 lakh.**

# Key Analysis on Surrogacy Bill

- **The Bill permits surrogacy only for couples who cannot conceive a child. This procedure is not allowed in case of any other medical conditions which could prevent a woman from giving birth to a child.**
- **The Bill specifies eligibility conditions that need to be fulfilled by the intending couple in order to commission surrogacy. Further, it allows additional conditions to be prescribed by regulations. This may be excessive delegation of legislative powers.**
- **The surrogate mother and the intending couple need eligibility certificates from the appropriate authority. The Bill does not specify a time limit within which such certificates will be granted. It also does not specify an appeal process in case the application is rejected**

# Key Analysis ...

- Under the bill, all surrogacy clinics will have to be registered.
- Surrogate mother cannot be paid directly and
- There will be national and state surrogacy boards which will be the regulating authorities for the practice. Commercial surrogacy, abandoning the surrogate child, exploitation of surrogate mother, selling/ import of human embryo have been put down as violations, punishable by law.
- All registered clinics will have to maintain records of surrogacy for 25 years.

# Key Analysis on Surrogacy Bill

- The surrogate mother must be a 'close relative' of the intending couple. The Bill does not define the term 'close relative'. Further, the surrogate mother (close relative) may donate her own egg for the pregnancy. This may lead to negative health consequences for the surrogate baby.
- For an abortion, in addition to complying with the Medical Termination of Pregnancy Act, 1971, the approval of the appropriate authority and the consent of the surrogate mother is required. The Bill does not specify a time limit for granting such an approval. Further, the intending couple has no say in the consent to abort.



## **Key Analysis...**

**The most jarring provision of the law, also present in the ART Bill, is the prohibition of single parents, homosexuals, live-in couples from becoming commissioning parents. The bill also disallows childless or unmarried women to be surrogate mothers.**

# Condom

- **Usage of Condom:** in Family planning, safe sex (STI, HIV), cervical cancer
- **Availability and cost:**
  - **Male Condoms:** available in different flavors and easily available cost ranging from less than Rs 2/- to Rs 100/- above
  - **Female condoms:** available mostly at Medical stores need some knowledge in usage . Cost ranging from Rs 10/- to Rs 100/- above
- **Inhibitions:**
  - **Male decision making**

# Constitution of India: National Law

- **Article 21 : The Right to Life**
- **“ No person shall be deprived of his or her life or personal liberty except according to procedure established by law.”**  
**The Supreme Court of India issued that Article 21 includes:**
- **The right to health:**
- **Violation : Maternal Death**
- **The right to be free from torture and in human treatment:**
- **Violation : Forced abortion**
- **The right to shelter:**
- **Violation : Homeless pregnant and lactating women**
- **The right to privacy , and**
- **The right to dignity**
- **Violation : Coercive female sterilization**

# Constitution of India:

## National Law

- **Article 14: The Right to Equal Access to the Law**
- **“Equality before the law or the equal protection of the laws with in the territory of India.”**
- **You have as much right to access the law and its protections as anyone else in the country**
- **Article 15: The Right to Live without Discrimination**
- **Discrimination against an Indian citizen based only on “religion. Race, caste, sex, place of birth or any of them” is prohibited**
- **No matter what your sex, age, place of birth or race, you have the right**

*Sexism is the root oppression, the one which, until and unless we uproot it, will continue to put forth the branch of racism, class, hatred, ageism, competition, ecological disaster, and economic exploitation. No other human differentiations can be similarly powerful in reproducing oppressions, and so, women are the real left.”*

-Morgan Robin



**Thank  
you**