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REPRODUCTIVE RIGHTS OF GIRLS AND WOMEN WITH DISABILITIES: A SOCIO-LEGAL STUDY

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Abstract

The paper discusses the rights of women with disabilities, particularly in India, highlighting challenges such as limited healthcare access, social marginalization, and lack of legal protection. It calls for inclusive policies, increased access to health services, comprehensive data collection, and public awareness. India is implementing measures to strengthen its legislative framework, expand disability-friendly healthcare facilities, and raise public awareness to combat discriminatory attitudes. The research underscores the need for comprehensive education and empowerment for women with disabilities, requiring a multifaceted approach from government, international organizations, and civil society. The study emphasizes the need for international collaboration to establish a foundation for a more inclusive and equitable world, where the reproductive rights of all women, including those with disabilities, are protected and upheld.

Keywords: Abortion, Contraception, Disability, Justice, Reproductive Health Care, International Law, Indian Laws

Introduction

“Disability is not a barrier to success” - Stephen Hawking

The 21st century has seen significant advancements in liberalization, constitutionalism, pluralism, and post-modernism, emphasizing individual autonomy and personal rights. India's judiciary plays a crucial role in upholding these fundamental freedoms. Among these rights, women's reproductive rights have emerged as a vital focus, as courts have affirmed women's right to make independent choices regarding their own bodies.¹

¹ Dorota Anna Gozdecka, “Backlash or Widening the Gap? :Women’s Reproductive Rights in the Twenty-First Century” 2 *Mdpi* 1-14 (2020).

Reproductive rights in India and Internationally include freedom to choose, protection of reproductive health, access to contraception, and comprehensive sexual education.² In a patriarchal society, women's rights are crucial, leading to debates on abortion legality and ethics. This divide often conflicts with religious and traditional viewpoints, causing a divide in opinions on women's autonomy.

For women with disabilities, prevailing biases and institutional obstacles exacerbate the challenges they face in asserting their reproductive rights. These women have endured years of exclusion and have been denied the autonomy to make decisions regarding their own reproductive health.³ Disabled women face coercive sterilization, birth control denial, and forced abortions, emphasizing the need for a nuanced understanding of their reproductive rights. This paper examines the progress made by international standards and Indian legal frameworks in promoting the reproductive rights of women with disabilities.

Disability vis-a-vis Reproductive Rights of Disabled Women

“Women with disabilities frequently encounter barriers that prevent them from fulfilling the primary roles traditionally assigned to women.” This is especially evident in areas such as sexuality, reproduction, and parenting. While women are typically celebrated for their maternal roles, physical attractiveness, and reproductive capabilities, those with disabilities are often viewed as lacking in these qualities.⁴ The existence of disability affects how women can access and participate in sexual, reproductive, and caregiving activities. In a society that often defines women primarily as sexual beings, mothers, and caregivers, the prevailing culture limits the opportunities for women with disabilities to embrace motherhood and strips them of their expected roles. As a result, even in contemporary society, women with disabilities are often excluded from the traditional gender roles and the valued attributes typically associated with womanhood.

The International Human Rights Community is recognizing women's sexual and reproductive

² Maud Anne Bracke, “Women’s Rights, Family Planning, and Population Control: The Emergence of Reproductive Rights in the United Nations (1960s–70s)” 4 *The International History Review* 751-771 (2022).

³ Irfat Ara1 and Mudasir Maqbool, “Reproductive Health of Women: Implications and Attributes” 6 *International Journal of Current Research in Physiology and Pharmacology* 751-771 (2022).

⁴ Patricia Pérez-Curiel, Eva Vicente, *et.al.*, “The Right to Sexuality, Reproductive Health, and Found a Family for People with Intellectual Disability: A Systematic Review” 9 *International Journal of Environmental Research and Public Health* 1-29 (2023).

health needs, implementing protections and obligations related to marital status, contraceptive access, family planning, prenatal care, sexual violence, and infections.⁵ Starting with the fundamental human rights principles of equality, dignity, and inclusion, we explore the progress of these principles in the areas of sexual citizenship, reproductive healthcare, and decision-making and parenting for women with disabilities. The argument presented is that women with disabilities possess inherent human rights to exercise self-determination regarding their reproductive health and sexual well-being.⁶ This research explores International Human Rights Treaties on sexual healthcare and reproductive rights, aiming to improve understanding of gender and disability issues for women with disabilities, promoting innovative practices and institutional frameworks.

Taking into account the global aspects of the topics discussed, we can clarify them from an Indian perspective by analysing the specific rights provided by the Disability Act and the Mental Healthcare Act, as well as the various options available across different regions of the country.⁷ This addresses various factors related to sexual and reproductive rights changes that impact women with profound intellectual disabilities (WID). It highlights the concerns of the women themselves, their caregivers, and the physicians involved in their care. In this context, the legal system seeks diverse perspectives from psychiatrists to evaluate the "capacity to consent" of women of Indian descent (WID) regarding medical procedures such as pregnancy and permanent sterilization. Alongside physical and obstetric assessments, evaluations of mental state and intelligence quotient (IQ) are also performed to enhance understanding of these issues.

The Rights of Persons with Disabilities Act, 2016 (RPWD), along with the Mental Healthcare Act, 2017, defines free and informed consent and outlines guidelines for assessing capacity. Evaluating the "capacity to consent" for reproductive treatments in women experiencing intimate partner dysfunction (WID) is essential and can assist healthcare providers. Prior to assessing capacity, physicians should inform WID patients about the proposed procedure,

⁵ Jordan Fletcher, Halina Yee, *et.al.*, "Centering Disability Visibility in Reproductive Health Care: Dismantling Barriers to Achieve Reproductive Equity" 19 *Emerging Issues in Adolescent and Young Adult Sexual, Reproductive, and Gender Health – Review* 1-11 (2023).

⁶ Università Degli Studi Di Padova Department of Political Science, Law, and International Studies, "TOO OFTEN DENIED, TOO OFTEN NEGLECTED: WOMEN'S SEXUAL RIGHTS. on the Meanings, Controversies, and the Need for a Comprehensive, Positive Approach to Sexuality." 1-130 (2022).

⁷ Richard M. Duffy and Brendan D. Kelly, "India's Mental Healthcare Act, 2017" 1 *In: India's Mental Healthcare Act, 2017*. 81-106 (2020).

including its risks and benefits, using various communication methods. Following this, they can evaluate the individual's "capacity to consent" to the treatment. It presents a brief overview of the existing laws concerning the sexual and reproductive health of women with intimate partner dysfunction and offers recommendations for physicians on how to navigate this issue.

International Standards Governing Reproductive Rights of Women with Disabilities

Numerous International and National norms and standards, including Regional frameworks, advocate for the universal inclusion and empowerment of women and girls with disabilities throughout their lives. These agreements include the International Bill of Human Rights, the United Nations Charter, the Declaration on Elimination of Violence against Women, the Beijing Declaration and Platform for Action, the Vienna Declaration and Program of Action, the Copenhagen Declaration and Program of Action, the World Programme of Action for Disabled Persons, the Convention On Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on Rights of Persons with Disabilities (2006), the United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (1991), the UN Millennium Standard Rules for the Equalization of Opportunities (1993), the ICPD Program of Action from Cairo (1994), the World Health Organization's World Health Assembly Resolution (2005), the United Nations Security Council Resolution (2019), and the Agenda for Sustainable Development (2030).

The description below outlines the previously mentioned agreements related to International standards that govern the reproductive rights of women with disabilities:

(a) The International Bill of Human Rights

The reproductive rights of disabled women are a complex issue that intersects with International Human Rights frameworks like the International Bill of Human Rights. Ensuring they have access to reproductive health services and make informed decisions is not only human rights but also social justice. Dismantling systemic discrimination and ableism is crucial for promoting equality and autonomy.

(b) The United Nations Charter

The United Nations Charter, which was ratified on June 26, 1945, acts as the

fundamental document of the United Nations.⁸ The United Nations Charter is a crucial document promoting gender equality and human rights, advocating for the reproductive rights of disabled women worldwide. It emphasizes inclusivity, equal access to healthcare, and non-discrimination, allowing women with disabilities to make informed decisions about their reproductive health. By aligning with the Charter's principles, advocates and policymakers can create a more inclusive and equitable society where the reproductive rights of all women, including those with disabilities, are respected and protected.

(c) The Declaration on Elimination of Violence against Women

Violence against women and girls (VAWG) refers to a variety of actions, including female genital mutilation, sexual abuse, human trafficking, and child marriage.⁹

The Declaration of Elimination of Violence Against Women emphasizes the importance of protecting women's rights and reproductive health for disabled women. Ensuring comprehensive healthcare and autonomy for these women promotes their well-being and dignity. Advocating for disabled women's rights upholds equality and human rights, fostering a compassionate society that values and respects the inherent dignity of all members.

(d) The Beijing Declaration and the Platform for Action

The Beijing Declaration and Platform for Action, adopted in 1995, highlight the need for reproductive rights for disabled women, highlighting systemic barriers and challenges. Disabled women often face discrimination based on gender and disability, limiting their autonomy and decision-making power. Inclusive policies and practices are needed to uphold reproductive rights for all women, regardless of disability status. Policymakers and advocates should promote awareness, provide support services, and ensure comprehensive reproductive health information for disabled women.

(e) The Vienna Declaration and Program of Action

During the World Conference on Human Rights held on June 25, 1993, representatives from 171 countries unanimously endorsed the Vienna Declaration and Programme of Action.¹⁰

⁸ Renren Gong, "Chapter 1: The Emergence and Significance of the Human Rights Provisions in the Charter of the United Nations In" 5 *Chinese Yearbook of Human Rights* 1-33 (2023).

⁹ Patience Mutunani, "Gendered Intersections Between Labia Elongation, Child Marriage, Bride Price, Polygamy and HIV Infection" 1 *University of Portsmouth.* 1-380 (2023).

¹⁰ Theresia Degener and Yolán Koster-Dreese, "Vienna Declaration and Programme of Action", in Brill (ed.) 429-445 (*World Conference on Human Rights on 25 June 1993, 1st edn.*,(1993).

The Vienna Declaration and Programme of Action prioritize the protection and advancement of reproductive rights for disabled women. They emphasize the need for inclusive support systems, recognizing the intersectionality of disability and gender issues. The documents challenge discrimination, promote education, and advocate for the removal of barriers that hinder disabled women from exercising their rights. They serve as foundational frameworks for a more inclusive society.

(f) The Copenhagen Declaration and Program of Action

The agreement to prioritize individuals in the development process was established at the World Summit for Social Development in 1995, marked by the adoption of the Copenhagen Declaration and Programme of Action.¹¹

The Copenhagen Declaration and Program of Action addresses the reproductive rights of disabled women, promoting inclusivity and equality in reproductive health services. It acknowledges the unique challenges faced by disabled women in accessing healthcare and advocates for informed decisions about their bodies and fertility. The document aims to remove barriers and stigma, empower disabled women, and contribute to a more equitable society where every individual can exercise their reproductive health rights.

(g) World Programme of Action concerning Disabled persons

A significant result of the International Year of Disabled Persons was the development of the World Programme of Action for Disabled Persons, which was approved by the General Assembly on December 3, 1982, through resolution 37/52.¹²

The World Programme of Action concerning Disabled persons is crucial in addressing the reproductive rights of disabled women. It ensures equal access to reproductive health services and information, addressing their unique challenges. By promoting autonomy, choice, and dignity, society can create a more inclusive environment for all individuals, regardless of physical abilities. Prioritizing these rights within the disability rights movement can lead to a more equitable society.

(h) The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The United Nations Convention on the Elimination of All Forms of Discrimination against Women, adopted in 1979 and implemented in 1981, acknowledged the ongoing

¹¹ John Angus, "The United Nations World Summit for Social Development. Copenhagen" 1 *Social Services Policy* (1995).

¹² General Assembly, World Programme of Action Concerning Disabled Persons, *UN GAOR, UN Doc 37/52. 1/* (Dec. 03, 1982).

existence of discrimination against women and urged governments to ensure their full development.¹³

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) emphasizes the reproductive rights of disabled women. It emphasizes equal access to reproductive health services and empowering them to make informed choices about their bodies. CEDAW emphasizes the importance of creating a supportive environment for disabled women to exercise their reproductive rights, promoting gender equality and a more just society. This intersectionality between disability rights and gender equality is crucial for achieving this goal.

(i) The Convention on the Rights of Persons with Disabilities, 2006

The United Nations Convention on the Rights Of Persons with Disabilities was adopted by the United Nations in 2006 and was opened for signature in 2007.¹⁴

The Convention on the Rights of Persons with Disabilities, established in 2006, is a key body in promoting and protecting the rights of disabled women, including reproductive rights. It acknowledges the unique challenges faced by disabled women in accessing healthcare and decision-making, aims to uphold their autonomy and dignity, and eliminates discrimination. The convention advocates for inclusive healthcare services and education about disabled women's rights, contributing to a more inclusive and equitable society.

(j) The United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, 1991

The General Assembly has endorsed the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.¹⁵

The United Nations', the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care in 1991 emphasize the importance of ensuring the reproductive rights of disabled women. These principles emphasize the need for respectful treatment, comprehensive healthcare services, and addressing the specific challenges faced by disabled women in accessing quality reproductive healthcare. Upholding these principles can create a more just and equitable society.

¹³ Andrew Byrnes and Eleanor Bath, "Violence Against Women, the Obligation of Due Diligence, and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women—Recent Developments" 8 517-533 (2008).

¹⁴ General Assembly, The Convention on the Rights of Persons with Disabilities, UN GAOR, UN Doc No 19 (May 03, 2008).

¹⁵ General Assembly, Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, UN GAOR, UN Doc UN General Assembly (Dec. 17, 1991).

(k) The UN Millennium Standard Rules for Equalization of Opportunities, 1993

The rules serve as a tool for policy development and form the foundation for technical and economic collaboration. The Standard Rules consist of 22 guiding principles that encapsulate the World Programme of Action.¹⁶

The UN Millennium Standard Rules for the Equalization of Opportunities, established in 1993, aim to promote inclusivity and accessibility for disabled individuals. Ensuring equal access to reproductive health services and information is crucial for upholding their fundamental rights. Advocating for comprehensive reproductive rights that consider diverse needs and experiences is essential for creating a more inclusive and just society.

(l) The ICPD Program of Action, Cairo 1994

The 1994 International Conference on Population and Development (ICPD) Program of Action in Cairo emphasized the importance of reproductive rights for disabled women. It emphasized the need for equal access to reproductive health services, education, and healthcare. The conference highlighted the intersectionality of gender, disability, and reproductive rights, emphasizing the need to uphold the autonomy and dignity of disabled women in decision-making. The conference paved the way for more inclusive reproductive health frameworks..

(m) The World Health Organization World Health Assembly Resolution, 2005

The International Health Regulations 2005 serve as the legally binding International framework that applies to all Member States of the World Health Organization.¹⁷

The 2005 World Health Organization World Health Assembly Resolution emphasized the importance of equal access to reproductive health services and information for all individuals, including disabled women. The resolution aimed to foster a more inclusive healthcare system that respects and upholds the rights of all individuals, regardless of disability status, promoting health equity and dignity for all members of society.

(n) The United Nations Security Council Resolution, 2019

In 2019, the UN Security Council enhanced the women, peace, and security framework by recommending strategies for women's involvement in peacebuilding and urging

¹⁶ General Assembly, Standard Rules on the Equalization of Opportunities for Persons with Disabilities, UN GAOR, UN Doc UN General Assembly (Dec. 20, 1993).

¹⁷ General Assembly, Fifty-Eighth World Health Assembly, UN GAOR, UN Doc Wha58/2005/Rec/1 (Dec. 26, 2004).

member states to ensure their full implementation.¹⁸

The UN Security Council Resolution has been a focal point in 2019 for advocating for the reproductive rights of disabled women. This resolution addresses human rights issues and conflicts, ensuring equal opportunities for disabled women. The intersection of disability rights, women's rights, and international peace and security highlights the need for comprehensive, rights-based approaches to address the complex realities faced by disabled women worldwide.

(o) Agenda of Nations for Sustainable Development, 2030

The 2030 Agenda for Sustainable Development set forth by the United Nations includes a specific goal aimed at attaining gender equality and empowering women and girls.¹⁹

The reproductive rights of disabled women are crucial for sustainable development in 2030. They need comprehensive healthcare and empowerment to make decisions about their bodies. Recognizing and addressing these challenges can create a more inclusive society. An intersectional approach to development acknowledges intersectionality and inclusivity, promoting a supportive environment for all individuals. Disabled women's voices should be recognized and considered in shaping inclusive policies and programs.

Indian Laws, Acts and Regulations to promote Reproductive Rights of Disabled Women

Women, representing 44% of India's disabled population, face challenges like bias, discrimination, neglect, abuse, and exclusion, despite the promise of equal access to rights and services.²⁰ In India, women with disabilities make up 54% of the illiterate disabled population, with employment rates of 23% compared to 47% for men with disabilities.

Following is the explanation of the Indian laws, Acts and Regulations dealing with Reproductive Rights of Disabled Women:

(a) Existing Constitutional and Legal Frameworks

The study of reproductive rights of disabled women within the context of the existing constitutional and legal frameworks in India, highlights the intersection of gender equality and disability rights. It highlights the complexities of autonomy, decision-

¹⁸ Carrie Booth Walling, "Global Governance: A Review of Multilateralism and International Organizations" 26 *The United Nations Security Council and Human Rights* 291-306 (2020).

¹⁹ Walter Leal Filho, Marina Kovaleva, et.al., "Promoting Gender Equality Across the Sustainable Development Goals" 25 *Environment, Development and Sustainability* (2023) 25:14177–14198 14177–14198 (2022).

²⁰ Mental Healthcare Act, 2017 (Acts of Parliament, 2017), ss. No. 10, Section 21 (a).

making, and healthcare access for this demographic. Analyzing gaps in legislation and policies can promote inclusivity and equality.

(b) The Rights of Persons with Disabilities Act, 2016

The Indian Parliament passed the Rights of Persons with Disabilities Act in 2016, addressing the unique challenges faced by women with disabilities. Earlier, the People with Disabilities (Equal Chances, Protection of Rights, and Full Integration) Act of 1995 did not specifically address the issues affecting women with disabilities.²¹

The Reproductive Rights of Disabled Women and the Rights of Persons with Disabilities Act, 2016, was introduced in 2016 to protect the rights of disabled individuals by ensuring access to comprehensive healthcare services. The act promotes empowerment, autonomy, and societal stigma, enabling informed decisions about reproductive health and promoting a more inclusive society. It is a crucial legislative milestone in advancing disabled individuals' rights and well-being.

(c) The Medical Termination of Pregnancy Act, 1971, (Amendment,2020)

The proposed legislation amends this provision to state that pregnancies may be terminated before 20 weeks, provided that a qualified physician gives their professional opinion.²²

The Medical Termination of Pregnancy Act of 1971, which protects the reproductive rights of disabled women, underwent a significant amendment in 2021. The amendment addresses the unique challenges faced by disabled women in accessing safe abortions. This amendment promotes inclusivity, equality, and empowerment in reproductive healthcare, ensuring all women have the right to make informed choices about their reproductive health.

(d) The Mental Health Care Act, 2017

The Mental Health Care Act 2017, enacted on 7 April 2017, decriminalized suicide attempts punishable under Article 309 of the Indian Penal Code.²³

The Mental Health Care Act of 2017 is crucial in promoting reproductive rights for disabled women, ensuring they have the autonomy to make informed choices about

²¹ Swagata Raha and Shampa Sengupta, "Rights of Women with Disabilities Under Indian Legislations" 14 *Socio-Legal Review* 1-23 (2018).

²² Veronica Arora and Ishwar C Verma, "The Medical Termination of Pregnancy (Amendment) Act, 2021: A Step Towards Liberation" 1 *Law and Bioethics* 1-4 (2021).

²³ Suresh Bada Math, Vinay Basavaraju, *et.al.*, "Mental Healthcare Act 2017 – Aspiration to Action" 1 *Review Article* 1-7 (2017).

their health. This act improves access to mental health services and protects the rights of individuals with mental health conditions. A holistic approach is needed to empower disabled women, enhance their health, and improve their quality of life.

(e) The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999

The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disabilities Act, 1999, protects and upholds the rights of disabled women regarding reproductive health and family planning choices. It ensures access to information, services, and support, prohibits discrimination, and promotes inclusivity and equality. The Act also emphasizes education, awareness, and advocacy to ensure disabled women receive necessary care and support for healthy lives.

Violence against Women with Disabilities

Disabled individuals, especially women and girls, are at higher risk of violence, with India's crime data often underestimating their vulnerability due to discrimination and lack of autonomy.

Article 16 of the UNCRPD mandates protection of persons with disabilities from exploitation, violence, and abuse. However, the RPD Act does not explicitly address violence vulnerability of women with disabilities. The Central RPD Rules, 2017 lack a clear procedure or action plan to prevent violence against women with disabilities.²⁴²⁵

India's legal framework acknowledges the vulnerability of children and women with disabilities to sexual offenses. It includes specific provisions in several laws, like the Protection of Children from Sexual Offences Act, Criminal Law Amendment Act, Juvenile Justice Act, Indian Penal Code and POCSO Act, addressing disabilities as aggravating factors and impose increased penalties for aggravated rape and assault.²⁶

The Criminal Law Amendment Act, 2013 introduced new procedures for handling sexual offences against women with disabilities, including providing interpreters, video-recording

²⁴ RPD Act, Section 7(1).

²⁵ RPD Act, Section 7(3).

²⁶ Shraddha Chaudhary, "Reforms to the Legal Framework of Child Sexual Abuse in India: Legislative Band-Aids on Systemic Wounds" 44 *Statute Law Review* 1-22 (2020).

statements, and avoiding police station visits.²⁷

The POCSO Act, 2012 permits special educators or experts to record a child's statement with disabilities, but delays due to insufficient facilities and court training.²⁸ The enforcement of disability laws is hindered by barriers in courts, police failure to include serious charges, and the lack of special educators or experts.²⁹ The Supreme Court in *Eera vs State (NCT of Delhi)* clarified that "age" cannot include "mental age" in statute interpretation, denying testimonies in rape cases of mentally impaired girls in Maharashtra.

The Judicial Approach

This paper examines the impact of litigation in addressing violations of reproductive rights in India, a country where a woman loses her life during childbirth every five minutes. The cases presented below highlight the Indian judiciary's role in safeguarding the reproductive rights of women with disabilities:

(a) Suchita Srivastava vs Chandigarh Administration, 2009

The Supreme Court is considering a case involving an orphaned and intellectually disabled woman who was raped and impregnated, allowing an abortion without her consent, arguing that Article 21 of the Constitution protects her reproductive rights.³⁰ It distinguished between mental illness and intellectual disability in an individual and issued a ruling: "The request for permission to terminate her pregnancy cannot be approved, as it goes against her will."

(b) Laxmi Mandal vs Deen Dayal Harinagar Hospital, 2009

The issues being raised in the petition include the petitioner's birth status, the right to healthcare—particularly reproductive health—the right to food and nutrition, the failure to execute state-sponsored initiatives aimed at reducing infant and maternal mortality, and the subsequent denial of adequate maternal healthcare.³¹

(c) Anand Manharlal Brambhatt vs State of Gujarat, 2015

This petition is submitted in response to the order and directive issued by the Sessions

²⁷ Protection of Children from Sexual Offences Act, 2012 (Acts of Parliament, (2012) (India), ss. No. 32, Sections 26(3) and 38(2).

²⁸ Dinakaran Damodharan, Lakshmi Sravanti, et.al., "The Protection of Children from Sexual Offences (POCSO) Act, 2012" 1 *FORENSIC PSYCHIATRY in INDIA Interface of Indian Laws & Mental Health* 73-191 (2012).

²⁹ State v. Mohd. Ayub, (2013) Spl. (POCSO) Case No. 15, decided on 8-12-2016 cited in CCL- NLSIU, Study on the Working of Special Courts under the POCSO Act, 2012 in Maharashtra (2017), 33.

³⁰ Suchita Srivastava v. Chandigarh Administration, CIVIL APPEAL NO.5845 of 2009 (Arising Out of S.L.P. (C) No. 17985 of 2009).

³¹ Laxmi Mandal v. Deen Dayal Harinagar Hospital, W.P.(C) 10700/2009.

Court in Criminal Misc.³² Application No. 214/2015 seeks to terminate the pregnancy of respondent no. 3, Sunitaben, who is a patient with severe mental illness. Upon her admission to the Mental Health Hospital in Ahmedabad, Sunitaben was found to be approximately fourteen weeks pregnant.

(d) G.M and Others vs Moldova

This case examines the practice of abortions and other contraceptive methods administered to women with intellectual disabilities in the Republic of Moldova.³³ The Court's violation of Article 3 enhanced reproductive rights case law and emphasized the importance of self-determination for persons with disabilities under the convention.

The Present Scenario

The status of reproductive rights for women with disabilities remains a complex mix of progress and ongoing challenges worldwide. International recognition of these rights is reflected in instruments such as the Convention on the Rights of Persons with Disabilities and the Convention on the Elimination of All Forms of Discrimination Against Women. These frameworks emphasize the importance of ensuring access to reproductive health services for individuals with disabilities and safeguarding them against all forms of discrimination. However, despite this political commitment, the implementation of these rights varies significantly across different regions, and many women continue to encounter obstacles in accessing quality reproductive health care, including a lack of facilities and information.

Widespread social attitudes and stigma remain significant obstacles to the reproductive rights of women with disabilities. For instance, many cultures hold deeply ingrained beliefs that women with disabilities are incapable of making their own reproductive choices. This often results in paternalistic practices, such as forced sterilization and the denial of reproductive services. Such dynamics contribute to a cycle of marginalization, where the lack of recognition for the voices of women with disabilities leads to ineffective policies that fail to address their unique needs.

A growing global movement is advocating for the reproductive rights of women with disabilities. Both international organizations and grassroots groups are actively engaged in raising awareness through education and advocating for policy reforms that promote the

³² Anand Manharlal Brahmhatt v. State of Gujarat, R/SCR.A/4204/2015.

³³ G.M. v. The Republic of Moldova, Application No. 44394/15.

inclusion and protection of women with disabilities in reproductive health matters. Although these initiatives are leading to more inclusive laws and practices, there is still much work to be done to guarantee that all women with disabilities can exercise their reproductive rights without facing discrimination or coercion.

Conclusion and Suggestions

Despite progress in recognizing and advancing reproductive rights for women with disabilities globally, barriers remain due to discriminatory attitudes, social stigma, and limited healthcare access. Lobbying efforts and ensuring women's voices are heard in policy-making can help overcome these challenges and create a world where every woman can make informed reproductive choices.

The recommendations for safeguarding the reproductive rights of disabled women can be examined through two lenses:

- i. Global Perspectives
- ii. Indian Perspectives

The following suggestions are proposed to address the current Global Context:

- (a) Internationally, a comprehensive approach is needed for reproductive equality for women with disabilities, prioritizing inclusive policies and accessible healthcare services.
- (b) Professional training for all healthcare providers is essential to address the unique needs of women with disabilities and to eliminate discriminatory practices.
- (c) There is a pressing need for enhanced data collection and analysis regarding this specific group to facilitate the development of targeted and effective treatments.
- (d) Advocacy and education are crucial for raising awareness and combating discrimination in civil society, ensuring the support and empowerment of women with disabilities.

The following suggestions are proposed to address the current situation in the Indian context:

- (a) The future focus in India should prioritize the establishment of robust legal frameworks and ensure strict enforcement to safeguard the reproductive rights of women with disabilities.

- (b) Integrating disability-friendly services into public health programs is essential for enhancing the accessibility and effectiveness of health services.
- (c) Education campaigns that engage both the general public and healthcare professionals can help reduce stigma and foster greater understanding.
- (d) To empower women with disabilities as active advocates for their own rights, it is crucial to enhance their educational and economic opportunities.
- (e) The creation of an equitable culture that promotes and protects the reproductive rights of all women will rely on the collaboration of government entities and NGOs, including organizations dedicated to disability rights.

Ultimately, negative societal attitudes towards individuals with disabilities are a major contributor to their rights infringement, necessitating a top priority for both government and non-governmental organizations. Therefore, addressing this issue should be a top priority for both the government and non-governmental organizations operating in this area.

