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FROM CONSENT TO COERCION: THE ROLE OF LAW IN SHAPING WOMEN'S REPRODUCTIVE DECISIONS

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ABSTRACT

This research study investigates the way Indian judicial system affects women's reproductive choices through its system of consent and coercion by studying how constitutional rights established in Articles 14, 15 and 21 interact with essential reproductive laws. The study examines how Sections 3, 4, 5 and 5A of the Medical Termination of Pregnancy Act 1971 together with the amended Medical Termination of Pregnancy Rules 2003 including Rule 3B establish the legal framework for abortion procedures through their medical requirements and authorized treatment centres and patient privacy measures. The research studies technology governance and fertility regulations through three laws including PCPNDT Act 1994 (Sections 3A, 4, 5, and 6), Assisted Reproductive Technology (Regulation) Act 2021 (Section 22 on written informed consent), and Surrogacy (Regulation) Act 2021 (Sections 4 and 6 on regulation and informed consent with withdrawal before implantation). The research study examines the legal consequences of reproductive harm within the Bharatiya Nyaya Sanhita 2023 (Sections 88–92) which presents new criminal justice systems to protect medical professionals from penalties when they handle non-consensual miscarriage cases. The study uses a doctrinal research approach to discover how stigma together with institutional discretion and economic disparities function as structural obstacles which require rights-based reforms to enhance informed consent processes while decreasing situations of coercion.

Keywords: Reproductive autonomy; Informed consent; MTP Act; PCPNDT Act; Bharatiya Nyaya Sanhita 2023; Surrogacy and ART regulation

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1. INTRODUCTION

Women in India have the legal right to make decisions about their reproductive health which includes their rights to choose when to become pregnant and how to end their pregnancies and their right to receive reproductive medical treatment with full protection against discrimination and pressure. The Constitution grants this autonomy through Articles 14 and 15 which establish equal rights for all people and Article 21 which protects life and personal liberty because these articles define bodily integrity and dignity and decisional privacy as essential constitutional rights. The Medical Termination of Pregnancy Act 1971 establishes the main legal framework which controls reproductive rights through its three key sections which include Section 3 that defines legal termination conditions and Section 5 which permits immediate termination to protect the woman's life and Section 5A that protects the woman's name and details from public access. The Medical Termination of Pregnancy Rules 2003 establish all procedures and clinical governance requirements which include the 2021 amendments that introduce Rule 3B to regulate termination procedures within extended gestational periods and the Medical Board framework for pregnancies which exceed twenty-four weeks under the Act.[1]

The term "consent" in reproductive contexts operates as a legal requirement which defines the boundary between acceptable healthcare procedures and illegal medical practices. The new criminal law Bharatiya Nyaya Sanhita 2023 establishes pregnancy outcome control as a criminal offense through Sections 88 to 92 which include "causing miscarriage" and "causing miscarriage without woman's consent" because these sections demonstrate that reproductive choice exists as a right which receives protection through criminal penalties against non-consensual reproductive damage. The law establishes rules that limit women's choices by creating regulatory systems which impede their ability to select between valid and feasible options. The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 establishes Section 3A and Section 4 and Section 5 and Section 6 to limit sex-selection practices which misuse diagnostic technologies. [2]

The Assisted Reproductive Technology (Regulation) Act, 2021 and Surrogacy (Regulation) Act, 2021 establish new rules for accessing fertility services and surrogacy services through eligibility and registration and consent requirements which include Surrogacy Act Section 6 about written informed consent and Section 4 about procedure regulation. The legal

[1] Nidhi Meena, "Women's Reproductive Rights In India And Beyond" *Live Law*, 21 May 2021.
[2] Bhumika Indulia, "Role of Judiciary to Implement the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994" *SCC Times*, 2021 *available at*: https://www.scconline.com/blog/post/2021/02/07/role-of-judiciary-to-implement-the-pre-conception-and-pre-natal-diagnostic-techniques-prohibition-of-sex-selection-act-1994/ (last visited May 2, 2026).

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frameworks protect women from coercion through their reproductive decisions which the state controls to create mandated pathways. The research investigates reproductive rights in India because their implementation shows different patterns across various social groups which include class and caste and disability and marital status and geographic location since legal regulations create barriers that limit access to reproductive rights. Reproductive rights in Indian legal discourse receive growing attention as an equality issue through Articles 14 and 15 and as a health and dignity issue through Article 21 and as a governance issue that connects criminal law and medical regulation and technology law. The 2021 abortion governance reforms through MTP Act and amended Rules create new legal pathways for access but protect confidential information in their operations while the technology and fertility regulations through PCPNDT and ART Act and Surrogacy Act establish state regulations which prevent exploitation yet create limits that restrict women's ability to make decisions.[3]

1.1 Meaning and Scope of Women's Reproductive Decision-Making

Women possess the right to choose their contraceptive methods and they should determine whether to continue or terminate their pregnancy and they need to decide when to use assisted reproductive technologies while they should receive precise information together with courteous medical treatment. The Constitution prohibits reproductive rights restrictions which result from discriminatory practices according to Articles 14 and 15 and Article 21 safeguards personal freedom regarding private bodily choices. The MTP Act establishes legal procedures for abortion through Section 3 which allows registered medical practitioners to conduct abortions under specific conditions and Section 5 which permits abortion to save a woman's life and Section 5A which protects patient confidentiality. The scope therefore covers both decisional autonomy and the enabling conditions which include privacy rights and access rights and procedural fairness rights because consent becomes formal without these three requirements. [4]

1.2 Intersection of Consent, Choice, and State Control

Autonomy receives its legal definition through consent because people require state authority to make their selected choices when state laws create different forms of permission and prohibition and establish rules for who can participate and what penalties will follow. The BNS, 2023 provides protection to women against non-consensual reproductive harm through its criminalization of "causing miscarriage" which establishes increased penalties for cases that

[3] Ayush Shukla, "When Consent Becomes Control: Spousal Veto And Reproductive Autonomy Under ART Act, 2021" *Live Law,* 29 April 2026.
[4] Amisha Shrivastava, "Woman's Choice Relevant; Can't Force To Continue Unwanted Pregnancy Saying Child Can Be Given For..." *Live Law,* 24 April 2026.

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occur without consent (Sections 88 and 89) while also protecting against associated dangers which include death that results from acts which aim to induce miscarriage (Section 90) and crimes against unborn children (Sections 91–92). The PCPNDT Act restricts diagnostic technologies to prevent sex selection (Sections 3A, 4, 5, 6) while the Surrogacy (Regulation) Act of 2021 mandates that surrogate mothers must provide written informed consent (Section 6) which regulates acceptable surrogacy practices (Section 4). The law establishes legal protection for consent while it creates the framework which defines valid reproductive choices as lawful options that transform personal autonomy into a system that requires official approval for all activities. [5]

1.3 Relevance of Reproductive Rights in Indian Legal Discourse.

Indian legal discourse identifies reproductive rights as a fundamental issue because these rights connect the principles of equality, dignity, health, family life, and state policies. The MTP Act and the 2021 reforms establish rights-based measures to improve secure access to protected information under their provisions for safe access and confidentiality in Sections 3 and 5 and Section 5A. The MTP Rules together with Rule 3B and the Medical Board framework establish the procedures through which medical professionals and administrative staff control patient access to services. The ART (Regulation) Act, 2021 and the Surrogacy (Regulation) Act, 2021 establish new legal methods for people to become parents through their requirements for registration and consent and eligibility criteria which control all reproductive choices through highly controlled institutional environments. The new criminal law architecture establishes BNS 2023 as the main framework for understanding reproductive coercion because it defines criminal activities that involve miscarriage without consent in Sections 88 to 89 while establishing reproductive autonomy as both a civil liberty and a legally protected right. The reproductive rights framework enables assessment of how Indian legal systems maintain a balance between individual freedom and government control mechanisms which protect the public from potential abuse.[6]

1.4 Objectives of the Study

1. To investigate the Constitution's treatment of reproductive autonomy through analysis of Articles 14, 15, and 21.

[5] Bhumika Indulia, "Legal framework for Privacy of Minors " *SCC Times*, 2020 *available at*: https://www.scconline.com/blog/post/2020/05/23/legal-framework-for-privacy-of-minors/ (last visited May 2, 2026).

[6] Vaani Negi, "Reproductive Rights In India: Precarious Intersection Of Mental Health And Abortion Law" *Live Law*, 27 March 2025.

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2. To examine the MTP Act 1971 through its Section 3 and Section 5 and Section 5A requirements and the MTP Rules 2003 through their Rule 3B specifications to determine their impact on legal abortion access.
3. To assess BNS 2023 Section 88 through Section 92 as a legal framework which protects women from non-consensual reproductive harm.
4. The PCPNDT Act 1994 Section 3A and Sections 4 5 and 6 establishes technology regulations which affect reproductive choice through its enforcement.
5. To assess how the ART Act 2021 and Surrogacy Act 2021 with Surrogacy Act Sections 4 and 6 implemented across both acts, affected reproductive decision-making.

1.5 Research Questions

1. How do Articles 14, 15, and 21 support women's reproductive autonomy in India?
2. How do MTP Act Sections 3, 5, and 5A, along with MTP Rules including Rule 3B, facilitate or restrict access to abortion?
3. How do BNS, 2023 Sections 88–92 address coercion and non-consensual miscarriage?
4. How do PCPNDT Act Sections 3A, 4, 5, and 6 affect reproductive decision-making and consent in diagnostic settings?
5. How do the ART Act, 2021 and Surrogacy Act, 2021 reshape choice, consent, and access to reproductive services?

1.6 Research Methodology

This research study uses a doctrinal approach by examining fundamental legal documents which include constitutional provisions that are defined in Articles 14 and 15 and Article 21 and the MTP Act of 1971 which contains Sections 3 and 5 and 5A and the MTP Rules of 2003 which were modified in 2021 through Rule 3B and Medical Board procedures and the BNS of 2023 which contains Sections 88 to 92 and the PCPNDT Act of 1994 which contains Sections 3A and 4 and 5 and 6 and the ART Act of 2021 and Surrogacy Act of 2021 which includes all sections of the Surrogacy Act. The approach focuses on statutory text, legislative design, and the interaction of criminal law and health regulation in shaping consent and coercion.

1.7 Review of literature

Palak Sharma and Manas Ranjan Pradhan (2020)[7] article studies how different factors like socio-economic status and education and residence and healthcare access combine to impact abortion care-seeking behaviour in India. The study shows how legal abortion rights differ from actual abortion access in India.

[7] Palak Sharma and Manas Ranjan Pradhan, "Abortion care seeking in India: patterns and predictors," 52(3) *Journal of Biosocial Science* 353 (2020)

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P. M. Arathi (2019)[8] article analyses how Indian surrogacy regulations developed over time while demonstrating the conflicts between women's autonomy, their exploitation and government control. The article demonstrates how surrogacy laws transitioned from allowing commercial operations to implementing strict statutory controls.

Smitha Rani (2025)[9] article examines whether the new Indian surrogacy regulations provide adequate protections for prospective parents and surrogate mothers. The study examines how restrictive eligibility requirements create legal protection but also result in legal expulsion from rights.

Jaydeep Tank et al (2023)[10] providers share their viewpoints about the ART Regulation Act 2021 and its effects on real-world IVF procedures. The study demonstrates how legal regulations impact the enforcement of rules while creating compliance responsibilities that restrict access to fertility services.

Yuri Hibino (2023)[11] article compares altruistic and commercial surrogacy models in India and evaluates them from ethical and legal viewpoints. It is especially relevant for discussing whether prohibition of commercial surrogacy genuinely protects women or instead narrows reproductive autonomy.

Yuri Hibino (2022)[12] article analyses how transnational reproductive markets continue to influence surrogacy arrangements despite tighter regulation. It is useful for showing that law alone cannot fully prevent commercialization where economic demand, global inequality, and medical markets remain deeply interconnected.

Manas Ranjan Pradhan and Daisy Saikia (2023)[13] research examines how often post-abortion complications occur in India and which factors contribute to these complications. The study demonstrates how access obstacles and dangerous medical practices and social inequalities work together to create a need for better enforcement of safe and affordable and private abortion services.

[8] P. M. Arathi, "Silent Voices: A Critical Analysis of Surrogacy's Legal Journey in India," 49(2) *Social Change* 344 (2019)
[9] Smitha Rani, "Surrogacy laws in India: Are the regulations inclusive enough?" 93(1 Suppl.) *Medico-Legal Journal* 100 (2025)
[10] Jaydeep Tank et al., "Voices from Health Care Providers: Assessing the Impact of the Indian Assisted Reproductive Technology (Regulation) Act, 2021 on the Practice of IVF in India," 73 *The Journal of Obstetrics and Gynecology of India* 301 (2023)
[11] Yuri Hibino, "The advantages and disadvantages of altruistic and commercial surrogacy in India," 18 *Philosophy, Ethics, and Humanities in Medicine* art. 8 (2023)
[12] Yuri Hibino, "Ongoing Commercialization of Gestational Surrogacy due to Globalization of the Reproductive Market before and after the Pandemic," 14 *Asian Bioethics Review* 349 (2022)
[13] Manas Ranjan Pradhan and Daisy Saikia, "Patterns and correlates of post-abortion complications in India," 23 *BMC Women's Health* art. 97 (2023)

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Sushanta K. Banerjee et al. (2012)[14] article investigates how women face challenges which prevent them from accessing safe abortion services throughout Bihar and Jharkhand. The research demonstrates how awareness and stigma and weak communication methods prevent women from making their legal reproductive rights decisions.

Margubur Rahaman et al. (2024)[15] article investigates unsafe abortion causes through a statistical model which defines predisposing factors and enabling factors and healthcare need factors. The research demonstrates how poverty and limited access and social disadvantage lead to dangerous abortion results.

Ryo Yokoe et al (2019)[16] article investigates unsafe abortion and abortion-related mortality on a very large scale in India. The study shows that legal authorization without actual healthcare access does not safeguard women's reproductive rights or their dignity or their life.

1.8 Research Gap

The research studies that exist about reproductive rights in India have extensively examined which factors impact abortion access and how surrogacy regulations and unsafe abortion methods and maternal healthcare systems operate. The complete legal examination that connects constitutional protections with the Medical Termination of Pregnancy Act and the PCPNDT Act and the ART (Regulation) Act and the Surrogacy (Regulation) Act and the Bharatiya Nyaya Sanhita 2023 requires further research because it controls all aspects of women's reproductive choices from their initial consent until they face coercion. The existing research mainly investigates public health issues or restricts its analysis to a single legal statute. The research gap exists because no one has studied how the combination of legal systems and criminal protections and social pressures and structural inequalities impact women's reproductive freedom in India.

2 HISTORICAL DEVELOPMENTS OF REPRODUCTIVE LAWS IN INDIA

India's reproductive law evolution started with society establishing moral standards to control pregnancy followed by medical regulations which developed into rights-based systems that govern reproductive rights through the Medical Termination of Pregnancy Act 1971 MTP Act

[14] Sushanta K. Banerjee et al., "Woman-centered research on access to safe abortion services and implications for behavioral change communication interventions: a cross-sectional study of women in Bihar and Jharkhand, India," 12 *BMC Public Health* art. 175 (2012)

[15] Margubur Rahaman et al., "Revisiting the predisposing, enabling, and need factors of unsafe abortion in India using the Heckman Probit model," 56(3) *Journal of Biosocial Science* 459 (2024)

[16] Ryo Yokoe et al., "Unsafe abortion and abortion-related death among 1.8 million women in India," 4(3) *BMJ Global Health* e001491 (2019)

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which established the first statutory framework that allows certified medical professionals to conduct specific termination procedures under particular conditions through Sections 3-5 and Section 5A which protect patient privacy rights. The legislative framework established through Section 5A and The Medical Termination of Pregnancy Rules 2003 operationalised confidentiality through its precise procedural guidelines which established eligibility requirements for termination procedures that permit abortions until the 24-week mark. The medical system developed from its initial approach which treated all cases as criminal through its evolution into a system that permits controlled medical assessments yet maintains state control through approved facilities and established regulatory standards.[17]

2.1 Development of Legal Attitudes Regarding Women's Bodies and Motherhood

Legal attitudes historically treated motherhood as a societal duty and pregnancy as a matter of public concern instead of a realm of personal freedom; this is why contemporary reforms focus on "consent" and "privacy" as legal safeguards instead of just ethical preferences. The structure of the MTP Act, encompassing Section 3 (conditions for lawful termination), Section 4 (approved place), Section 5 (life-saving exception), and Section 5A (privacy), demonstrates a progressive acknowledgment of women as rights-bearing decision-makers, albeit within a medicalized framework wherein professional opinion, institutional settings, and regulated processes retain prominence as gatekeepers.[18]

Later regulation of reproductive technologies and sex-selection techniques also shows the change whereby the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PCPNDT Act) regards misapplication of diagnostics as a structural harm related to gender injustice. Provisions like Section 3A (prohibition of sex selection), Section 4 (regulation of prenatal diagnostic techniques), Section 5 (written consent), and Section 6 (prohibition of communicating sex) reframe the woman's body as a site needing protection from coercive societal preferences, but they also broaden the state's regulatory influence into reproductive choices and clinical interactions.

2.2 Colonial and Post-Colonial Perspectives to Reproductive Governance

Post-colonial law first inherited that orientation even as it broadened public health

[17] Bhumika Indulia, "The Emerging Dimensions of Medical Termination of Pregnancy Act, 1971" *SCC Times*, 2023 *available at*: https://www.scconline.com/blog/post/2023/02/13/the-emerging-dimensions-of-medical-termination-of-pregnancy-act-1971/ (last visited May 2, 2026).

[18] Bhumika Indulia, "Women and the Law: An Analysis on the medical termination of pregnancy law in India vis-à-vis the Medical Termination of Pregnancy Act, 1971 and the Medical Termination of Pregnancy (Amendment) Bill, 2020" *SCC Times*, 2021 *available at*: https://www.scconline.com/blog/post/2021/01/09/women-and-the-law-an-analysis-on-the-medical-termination-of-pregnancy-law-in-india-vis-a-vis-the-medical-termination-of-pregnancy-act-1971-and-the-medical-termination-of-pregnancy-amendment-bill/ (last visited May 2, 2026).

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administration; colonial-era governance mostly handled abortion and reproductive harm via moral regulation and punitive logic. The MTP Act, 1971, which changed the legal issue from "punishment" to "conditions of lawful medical care" while still incorporating control via statutory requirements like Section 4 (place of termination) and rule-making authority under Section 6, best illustrates the post-colonial pivot. This underscores how reproductive governance in India has frequently evolved through medical regulation rather than through pure autonomy language.[19]

India's governance paradigm in the modern era also includes specialized regulation of assisted reproduction, whereby the Assisted Reproductive Technology (Regulation) Act, 2021 (ART Act) and the Surrogacy (Regulation) Act, 2021 (Surrogacy Act) establish a licensing-and-compliance system for clinics and procedures. The Surrogacy Act expressly links the legitimacy of operations to informed consent and withdrawal rights (Section 6), therefore indicating that "choice" is acknowledged but filtered via state-designed safeguards; the ART Act's consent architecture (Section 22 on written informed consent) and sex selection prohibitions (Sections 26 and 32) demonstrate a regulatory approach meant to stop abuse.[20]

2.3 Population Policies and Their Influence on Women's Decisions

Indian population policy has often prioritised demographic results, therefore influencing reproductive decisions and possibly generating institutional pressure despite the professed commitment to voluntarism. The National Population Policy, 2000 (NPP 2000) expressly supports “voluntary and informed choice and consent” in obtaining reproductive healthcare and advocates a “target free approach” for family planning management, therefore indicating a formal rejection of coercive objectives; yet the very existence of national demographic objectives shows how women’s reproductive decisions continue to be intertwined with state planning, resource allocation, and service delivery priorities.[21]

This policy-driven setting engages with legal systems in ways that could subtly limit autonomy: where public services stress "family planning performance", women might encounter subtle pressure via counselling techniques, incentive frameworks, or the accessibility of services. The legal reaction is somewhat clear in the effort to improve privacy and eligibility clarity in

[19] Senior Advocate K.Kannan, “India’s Abortion Law: Progressive On Paper, Hesitant In Practice” *Live Law*, 15 June 2025.
[20] Bhumika Indulia, “Surrogacy (Regulation) Act , 2021 and Assisted Reproductive Technology (Regulation) Act , 2021 to come into force w.e.f January 25, 2022” *SCC Times*, 2022 *available at*: https://www.scconline.com/blog/post/2022/01/24/surrogacy-regulation-act-2021-to-come-into-force-w-e-f-january-25-2022/ (last visited May 2, 2026).
[21] Maya Unnithan, “Conflicted Reproductive Governance: The Co-existence of Rights-Based Approaches and Coercion in India’s Family Planning Policies” *Springer International Publishing*, 2022 *available at*: https://link.springer.com/chapter/10.1007/978-3-030-84514-8_7 (last visited May 2, 2026).

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abortion access through MTP Act Section 5A (privacy) and MTP Rules (Rule 3B categories for up to twenty-four weeks), meant to lower procedural ambiguity and stigma-driven rejection even as the bigger reproductive-health system is still molded by population governance requirements.

2.4 Changes in Legislative Focus on Family Planning and Reproduction

From focusing solely on pregnancy termination rules, legislative priorities have expanded to include establishing a broader regulatory structure around reproduction: sex-selection prevention (PCPNDT Act), assisted reproduction oversight (ART Act), and surrogacy management (Surrogacy Act). The key prohibitions of the PCPNDT Act (Sections 3A, 4, 6) and its consent requirement (Section 5) underscore the need to curb the gender-biased misuse of technology. Conversely, the ART Act and Surrogacy Act raise issues about exploitation, clinic ethics, paperwork, and legally binding consent rules, therefore turning reproductive healthcare into a compliance-heavy sector.[22]

The explicit criminal-law recognition of reproductive coercion via the Bharatiya Nyaya Sanhita, 2023 (BNS) is another change whereby Sections 88–92 address "causing miscarriage", "causing miscarriage without woman's consent", associated death consequences, and crimes against unborn children. This is important because the new criminal framework places non-consensual reproductive harm clearly within "offences against women and children", therefore reinforcing that the legal system progressively treats consent in reproduction as a legally enforceable boundary rather than only a medical norm.

3 CONSTITUTIONAL PROTECTIONS OF REPRODUCTIVE FREEDOM

In India, constitutional protection of reproductive choice is based on the combined force of equality and liberty guarantees, where Articles 14 and 15 constrain discriminatory barriers and Article 21 anchors personal liberty, dignity, and bodily integrity. Although the MTP Act organizes abortion access via medical criteria and authorized locations, the constitutional framework provides the normative foundation for interpreting reproductive decisions as rights-bearing choices rather than discretionary permissions; it also underpins reading privacy and autonomy into reproductive healthcare governance, particularly where statutes acknowledge

[22] Apoorva, "Pregnant person consent, physical and mental health in decisions of reproductive autonomy and termination of pregnancy is paramount: Supreme Court" *SCC Times*, 2024 *available at*: https://www.scconline.com/blog/post/2024/05/08/pregnant-person-consent-physical-mental-health-decisions-reproductive-autonomy-termination-pregnancy-paramount-supreme-court/ (last visited May 2, 2026).

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confidentiality (MTP Act Section 5A) and where state policies pledge voluntariness (NPP 2000).[23]

3.1 Reproductive Autonomy under the Right to Life and Personal Liberty

The constitutional foundation for reproductive autonomy is found in Article 21's protection of life and personal liberty since pregnancy decisions directly affect bodily integrity, health, and decisional freedom. Although statutory frameworks such as MTP Act Section 3 (termination circumstances), Section 5 (life-saving exception), and procedural clauses under the MTP Rules operationalise this autonomy by means of legal access routes, Article 21 continues to be the constitutional benchmark against which obstacles such as needless delays, unjustified refusal, or breaches of privacy might be judged as infringements on personal freedom and honourable healthcare access.[24]

In assisted reproduction, where law demands consent as a condition of legality, the constitutional logic of liberty also supports informed decision-making. Written informed consent is required under the ART Act Section 22; the Surrogacy Act Section 6 requires informed consent with side effect disclosure and acknowledges the right of the surrogate mother to revoke permission prior to implantation. These permission criteria convert constitutional freedom into tangible procedural responsibilities and show how reproductive liberty is progressively manifested via rights-to-information and freedom-from-coercion requirements placed on clinics and agents.

3.2 Equality, Dignity, and Privacy Regarding Reproductive Issues

Articles 14 and 15 guarantee that discrimination on grounds such as sex does not erode reproductive rights, while dignity principles embedded in Article 21 require respectful, non-stigmatising healthcare delivery. Particularly relevant is Section 5A (privacy) of the MTP Act since stigma and surveillance frequently limit reproductive choices; The statute recognizes that privacy is not ancillary but rather essential for meaningful consent and access to reproductive healthcare by legally safeguarding confidentiality of the woman's identity and information.[25]

Equality concerns also arise where technology regulation intersects with reproductive choices, because social preference for male children can structurally coerce women even when formal consent is obtained. Though they also show how privacy, equality, and state control might

[23] Nidhi Meena, "Women's Reproductive Rights In India And Beyond" *Live Law*, 21 May 2021.
[24] Bhumika Indulia, "The Interpretive Divide: An Analysis of Reproductive Autonomy in India and the US" *SCC Times*, 2024 *available at*: https://www.scconline.com/blog/post/2024/09/10/the-interpretive-divide-an-analysis-of-reproductive-autonomy-in-india-and-the-us/ (last visited May 2, 2026).
[25] Manik Tanwar & Shobha Prasad, "Dignity, Health And Article 21: Locating Menstrual Rights Within The Right To Life" *Live Law*, 18 February 2026.

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cohabit uncomfortably within the same legal architecture, the PCPNDT Act seeks to protect women from familial and market pressures by addressing this under Section 3A (prohibition of sex selection) and Section 6 (ban on communicating sex), while also requiring written consent for diagnostic procedures under Section 5.[26]

3.3 Decisional Freedom and Physical Integrity of Women

Because pregnancy presents women with unique physical danger, long-term health effects, and socioeconomic loads, bodily integrity is the practical foundation of reproductive freedom. The MTP Act's design reflects this by allowing termination in specific circumstances (Section 3) and by providing an emergency exception when immediate termination is necessary to save the woman's life (Section 5). The MTP Rules and Rule 3B categories aim to lower exclusion for particular groups and situations in later gestations within the statutory framework.

The new criminal code defends decisional freedom as well by defining the legal boundary between independence and crime as consent. Sections 88–92 of the BNS, 2023 criminalise miscarriage-related harms, including explicit protection against miscarriage "without woman's consent" (Section 89). This indicates that the law considers reproductive interference a major violation of women's bodily integrity, even though lawful terminations remain governed by medical statutes such as the MTP Act.

3.4 Restrictions on State Interference in Intimate Reproductive Choices

Although the Constitution allows the state to control healthcare and stop exploitation, intervention's legality relies on proportionality, non-discrimination, and respect for autonomy. This balance is obvious in the MTP Act's reliance on medical criteria (Section 3), sanctioned locations (Section 4), and confidentiality (Section 5A) in abortion regulation: The law acts to guarantee safety and criteria, but it must refrain from converting permission systems into denial processes that undermine personal freedom and equality.[27]

The limits question becomes sharper in assisted reproduction and surrogacy because the legal framework is very regulating: the ART Act structures clinic duties and consent (Sections 21–22) and restricts sex selection (Sections 26 and 32), while the Surrogacy Act demands informed consent (Section 6) and controls procedures (Section 4). These statutes demonstrate that although worries of exploitation and abuse justify state interference, it must stay connected to

[26] Bhumika Indulia, "Role of Judiciary to Implement the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994" *SCC Times*, 2021 *available at*: https://www.scconline.com/blog/post/2021/02/07/role-of-judiciary-to-implement-the-pre-conception-and-pre-natal-diagnostic-techniques-prohibition-of-sex-selection-act-1994/ (last visited May 2, 2026).

[27] Saba, "Abortion Rights in India — What could, and should be" *SCC Times*, 2017 *available at*: https://www.scconline.com/blog/post/2017/05/04/abortion-rights-in-india-what-could-and-should-be/ (last visited May 2, 2026).

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rights, particularly when restrictive eligibility or procedural requirements limit women's realistic reproductive options and operate as indirect coercion.[28]

4 LEGAL FRAMEWORK CONTROLLING REPRODUCTIVE DECISIONS

India's legal system controlling reproductive choices is complex: the MTP Act and Rules control abortion; the PCPNDT Act governs sex-selection and diagnostic misuse; the ART Act governs fertility services; the Surrogacy Act controls surrogacy; and general public health and clinical regulation controls healthcare delivery standards. Taken together, these laws define not only what is legal but also what is available, private, medically sanctioned, and institutionally tolerated, hence influencing women's reproductive choices through both enabling rights and compliance hurdles.[29]

4.1 Legal Control of Medical Pregnancy Termination and Abortion

The MTP Act is the main law allowing legal abortion under specific circumstances; Section 3 defines when registered medical practitioners can terminate pregnancies, Section 4 mandates termination at authorized locations, Section 5 establishes the life-saving clause, and Section 5A safeguards privacy. The MTP Rules, 2003 (as amended) offer procedural specifics, such as Rule 3B, which specifies categories of women qualified for termination up to twenty-four weeks under Section 3(2)(b), therefore demonstrating that in India abortion access is rights-relevant but managed through clinical and procedural governance.[30]

It is essential that legal abortions remain clearly separated from illegal activities since criminal law might deter access when women worry about legal repercussions. The new criminal framework in BNS, 2023 penalises miscarriage-related harms (Sections 88–92), including miscarriage without consent (Section 89), but it operates alongside the MTP Act's lawful medical termination pathway; In reality, the legal system's responsibility is to guarantee that the criminal law shields women from coercive harm without discouraging or impeding access to legally sanctioned, confidential, and medically monitored abortion under the MTP Act and Rules.

4.2 Laws Controlling Family Planning, Sterilization, and Contraception

The family planning scene in India is formed more by policy and program structure than by a

[28] Bhumika Indulia, "Surrogacy (Regulation) Act, 2021" *SCC Times*, 2021 *available at*: https://www.scconline.com/blog/post/2021/12/27/surrogacy-regulation-act-2021/ (last visited May 2, 2026).
[29] Debby Jain, "PC-PNDT Act" *Live Law*, 18 November 2025.
[30] Megha Jani, "Interpreting MTP Act From A Pro Choice Perspective" *Live Law*, 12 December 2022.

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single contraception law; hence, the National Population Policy, 2000 is a fundamental governing document: It pledges to "voluntary and informed choice and consent" and advocates for a target-free approach in providing family planning services. This policy focus is legally important since voluntariness and informed consent serve as regulatory restraints on state activity, particularly where incentives, institutional indicators, or service design would otherwise create reproductive coercion in the absence of explicit legislative coercion.

The BNS, 2023 is important because it makes it illegal to interfere with pregnancy outcomes without consent, especially Section 89 on miscarriage without consent, where the law directly interacts with consent and coercion in reproductive treatments. Although family planning is mostly policy-driven, the existence of a contemporary criminal safeguard against non-consensual pregnancy loss emphasizes that "choice" is more than just programmatic language; it is a legally protected interest that should influence the design and monitoring of counselling, sterilization consent, and reproductive service delivery.[31]

4.3 Control of assisted reproduction techniques and surrogacy

Reflecting a legislative effort to combine autonomy, safety, and anti-misuse objectives, the ART Act, 2021 provides a licensing and duties system for ART clinics and banks and explicitly requires written informed consent (Section 22), defines general duties (Section 21), and limits sex selection (Sections 26 and 32). For women, this implies that although reproductive choice is acknowledged in fertility settings, it is actualized through consent documentation, counselling requirements, and regulatory frameworks that, depending on the execution quality, might either enable informed choices or create procedural obstacles.[32]

The Surrogacy Act of 2021 prioritizes consent in legitimate surrogacy: While Section 4 controls surrogacy and surrogacy operations more generally, Section 6 calls for written informed permission in a language the surrogate mother understands and expressly acknowledges her choice to revoke permission prior to implantation. This is a strong legal recognition that surrogacy carries increased risks of exploitation and coercion, but the restrictive regulatory structure of the same legislation means the law simultaneously "protects" and "controls," therefore directly influencing women's reproductive possibilities by determining who can access surrogacy and under what circumstances.

[31] Yusuf Khan, "TTLE OF DISSERTATION: CRIMINALIZING MARITAL RAPE IN INDIA: A SOCIO-LEGAL STUDY," 2025 *available at*: https://www.academia.edu/128747026/TTLE_OF_DISSERTATION_CRIMINALIZING_MARITAL_RAPE_IN_INDIA_A_SOCIO_LEGAL_STUDY (last visited May 2, 2026).

[32] Prachi Bhardwaj, "Assisted Reproductive Technology (Regulation) Act, 2021" *SCC Times*, 2021 *available at*: https://www.scconline.com/blog/post/2021/12/23/assisted-reproductive-technology-regulation-act-2021/ (last visited May 2, 2026).

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4.4 Case Law

Suchita Srivastava v. Chandigarh Administration[33] The Supreme Court emphasized that reproductive choice falls under personal liberty under Article 21 and that termination under the MTP Act, 1971 (Sections 3 and 3(4)) requires the woman's consent and cannot be supplanted by institutional "best interests."

X v. Principal Secretary, Health & Family Welfare Dept., Govt. of NCT of Delhi[34]; Based on Articles 14 and 21, court adopted a purposive interpretation of MTP Act, 1971 Section 3 with MTP Rules, 2003 Rule 3B to increase access for single women up to 24 weeks.

X v. State (NCT of Delhi)[35] Court reiterated that dignity and decisional autonomy under Article 21 are linked to safe abortion access, and clarified the scheme of MTP Act Section 3 and medical opinion requirements to avoid rights-frustrating delays. Refer to: https://www.scobserver.in/wp-content/uploads/2023/10/X-v-State-of-NCT-of-Delhi.pdf

(Mother of X) v. State of Maharashtra & Anr[36] Court emphasized the importance of the pregnant individual's choice, discussed the function of Medical Boards under Sections 3(2-B), 3(2-C), 3(2-D), and 5 of the MTP Act, and underlined guardian permission under Section 3(4)(a) for minors.

In ***Devika Biswas v. Union of India***[37], the Court recognized informed consent and reproductive healthcare as essential components of Article 21 in the context of sterilization camps, thus connecting systematic failures to constitutional accountability and public health policy.

Laxmi Mandal vs Deen Dayal Harinagar Hospital & Ors[38] Recognising maternal healthcare inadequacies as infringements of Article 21, the Court underlined the need of implementing welfare programs impacting pregnancy care and so women's dignity in access to services.

Sandesh Bansal v. Union of India &amp[39], Court determined that preventable maternal deaths violate Article 21 and ordered methodical changes in maternal-health infrastructure, therefore demonstrating how state capacity influences the authenticity of reproductive decisions.

Justice K.S. Puttaswamy (Retd.) v. Union of India[40] Court recognised privacy as part of Article 21, thereby reinforcing decision-making autonomy in private matters, including

[33] Suchita Srivastava v. Chandigarh Administration, (2009) 9 SCC 1
[34] X v. Principal Secretary, Health & Family Welfare Dept., Govt. of NCT of Delhi, Civil Appeal No. 5802 of 2022
[35] X v. State (NCT of Delhi), (2023) 9 SCC 433
[36] (Mother of X) v. State of Maharashtra & Anr., Civil Appeal No. 5194 of 2024, 2024 INSC 371
[37] Devika Biswas v. Union of India, (2016) 10 SCC 726
[38] Laxmi Mandal vs Deen Dayal Harinagar Hospital & Ors., W.P.(C) 8853/2008 & 10700/2009
[39] Sandesh Bansal v. Union of India & Ors W.P. No. 9061/2008
[40] Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1

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reproductive decisions, against unjustifiable government interference.

In ***ABC v. State (NCT of Delhi)***[41], the Court safeguarded a single mother's decision-making privacy, asserting that mandatory disclosure of paternal identity may infringe upon autonomy and privacy under Article 21, hence emphasizing confidentiality as instrumental in fostering reproductive and family choices.

Baby Manji Yamada v. Union of India[42] Dealing with legal gaps concerning parentage and administrative recognition in a cross-border surrogacy setting, the Court showed how law shapes reproductive arrangements and family formation—concerns now controlled by the Surrogacy (Regulation) Act, 2021 and ART Act, 2021 frameworks.

4.5 Laws pertaining to maternal health and Access to Reproductive Healthcare Services

Social-welfare entitlements that influence women's ability to safely carry pregnancies, such as the National Food Security Act, 2013 (NFSA), which provides maternity benefit entitlements under Section 4 (pregnant women and lactating mothers) and supports scheme design through rulemaking provisions, help to improve access to maternal health. Such legal entitlements count for reproductive choice because economic insecurity and nutritional deficiencies can turn "consent" into limited acquiescence, and statutory maternity benefits partly lower the economic coercion that influences pregnancy continuation, healthcare seeking, and postpartum well-being.[43]

The quality and accountability of medical institutions influence healthcare accessibility as well, whereby the Clinical Establishments (Registration and Regulation) Act, 2010 establishes a regulatory framework for registration and minimum standards for infrastructure and services. This is important for reproductive healthcare since safe termination and maternity care require regulated clinical settings and authorised locations under MTP Act Section 4; without enforceable rules and registration, women face increased risks of rejection, hazardous procedures, and rights violations even when abortion is legal or maternity benefits are on paper.[44]

[41] ABC v. State (NCT of Delhi), (2015) 10 SCC 1
[42] Baby Manji Yamada v. Union of India, (2008) 13 SCC 518
[43] Saba, "Pan-India expansion of Maternity Benefit Programme to benefit pregnant and lactating mothers across the country" *SCC Times*, 2017 *available at*: https://www.scconline.com/blog/post/2017/01/12/pan-india-expansion-of-maternity-benefit-programme-to-benefit-pregnant-and-lactating-mothers-across-the-country/ (last visited May 2, 2026).
[44] Rachit Garg, "The Clinical Establishments (Registration And Regulation) Act, 2010" *iPleaders*, 2024 *available at*: https://blog.ipleaders.in/the-clinical-establishments-registration-and-regulation-act-2010/ (last visited May 2, 2026).

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5 COERCION, CONTROL, AND STRUCTURAL OBSTACLES IN REPRODUCTIVE DECISION-MAKING

The shift from consent to coercion is best understood as a gap between official legality and lived access: even if a woman has legal rights under the Constitution and laws, she still experiences compulsion through institutions, family frameworks, stigma, poverty, and discrimination. Law influences this difference in two ways: by enabling rights via legislation like the MTP Act and NFSA and by governing choices via procedural requirements, regulatory constraints, and clinic compliance frameworks, hence making coercion a structural phenomenon rather than merely an individual wrong.

5.1 State Policies, Institutional Pressures, and Reproductive Coercion

Even if policy officially supports voluntarism, institutional constraints might surface when healthcare delivery is connected to goals, incentives, or administrative measures. Thus, NPP 2000's explicit dedication to "voluntary and informed choice and consent" and "target free approach" is legally and ethically important since it establishes the benchmark against which program execution has to be evaluated; When service delivery approaches conflict with these promises, such as pushing sterilization acceptance or discouraging particular reproductive results through discriminatory counseling, coercion becomes obvious.

The new criminal framework provides formal protection where coercion intersects non-consensual reproductive damage: BNS, 2023 Sections 88–92 criminalise miscarriage-related damages, and Section 89 specifically tackles miscarriage without a woman's consent. This is important in institutional settings since coercion can show itself in forced treatments or mandatory terminations; the criminal law's focus on consent provides a legal deterrent, but its protective value depends on women's capacity to safely report harm and on the system's ability to differentiate between illegal coercion and lawful medical termination under the MTP Act.[45]

5.2 Cultural, Social, and Familial Restrictions on Women's Agency

Pressure over number of children, timing of pregnancy, or sex preference—familial and cultural influences that can render permission performative instead than genuine—frequently influence reproductive "choices". The PCPNDT Act confronts one of the most powerful cultural pressures—sex selection—by outlawing sex selection (Section 3A), prohibiting sex disclosure (Section 6), regulating diagnostic usage (Section 4), and requiring written consent (Section 5), acknowledging that women could be forced by family structures to engage in

[45] "BNS Section 89 - Causing miscarriage without woman's consent.," *A Lawyers Reference available at*: https://devgan.in/bns/section/89/ (last visited May 2, 2026).

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activities harmful to their own equality and dignity.[46]

Social stigma and surveillance limit abortion care consent as well, which is why statutory confidentiality is not a small clause but rather a structural safeguard. Section 5A of the MTP Act safeguards the woman's privacy; the Rules framework (including eligibility clarity under Rule 3B) aims to lower denial and delay that might result from women's concern about exposure or moral judgment. Privacy safeguards become necessary requirements for independent decision-making in a stigma-heavy society instead of being optional luxuries.

5.3 Unequal Access to Reproductive Care and Economic Vulnerability

Economic vulnerability affects reproductive decisions by limiting access to safe clinics, transportation, nutrition, time off work, and the ability to manage documentation requirements, which can force women towards dangerous choices or postponed treatment. The maternity benefit entitlement under Section 4 of the NFSA aims to relieve pressure from wage loss and enhance nutrition and health-seeking behaviours, while labour-linked protections under the Maternity Benefit Act, 1961 (especially Section 5 on the right to payment of maternity benefit) reinforce pregnancy-related financial security for qualified women, thereby impacting whether pregnancy termination is selected voluntarily or under economic strain.[47]

In abortion access, economic limitations interact with medical regulation: MTP Act Section 4's approved-place requirement advances safety, but for poorer and rural women it can become an impediment if accepted facilities are far or understaffed. Although the Clinical Establishments Act, 2010 promotes minimum standards and registration, inconsistent adoption and execution might perpetuate a two-tier system whereby official legitimacy coexists without practical accessibility, therefore transforming "choice" into a role of geography and class instead of a right equally enjoyed.[48]

5.4 Rural, Poor, and Socially Disadvantaged Women's Marginalization

Many marginalized women face many hurdles, including limited resources, low health literacy, discrimination, and less negotiating power inside households. This raises the likelihood of coercion and makes it harder to get justice. If rural infrastructure is inadequate, legal systems depending on procedural compliance—such as MTP Act Section 4 (approved location) and

[46] Bhumika Indulia, "MoHFW has not suspended the PC & PNDT Act, which prohibits sex selection before or after conception" *SCC Times*, 2020 *available at*: https://www.scconline.com/blog/post/2020/04/10/mohfw-has-not-suspended-the-pc-pndt-act-which-prohibits-sex-selection-before-or-after-conception/ (last visited May 2, 2026).

[47] Suraj Parmar, "Maternity Benefits Must Be Granted Even If Period Of Benefit Overshoots Term Of Contractual Employment:..." *Live Law*, 18 August 2023.

[48] Sneha Rao, "The Medical Termination of Pregnancy (Amendment) Act, 2021- Progressive But Not Far Enough" *Live Law*, 2 October 2021.

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rule-based medical boards can accidentally exacerbate inequality; hence, the effectiveness of the law depends not only on statutory wording but also on fair dispersion of approved services and confidentiality-respecting treatment.

Marginalization also influences access to sophisticated reproductive treatments like surrogacy and ART, where prices are expensive and rules are rigorous. Although ART Act Section 22 (written informed consent) and Surrogacy Act Section 6 (informed consent with withdrawal option) are formally protective, underprivileged women may still be susceptible to "paper-deep" consent if financial dependency is severe or counselling is insufficient; Therefore, legal consent criteria have to be combined with obligatory counselling, openness, and monitoring to stop the turning of structural inequality into reproductive coercion.[49]

6 HUMAN RIGHTS VIEWPOINT REGARDING WOMEN'S REPRODUCTIVE AUTONOMY

From a human rights perspective, reproductive freedom is essential for dignity, equality, health, and freedom from coercion, therefore linking domestic constitutional values (Articles 14, 15, 21) with international norms that regard reproductive healthcare as a fundamental component of women's rights. In India, this viewpoint is crucial since the statutory environment combines enabling legislation (MTP Act) with limiting rules (PCPNDT, ART, Surrogacy), and human rights standards offer interpretative criteria—non-discrimination, informed consent, privacy, and proportionality—to assess whether law is promoting genuine autonomy or reproducing control.[50]

6.1 Reproductive Choice as a dimension of human rights and dignity

Eliminating prejudice in healthcare institutions is emphasized by CEDAW's General Recommendation No. 24, which recognizes women's access to healthcare, including reproductive health, as a fundamental right. Read with India's constitutional equality and liberty guarantees, this strengthens a legal obligation to guarantee abortion access (MTP Act Sections 3-5), confidentiality (Section 5A), and dignified service delivery, while also bolstering strong safeguards against coercion and exploitation in fertility and surrogacy settings via consent criteria under ART Act Section 22 and Surrogacy Act Section 6.

[49] Malika Bhola, "Written Consent Not Indispensable for IVF under ART Act: Del H" *SCC Times*, 2026 *available at*: https://www.scconline.com/blog/post/2026/04/27/written-consent-not-indispensable-for-ivf-art-act-delhi-hc/ (last visited May 2, 2026).

[50] Manik Tanwar & Shobha Prasad, "Dignity, Health And Article 21: Locating Menstrual Rights Within The Right To Life" *Live Law*, 18 February 2026.

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6.2 International Standards Impacting Indian Reproductive Legislation

Emphasizing reproductive rights, informed choice, and women's empowerment as central to development, international norms such as the ICPD Programme of Action change the focus from demographic goals to person-centred reproductive health. This worldwide standard is consistent with India's National Population Policy, 2000 commitment to voluntary and informed consent and its target-free approach, and it supports interpreting domestic regulatory frameworks—MTP Rules (including Rule 3B) and confidentiality provisions—as instruments to expand safe, rights-respecting access rather than as mechanisms for surveillance or gatekeeping.[51]

6.3 Legal and Medical Ethics' Consent Standards in Reproductive Healthcare

Reproductive healthcare consent criteria are now ingrained in both national legislation and international guidelines: The Surrogacy Act requires a clear explanation of side effects and informed consent in a language the surrogate mother understands, along with the right to revoke consent before implantation (Section 6), whereas the ART Act demands written informed consent (Section 22). The World Health Organization's abortion-care recommendations stress that rights-respecting abortion care requires the removal of impediments to access and the presence of empowering legal and policy settings. This complements India's statutory evolution toward confidentiality (MTP Act Section 5A) and more clear qualifying criteria (MTP Rules Rule 3B), which are resources to enable meaningful consent rather than only documented.[52]

6.4 Reconciling Public Interest with Individual Reproductive Freedom

The main difficulty of reproductive law is finding a balance between the public good and personal liberty: While stopping sex selection, exploitation, dangerous operations, and unethical medical practices is a legitimate goal for the government, any restrictions must be commensurate and rights-respecting. The PCPNDT Act aims to serve the public good by forbidding sex selection (Section 3A) and banning sex disclosure (Section 6), while the ART Act seeks to restrict sex selection (Sections 26 and 32) and mandate consent (Section 22); however, these public-interest objectives should not be achieved in ways that harass patients, deny legitimate diagnoses, or compromise women's autonomy through intrusive regulation.[53]

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[51] Sofia Gruskin, Mindy Jane Roseman and Laura Ferguson, "Reproductive Health and HIV: Do International Human Rights Law and Policy Matter?," 3 *McGill International Journal of Sustainable Development Law and Policy / Revue internationale de droit et politique du développement durable de McGill* 69–101 (2007).

[52] Editor, "A Comprehensive Analysis on Reproductive Health and Surrogacy in India: A Study on the Law, Policy, and Practice" *SCC Times*, 2021 *available at*: https://www.scconline.com/blog/post/2021/09/27/reproductive-health-and-surrogacy-in-india/ (last visited May 2, 2026).

[53] "BNS Section 89 - Causing miscarriage without woman's consent.," *A Lawyers Reference available at*: https://devgan.in/bns/section/89/ (last visited May 2, 2026).

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BNS Sections 88-92, especially Section 89 (miscarriage without consent), serve the public interest in shielding women from non-consensual reproductive harm; however, the public interest in women's health also demands that lawful abortion under the MTP Act (Sections 3-5) be readily available, confidential (Section 5A), and free from chilling effects from investigation or stigma. Therefore, a rights-consistent balance calls for the use of criminal law to punish coercion and violence, while healthcare regulation and welfare entitlements (NFSA Section 4 maternity benefits) lessen structural stresses turning pregnancy outcomes into forced occurrences.[54]

7 CONCLUSION AND RECOMMENDATIONS

7.1 Conclusion

India's legal system has changed from a suspicious punishment of reproductive decisions to a complicated governance approach that both allows and limits female freedom. Sections 3 to 5 and 5A of the MTP Act and the MTP Rules (including Rule 3B) allow for legal, confidential abortion within medical regulation. Sections 3A, 4, 5, and 6 of the PCPNDT Act address gender-biased misuse of diagnostics. Sections 21, 22, 26, and 32 of the ART Act and Sections 4 and 6 of the Surrogacy Act regulate fertility and surrogacy through consent and compliance. Sections 88 to 92 of the BNS, 2023 recognise non-consensual reproductive harm as a punishable offence. Still, unequal institutional gatekeeping and structural inequality mean that the real experience of choice is not uniform; thus, coercion is a persistent possibility even in jurisdictions where the law officially enshrines the principles of consent.

7.2 Recommendations

1. Access to abortion should be improved by consistent application of MTP Act Section 5A confidentiality and the MTP Rules, including Rule 3B eligibility clarity, with administrative procedures lowering delays and denial and broadening authorized services consistent with Section 4 requirements.
1. In order to make consent significantly meaningful in ART and surrogacy, under ART Act Section 22 and Surrogacy Act Section 6, counselling and disclosure responsibilities must be enforced, including the withdrawal option before implantation, together with audit systems for clinics.

[54] Bhumika Indulia, "The Essence of Time in Medical Termination of Pregnancy Cases: Navigating Challenges and Legal Complexities" *SCC Times*, 2024 *available at*: https://www.scconline.com/blog/post/2024/06/25/the-essence-of-time-in-medical-termination-of-pregnancy-cases-navigating-challenges-and-legal-complexities/ (last visited May 2, 2026).

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2. Sections 3A, 4, 5, and 6 of the PCPNDT Act should emphasize institutional accountability in enforcing anti-sex selection rules while rejecting actions that impede access to legitimate reproductive healthcare.
3. The BNS's defensive goals Sections 88–92 should be put into action using survivor-centered methods that penalize compulsion without discouraging legal medical termination under the MTP Act.
4. Improving maternity and health entitlements like NFSA Section 4 benefits and enhancing clinical standards through efficient registration and minimum standards under the Clinical Establishments Act, 2010 can help to reduce structural coercion by ensuring that reproductive choice is not dictated by poverty or location.

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