

Socially Progressive Legislations of India
Transgender Persons (Protection of Rights) Act 2019 : Salient features

The Act has following provisions: -

1. Non discrimination against a Transgender Person in educational institutions, employment, healthcare services etc.
2. Recognition of identity of Transgender Persons and to confer upon them right to self perceived gender identity.
3. Provision of right of Residence with parents and immediate family members.
4. Provision for formulation of welfare schemes and programmes for education, social security and health of Transgender Persons.
5. Provision for National Council for Transgender Persons to advice, monitor and evaluate measures for the protection of their rights.

The Act will make all the stakeholders responsive and accountable for upholding the principles underlying the Bill. It will bring greater accountability on the part of the Central Government and State Governments/Union Territories Administrations for issues concerning Transgender persons.

The Act will benefit a large number of transgender persons, mitigate the stigma, discrimination and abuse against this marginalized section and bring them into the mainstream of society. It will lead to greater inclusiveness and will make the transgender persons productive members of the society.

Socially Progressive Legislations of India
The Maintenance and Welfare of Parents and Senior Citizens (Amendment)
Bill, 2019: Salient Features

The proposed 'Maintenance and Welfare of Parents and Senior Citizens Amendment Bill' has the following major salient features:

- (i) Definition of "children" and 'parents' has been expanded.
- (ii) Definition of 'maintenance' and 'welfare' has been expanded.
- (iii) Mode of submission of application for maintenance has been enlarged.
- (iv) Ceiling of Rs.10,000/- as maintenance amount has been removed.
- (v) Preference to dispose of applications of senior citizens, above eighty years of age, early has been included.
- (vi) Registration of Senior Citizens Care Homes/Homecare Service Agencies etc. have been included.
- (vii) Minimum standards for senior citizen care homes has been included in the Bill.
- (viii) Appointment of Nodal Police Officers for Senior Citizens in every Police Station and District level Special Police Unit for Senior Citizens has been included.
- (ix) Maintenance of Helpline for senior citizens has been included.

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Cabinet approves the Assisted Reproductive Technology Regulation Bill 2020

Path breaking measures taken to protect women's reproductive rights

On 19 February 2020, the Union Cabinet, chaired by the Prime Minister, Mr. Narendra Modi has approved a historic Bill for the welfare of Women in the Country – the Assisted Reproductive Technology (ART) Regulation Bill 2020. This follows the introduction in Parliament of the Surrogacy Regulation Bill 2020, and the approval of the Medical Termination of Pregnancy Amendment Bill 2020. These legislative measures are path breaking steps to protect women's reproductive rights.

Once the Bill is enacted by the Parliament, the Central Government shall notify the date of the commencement of the Act. Consequently, the National Board will be constituted.

The National Board shall lay down code of conduct to be observed by persons working at clinics, to set the minimum standards of physical infrastructure, laboratory and diagnostic equipment and expert manpower to be employed by clinics and banks.

The States and Union Territories shall constitute the State Boards and State Authorities within three months of the notification by the Central Government.

The State Board shall have the responsibility to follow the policies and plans laid by the National Board for clinics and Banks in the State.

The Bill also provides for National Registry and Registration Authority to maintain a Central database and assist the National Board in its functioning. The Bill also proposes for a stringent punishment for those practising sex selection, sale of human embryos or gametes, running agencies/rackets/organisations for such unlawful practices.

Benefits

The major benefit of the Act would be that it will regulate the Assisted Reproductive Technology services in the country. Consequently, infertile couples will be more ensured/confident of the ethical practices in ARTs.

Background

The Assisted Reproductive Technology Regulation Bill 2020 is the most recent, in a series of legislations approved by the Union Cabinet to protect and safeguard the reproductive rights of women. The bill makes provisions for safe and ethical practice of assisted reproductive technology services in the country. Through the bill, the National Board, the State Boards, the National Registry and

the State Registration Authorities respectively will regulate and supervise assisted reproductive technology clinics and assisted reproductive technology banks.

Assisted reproductive technology (ART) has grown by leaps and bounds in the last few years. India has one of the highest growths in the ART centers and the number of ART cycles performed every year. Assisted Reproductive Technology (ART), including In-Vitro Fertilization (IVF), has given hope to a multitude of persons suffering from infertility, but also introduced a plethora of legal, ethical and social issues. India has become one of the major centres of this global fertility industry, with reproductive medical tourism becoming a significant activity. Clinics in India offer nearly all the ART services—gamete donation, intrauterine insemination (IUI), In vitro fertilisation (IVF), Intracytoplasmic Sperm Injection (ICSI), Pre-implantation Genetic Diagnosis (PGD) and gestational surrogacy. However, in spite of so much activity in India, there is yet no standardisation of protocols and reporting is still very inadequate.

The need to regulate the Assisted Reproductive Technology Services is mainly to protect the affected Women and the Children from exploitation. The oocyte donor needs to be supported by an insurance cover, protected from multiple embryo implantation and children born through Assisted reproductive technology should be provided all rights equivalent to a Biological Children. The cryopreservation of sperm, oocytes and embryo by the ART Banks needs to be regulated and the bill intends to make Pre-Genetic Implantation Testing mandatory for the benefit of the child born through assisted reproductive technology.

The Surrogacy (Regulation) Bill 2020

The Surrogacy (Regulation) Bill, 2020 proposes to regulate surrogacy in India by establishing National Board at the central level and State Boards and Appropriate Authorities in the States and Union Territories. The Bill has been examined by the Select Committee and the report has been tabled in the Rajya Sabha on the 5th of February 2020.

The major benefit of the Act would be that it will regulate the surrogacy services in the country. While commercial surrogacy will be prohibited including sale and purchase of human embryos and gametes, ethical surrogacy to the Indian Married couple, Indian Origin Married Couple and Indian Single Woman (only widow or Divorcee) will be allowed on fulfilment of certain conditions. As such, it will control the unethical practices in surrogacy, prevent commercialization of surrogacy and will prohibit potential exploitation of surrogate mothers and children born through surrogacy.

Medical Termination Pregnancy (Amendment) Bill 2020

The Medical Termination of Pregnancy Act, 1971 (34 of 1971) was enacted to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incidental thereto. The said Act recognised the importance of safe, affordable, accessible abortion services to women who need to terminate pregnancy under certain specified conditions. Besides this, several Writ Petitions have been filed before the Supreme Court and

various High Courts seeking permission for aborting pregnancies at gestational age beyond the present permissible limit on the grounds of foetal abnormalities or pregnancies due to sexual violence faced by women.

Taken together, the three proposed legislations create an environment of safeguards for women's reproductive rights, addressing changing social contexts and technological advances.

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The Medical Termination of Pregnancy (Amendment) Bill, 2020

Salient features of proposed amendments:

1. Proposing requirement for opinion of one provider for termination of pregnancy, up to 20 weeks of gestation and introducing the requirement of opinion of two providers for termination of pregnancy of 20-24 weeks of gestation.
2. Enhancing the upper gestation limit from 20 to 24 weeks for special categories of women which will be defined in the amendments to the Medical Termination of Pregnancy (MTP) Rules and would include 'vulnerable women including survivors of rape, victims of incest and other vulnerable women (like differently-abled women, Minors) etc.
3. Upper gestation limit not to apply in cases of substantial foetal abnormalities diagnosed by Medical Board. The composition, functions and other details of Medical Board to be prescribed subsequently in Rules under the Act.
4. Name and other particulars of a woman whose pregnancy has been terminated shall not be revealed except to a person authorised in any law for the time being in force.

The Medical Termination of Pregnancy (Amendment) Bill, 2020 is for expanding access of women to safe and legal abortion services on therapeutic, eugenic, humanitarian or social grounds. The proposed amendments include substitution of certain sub-sections, insertion of certain new clauses under some sections in the existing Medical Termination of Pregnancy Act, 1971, with a view to increase upper gestation limit for termination of pregnancy under certain conditions and to strengthen access to comprehensive abortion care, under strict conditions, without compromising service and quality of safe abortion.

It is a step towards safety and well-being of the women and many women will be benefited by this. Recently several petitions were received by the Courts seeking permission for aborting pregnancies at a gestational age beyond the present permissible limit on grounds of foetal abnormalities or pregnancies due to sexual violence faced by women. The proposed increase in gestational age will ensure dignity, autonomy, confidentiality and justice for women who need to terminate pregnancy.

In order to increase access of women to safe abortion services and taking into account the advances in medical technology, the Ministry of Health and Family Welfare proposed amendments after extensive consultation with various stake holders and several ministries.