

Medical Care and Health Issues of Females in India: Legal Scenario

Dr. Bhupinder Singh^{*}
Dr. Avinash Kumar^{**}
Ms. Shradha Sanjeev^{***}

Abstract

The females in India possess a prominent place in family, society and culture. She has been protected and well cared by her parents/ guardians before marriage and by her husband after marriage. Along with the male child in the family, the scenario now changed and female child also stand on equal footing. There were some incidences of discrimination against the female child after birth and sometime before birth i.e., during the pregnancy of her mother as per the historical aspects. Some negative aspects like- less/ no medical care, incidence of child marriage, surrogacy, exploitation, crimes against women are present. But with the passage of time, numerous legal provisions are there for the protection and well-being of women in India and around the world. There are multifarious rights available for females which are like- infant care, education, food, health facilities, medical care, equal opportunities in employment, etc. The organisations at international level also plays a very significant role for the upliftment and wellbeing of females. The legal provisions at global and domestic level are very important for women's care and consider as a protective shield.

Key Words: Medical Care, Health, Child Marriage, Diseases, Surrogacy, Legal Aspect

Medical and Healthcare are very wide concepts which lend itself difficult to define in exact words. The females in India possess a prominent place in family, society and culture. She has been protected and well cared by her parents/ guardians before marriage and by her husband after marriage. Along with the male child in the family, the scenario now changed and female child also stand on equal footing. There were some incidences of discrimination against the female child after birth and sometime before birth i.e., during the pregnancy of her mother as per the historical aspects. But with the passage of time, numerous legal provisions are there for the protection and well-being of women in India and around the world. There are multifarious rights available for females which are like- infant care, education, food, health facilities, medical care, equal opportunities in employment, etc. The organisations at

^{*} Associate Professor, School of Law, CHRIST (Deemed to be University) Delhi- NCR, India.

^{**} Assistant Professor, School of Law, CHRIST (Deemed to be University) Delhi- NCR, India.

^{***} Assistant Professor, School of Law, CHRIST (Deemed to be University) Delhi- NCR, India.

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Earlier war and crimes put divesting effect on the helpless and innocent child and it leads to hunger and human suffering. The discrimination between boy and girl child, less opportunities for girls in education, no choice in life, environment pollution adds much in the pitiable conditions for females. Along with other challenges of life, the health related issues and medical care is really a concern for the females all around the world because ill health and absence of medical care leads to grave danger of the life of females. Health is considered as prime important and it includes physical, mental, spiritual, psychological health as well. The World Health Organization (WHO) define the health as "a state of complete physical and mental and social wellbeing and not merely an absence of disease or infirmity." The study indicated that among the problems of measurement of levels of living that of the measurement of health levels occupies a central position. Health, a very broad concept lend itself poorly to objective measurement; direct measurement of healthy status is often impossible and in practice indicators of the health status of individuals or groups; indicators of environmental conditions that may have an effect on health status; and the indicators of the activities of health services.ⁱ The undernourishment, infant deaths and hunger put negative impact on the economy of any country obvious against the wellbeing of the child and specially for female child. The United Nation International Children and Emergency Fund (UNICEF) came into existence, there was one central idea in its institutional mind to provide extra rations mostly milk, but some vitamins and cod-liver oil for feeding hungry children in countries torn apart by war. This was the time when the particular alchemy of milk its blend of animal fat and protein, vitamins and minerals was believed to eclipse all other potential solutions for responding to the problem of undernourished child.ⁱⁱ

The need to appreciate the link between a mother and her child in any part of the world has been emphasized by the very label 'Mother and Child Health'. In less developed areas of world, this biological and logistic link becomes not only important but vital and is imperative for health and even survival. The inter-relationship has been well put in a recent WHO Expert Committee report commenting that much higher rates of mother and child mortality and morbidity in developing areas are mainly the results of poor nutrition, widespread infection and hazardous and excessive reproduction due to inadequate medical care, supervision and treatment. The nutrition of the mother in pregnancy is reflected not only

by the birth-weight and maturity of her baby but also by his stores of iron, vitamins and other nutrients needed for the early periods of infancy. Basically, the well-nourished child is dependent upon his mother's good state of nourishment and indeed recent emphasis was shifted to 'mother to be' particularly in the slimming cults of the industrialized countries. Antenatal clinics in tropical regions need to bear in mind and to give emphasis to maternal nutrition and general health rather than concentrating over-exclusively on the mechanical aspect of obstetrics. The young child poses a very proportion of all the problems in health and medical care. In underdeveloped areas there are three major disorders which make up the bulk of illness among children- diarrhea, respiratory disorder and malnutrition and all these are all inter-dependent. Even more important is the need for a live, vigorous, lactating mother to feed, carry and care for the infant during his period as an extrauterine foetus. Bottle-feeding may be virtually a sentence of death. This close relationship between mother and child in the early months necessary for survival itself has to be considered in the planning of mother and child health services. A great many of the cases of malnutrition derive from dyspepsia (maldigestion), diarrhea and mal-absorption, while respiratory disease is often a terminal condition in those who are malnutrition.ⁱⁱⁱ

Child marriages were very common and were prevalent in almost all parts of India earlier and physical and mental impact are more because of this. The objective of the Child Marriage Restrain Act was to wipe out the malicious of child marriage and to eliminate the special evil which had the potentialities of dangers to the life and health of a female child, who could not withstand the stress and strains of married life and to avoid early deaths of such minor mothers.^{iv} After this 1929 Act, "the Prohibition of Child Marriage Act, 2006 provide for the prohibition of solemnisation of child marriages and for matters connected therewith or incidental thereto. "The prevalence of child marriage remains unacceptably high and it is associated with an increased prevalence of unwanted pregnancies and an increased prevalence of pregnancy termination, defined as miscarriage, abortion or stillbirth." There are numerous health risks for women associated with Child marriage. In India, for example, researchers have found increased rates of Sterilization, poorer child health, Miscarriage and higher levels of Abortion.^v

Surrogacy tends to be a desirable option for intended parents as it is the sole way to have genetic relationship with child, unlike adoption. But a gazillion questions pose as gigantic problem to this process. Human beings have a natural desire to become parents, to nurture child under their aegis, and to carry forward the lineage. It is truly said that "*there can*

be no greater joy than the joy of being mother and father". Every living organism, whether animal or plant, on this planet has natural instinct to reproduce one of his own kind. This natural instinct is transmuted to innate satisfaction when one's own child takes birth. This is how he keeps himself alive over generations. But, living this dream is difficult, for some couples due to plethora of reasons making women incapable of giving birth to their own offspring. In these set of circumstances, surrogacy poses itself the most viable alternative.^{vi}

Surrogacy is the utmost controversial and complicated ART^{vii} and it is extremely complex not a simple arrangement. The aspect of surrogacy has been a controversial topic for decades and the situation can be stressful, overwhelming and intense. Although it became popular in the late 1980's through the 1990's, the practice of surrogacy has been around since biblical times. Normally, the misconceptions about this treatment for infertile couples are based on legal, social, and ethical aspects. Socially, the public may question the motives of the surrogate mother and why the seeking parents don't rely on adoption to help children who are already born. This topic raises question to the seeking parent's ethical values and what religion may say about this treatment. Legally, there have been infamous cases where the media how shone a great amount of negative limelight on this process, the problem about parenthood and citizenship of child. Legal uncertainties also edging parenthood as a result of international surrogacy agreements, particularly those entered into in India. The contemporary case demonstrates the issues as per the case of *Baby Manji Yamanda v. Union of India*.^{viii} Surrogacy (Regulation) Bill, 2020 is a welcome step where with the consent and well of the women may be a surrogate mother and it will would benefit widows and divorced women and also to infertile couples.

There are organisation at international level such as World Health Organisation (WHO), UNICEF, ILO, FAO and also the declaration, conventions, protocols for providing the benefit to the females in specifically healthcare perspectives. The legal scenario in India as the Indian Penal Code, 1860 have the specific sections where the punishment is there for crimes against women and specific legislations such as- Mental Health Act, Medical Termination of Pregnancy Act, Maternity Benefit Act, Child Marriage Prohibition Act, Clinical Establishment Act, Drug and Cosmetics Act, Food Adulteration Act and many more are there which directly and indirectly adequate for the medical and healthcare for women. The programme, schemes, plans are there for the well-being and upliftment of females in India. The efforts from legal arena is there and awareness on the part of general public and in families also required for protection of females.

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