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# Reproductive Rights and Constitutional Law: Legal and Social Implications for Single Mother and The Welfare of Children

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## ABSTRACT

*In recent years, conversations around reproductive rights in India have made noticeable progress especially when it comes to single mothers and their children. This piece explores how reproductive rights intersect with constitutional law and what that means for women raising children on their own.*

*India's Constitution provides a strong foundation for personal freedom and equality through Articles 14 and 21. These rights have helped shape the legal narrative around reproductive choices. Over time, key court rulings have made it clear that a woman's right to choose whether to keep a pregnancy is very personal and falls under her right to autonomy. One significant shift came with a 2022 Supreme Court judgment, which made it clear that unwed women have the same access to abortion as wedded women. This was a big step forward in challenging long-held norms of the society and recognizing the individual rights of all women's.*

*That said, the reality on the ground is still complicated. Single mothers in India still continues to face social challenges and judgment, which further leads to emotional and psychological challenges.*

*Their children, too, face hurdles. For getting basic documents like birth certificates, or handling guardianship and inheritance issues, can be a bureaucratic and legal headache. However, courts have started to recognize and respond to these challenges. There's now a growing judicial recognition of single mothers as a sole parent, and some processes around documentation have been simplified to make life a little easier.*

*This analysis looks at how legal policies, judicial rulings, and social perceptions all play a part in shaping the experiences of single mothers in India. While some important progress has been made, it's clear that more work is needed to ensure these women and their children can live with the dignity, rights, and support they deserve.*

**Keywords:** *Reproductive Rights in India, Constitutional Law and Reproductive Autonomy, Medical Termination of Pregnancy (MTP) Act, Surrogacy (Regulation) Act, Article 21, Article 14.*

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## I. INTRODUCTION

Over the past few decades, Indian society has gone through some big changes especially in how families are structured, how people think about having children, and what's considered "normal" socially. One major shift has been the growing number of single mothers. Whether it's due to divorce, the loss of a partner, choosing to become a parent alone, or using fertility treatments, more women are embracing motherhood on their own terms. This change is challenging long-held ideas about what a family should look like and is pushing both the law and society to rethink their views on parenting and family life.

Reproductive rights, also comprise of the autonomy of making decisions related to one's reproductive health, and are integral to realization of the fundamental human rights. In Indian context, these rights are preserved within the Constitution, especially under Article 21, which guarantees the right to life and personal liberty. Judicial interpretations have expanded this to include the right to privacy, dignity, and bodily autonomy. Notably, the Supreme Court's decision in *Suchita Srivastava v. Chandigarh Administration*<sup>3</sup> affirmed that a woman's right to make reproductive choices is a dimension of personal liberty under Article 21.

However, despite these constitutional safeguards, single mothers in India often encounter legal and social challenges. Legislative measures like the Medical Termination of Pregnancy (MTP) Act, 1971, and its subsequent amendments have also aimed at providing greater autonomy to women. The 2021 amendment, for instance, extended the gestational limit for abortion to 24 weeks for certain categories of women, including single women. Yet, societal stigma and lack of awareness continue to impede the access for safe and legal abortion practices for unmarried women. A 2022 Supreme Court judgment further reinforced that denying unmarried women access to abortion between 20–24 weeks violates their rights to equality and personal liberty under Articles 14 and 21.<sup>4</sup>

The Surrogacy (Regulation) Act of 2021 draws criticism for being overly restrictive especially towards single women for accessing surrogacy. Many see this as problematic, as it raises concerns about whether such limitations are consistent with our constitutional values of equality and non-discrimination towards every citizen. Even the Supreme Court has weighed in, questioning whether denying unmarried women the right to opt for surrogacy truly reflects modern societal values and the spirit of our Constitution.

Beyond legal hurdles, single mothers often face societal prejudices that impact their and their

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<sup>3</sup> *Suchita Srivastava & Anr. v. Chandigarh Administration*, (2009) 9 SCC 1.

<sup>4</sup> *X v. Principal Sec'y, Health & Family Welfare Dep't*, Civil Appeal No. 5802 of 2022, (2022) INSC 912.

children's well-being. Issues such as obtaining legal documents without the father's name, accessing social welfare benefits, and confronting workplace discrimination are prevalent. Judicial interventions, like the Kerala High Court's directive to create separate registration forms for children born to single mothers, as they seek to address some of these challenges, emphasizing the rights to privacy and dignity.<sup>5</sup>

This paper explores how reproductive rights intersect with the constitutional law in India, specially through the lens of single mothers and their children's well-being. By analyzing key legal provisions, major court decisions, and prevailing social attitudes, the study aims to uncover the gaps in the current system and offer thoughtful recommendations for creating an equitable practices for reproductive rights.

## II. CONSTITUTIONAL FOUNDATIONS OF REPRODUCTIVE RIGHTS

The Constitution of India isn't just a set of rules it's an, evolving document that protects the rights and dignity of every citizen. Amongst which Articles 14 and 21 stand out, especially when we talk about reproductive rights. These two provisions have shaped much of the legal and social conversation around the rights concerning single mothers and also the wellbeing of their children. Here, we explore how the Constitution supports reproductive freedom and equality, and how courts have interpreted these rights over time to include autonomy, dignity, and fairness in reproductive choices.

### 1. Article 21 – Right to Life and Personal Liberty

The Article guarantees that "No person shall be deprived of his life or personal liberty except according to procedure established by law."<sup>6</sup> While this was initially interpreted in a very limited way, things changed dramatically with a landmark case *Maneka Gandhi v. Union of India* (1978).<sup>7</sup> In that case, the Supreme Court clarified that the "procedure" mentioned in Article 21 isn't just about following any law it has to be just, fair, and reasonable. This ruling set a new standard by ensuring that individual rights take precedence over arbitrary government actions.

The Court continued to build on this broader view of personal liberty in later cases. One of the most significant was *K.S. Puttaswamy v. Union of India* (2017),<sup>8</sup> where the right to privacy was officially recognized as a fundamental part of Article 21. This idea of privacy includes both

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<sup>5</sup> X v. State of Kerala, W.P.(C) No. 13622 of 2021 (Ker. HC Aug. 13, 2021).

<sup>6</sup> Das, P., 2020. Critical Analysis on Interpretation of Article 21 of the Indian Constitution. *Issue 5 Int'l JL Mgmt. & Human.*, 3, p.424.

<sup>7</sup> Ara, S., 2022. New Dimensions of Article 21: Impact of Maneka Gandhi's Case. *Jus Corpus LJ*, 3, p.585.

<sup>8</sup> K.S. Puttaswamy (Privacy-9J.) v. Union of India, (2017) 10 SCC 1

control over one's body and the freedom of making personal life decisions key foundations for reproductive rights.

The Supreme Court made it even more clear in the 2009 case of *Suchita Srivastava v. Chandigarh Administration*.<sup>9</sup> Here, the Court specifically said that a woman's right to make reproductive choices whether to continue a pregnancy, give birth, or raise a child is an essential part of her personal liberty and dignity under Article 21.

Taking together, these rulings show that the reproductive rights, includes access to safe and legal abortion, are protected by the Constitution. Any government action that tries to limit these rights must meet strict standards of fairness, reasonableness, and non-arbitrariness.

## **2. Article 14 – Right to Equality**

It ensures that everyone must be treated equally under the law. It acts as a safeguard against discrimination, making sure that people in similar situations are treated in the same way.

In the context of reproductive rights, Article 14 has been instrumental in challenging discriminatory provisions that differentiate based on marital status. A landmark instance is the Supreme Court's judgment on September 29, 2022, where the Court held that unmarried women have the same right to abortion as married women.<sup>10</sup> The Court interpreted the Medical Termination of Pregnancy Act 1971,<sup>11</sup> as amended in 2021, to allow all the women, regardless of their marital status, access to abortion services up to 24 weeks of gestation.<sup>12</sup> The Court emphasized that disparity between married and unmarried women in accessing abortion services is arbitrary and violative of Article 14.

This ruling makes it clear that a woman's right to make decisions about her reproductive autonomy shouldn't depend on whether she's married. It recognizes that all women, including those raising children on their own, deserve the same legal protections when it comes to choices about their bodies.

## **3. Interplay Between Articles 21 and 14**

Indian Constitution provides a strong foundation for safeguarding reproductive autonomy through Articles 21 and 14. Article 21 ensures the individuals autonomy to make decisions about their own bodies and their reproductive health, recognizing this as a fundamental part of

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<sup>9</sup> *Suchita Srivastava & Anr. v. Chandigarh Administration*, (2009) 9 SCC 1.

<sup>10</sup> Dipika Jain, *Supreme Court of India Judgement on Abortion as a Fundamental Right: Breaking New Ground*, 31 *Sexual & Reprod. Health Matters* 2225264 (2023).

<sup>11</sup> The Medical Termination of Pregnancy Act, No. 34 of 1971, INDIA CODE (1971).

<sup>12</sup> Center for Reproductive Rights, *With Recent Ruling, India Follows Global Trend of Liberalizing Abortion Laws*, Center for Reproductive Rights, <https://reproductiverights.org/india-abortion-mtp-act-supreme-court/>.

personal liberty and dignity. Complementing this, Article 14 guarantees that these rights are upheld equally for all, prohibiting discrimination and ensuring fairness in their application.

The Supreme Court's jurisprudence reflects this interplay. In *Maneka Gandhi v. Union of India*, the Court held that the procedure established by law must be "right, just, and fair" and not arbitrary, fanciful, or oppressive. This interpretation integrates the principles of equality (Article 14) and freedom of speech and expression (Article 19) into the understanding of personal liberty under Article 21.<sup>13</sup>

When we apply an integrated approach to reproductive rights, we ensure that laws and policies uphold not only individual freedom but also equality for everyone. For single mothers, this means their right to make reproductive choices and access related services should be protected free from any form of bias or unfair treatment.

### III. LEGAL FRAMEWORK GOVERNING REPRODUCTIVE RIGHTS

India's approach to reproductive rights has evolved significantly over the years, especially as society has changed and adapted. The focus has been on ensuring that women, including single mothers, have control over their reproductive choices and well-being. Two key pieces of legislation that reflect these shifts are the Medical Termination of Pregnancy (MTP) Act of 1971 and the Surrogacy (Regulation) Act of 2021. This chapter looks at these laws, discussing their provisions, any amendments made over time, and how they impact single mothers and their children.

#### 1. Medical Termination of Pregnancy (MTP) Act, 1971<sup>14</sup> and Amendments

It was passed in 1971, as a major step toward improving women's health in India, making abortion legal under certain conditions. This law aimed to address the high maternal death rates linked to unsafe abortions. However, as societal needs and medical understanding evolved, the MTP Act saw crucial updates in 2021. These amendments expanded access and made the law more progressive, and inclusive with its approach to reproductive rights.

#### Key Provisions of the MTP Amendment Act, 2021<sup>15</sup>:

##### i. Extended Gestation Period:

- Based on the opinion of a registered medical practitioner abortion is permissible for up to 20 weeks of gestation.

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<sup>13</sup> Ara, S., 2022. New Dimensions of Article 21: Impact of Maneka Gandhi's Case. *Jus Corpus LJ*, 3, p.585.

<sup>14</sup> The Medical Termination of Pregnancy Act, No. 34 of 1971, INDIA CODE (1971).

<sup>15</sup> The Medical Termination of Pregnancy (Amendment) Act, No. 8 of 2021, Gazette of India, Extraordinary, Part II, Section 1 (Mar. 25, 2021) (India).

- For the pregnancies that are between 20 to 24 weeks, the judgement of two registered medical practitioners is required. This extension applies only for women in specific categories, including rape survivors, victims of incest, and other vulnerable women.<sup>16</sup>

**ii. Inclusion of Unmarried Women:**

- The amendment allows unmarried women to seek abortion on the grounds of contraceptive failure, a provision previously available only to married women.<sup>17</sup>

**iii. Medical Boards for Abortions Beyond 24 Weeks:**

- In cases of substantial fetal abnormalities, abortions beyond 24 weeks can be approved by a state-level Medical Board comprising specialists.<sup>18</sup>

**iv. Confidentiality Clause:**

- The identity and personal details of women undergoing abortion are to be kept confidential, ensuring their privacy rights are upheld.

These changes mark a meaningful step forward in supporting women's right to make decisions about their own bodies regardless of whether they're married or not. By allowing a longer window for termination and recognizing the needs of unmarried women, the law is beginning to reflect the complex and varied experiences that women across India actually face.

## **2. Surrogacy (Regulation) Act, 2021<sup>19</sup>**

It, was enacted to regulate surrogacy practices in India, aiming to prevent exploitation and ensure ethical practices. The Act permits only altruistic surrogacy and prohibits commercial surrogacy.<sup>20</sup>

### **Key Provisions of the Surrogacy (Regulation) Act, 2021:**

**i. Pre-requisites for Intended Parents:**

- Only Indian heterosexual married couples, with the woman aged between 23 to 50 years and the man between 26 to 55 years, who have been married for at least

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<sup>16</sup> S. Kumari & J. Kishore, *Medical Termination of Pregnancy (Amendment Bill, 2021): Is it Enough for Indian Women Regarding Comprehensive Abortion Care??*, 46 INDIAN J. COMMUNITY MED. 367 (2021).

<sup>17</sup> Atul Shendge et al., *Medical Termination of Pregnancy (Amendment) Act 2021: From the Lenses of LGBTQIA+ Community in India*, 13 J. Fam. Med. & Primary Care 5459 (2024), [https://doi.org/10.4103/jfmpc.jfmpc\\_818\\_24](https://doi.org/10.4103/jfmpc.jfmpc_818_24).

<sup>18</sup> Sneha Kumari & Jugal Kishore, *Medical Termination of Pregnancy (Amendment Bill, 2021): Is it Enough for Indian Women Regarding Comprehensive Abortion Care??*, 46 Indian J. Cmty. Med. 367 (2021).

<sup>19</sup> Surrogacy (Regulation) Act, No. 47 of 2021, § 1, Acts of Parliament, 2021 (India).

<sup>20</sup> G. Narayan et al., *The Surrogacy Regulation Act of 2021: A Right Step Towards an Egalitarian and Inclusive Society?*, 15 CUREUS e37864 (2023), <https://doi.org/10.7759/cureus.37864>.

five years and do not have a living child, are eligible for surrogacy.<sup>21</sup>

**ii. Inclusion of Single Women:**

- The Act allows widowed or divorced women aged between 35 and 45 years to opt for surrogacy.<sup>22</sup> However, single unmarried women are excluded from accessing surrogacy services.

**iii. Surrogate Mother's Eligibility:**

- The surrogate mother must be a married woman aged between 25 and 35 years, having at least one child of her own. She can act as a surrogate only once in her lifetime.<sup>23</sup>

**iv. Prohibition of Commercial Surrogacy:**

- The Act strictly prohibits compensated surrogacy, allowing only non-commercial form of surrogacy where no remunerations involved, except for medical expenses and insurance coverage.<sup>24</sup>

The Surrogacy (Regulation) Act<sup>25</sup> was introduced with the intention of protecting surrogate mothers and promoting ethical practices. However, many have pointed out that some of its restrictions particularly those excluding single and unmarried women can be seen as limiting reproductive freedom. This exclusion has raised valid concerns around equality and discrimination. In contrast, the Medical Termination of Pregnancy (Amendment) Act 2021,<sup>26</sup> marked a positive shift by expanding reproductive rights, especially for single women, and offering greater autonomy in healthcare decisions. Together, these two pieces of legislation represent key developments in India's approach to reproductive rights. But while one broadens access, the other appears to pull back in certain areas. Moving forward, it's crucial to strike a balance: ensuring ethical standards are upheld without compromising the inclusivity and fundamental rights guaranteed to all women under the Constitution.

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<sup>21</sup> Surrogacy (Regulation) Act, No. 47 of 2021, INDIA CODE (2021), <https://www.indiacode.nic.in/handle/123456789/17046>.

<sup>22</sup> G. Narayan et al., The Surrogacy Regulation Act of 2021: A Right Step Towards an Egalitarian and Inclusive Society?, 15 *Cureus* e37864 (2023), <https://doi.org/10.7759/cureus.37864>.

<sup>23</sup> Akshaya S., Sivasakthi A., & Sushmitha R., A Critical Analysis of Surrogacy (Regulation) Act, 2021: Key Provisions and Drawbacks, THE LAWWAY WITH LAWYERS JOURNAL (Jan. 10, 2025), <https://thelawwaywithlawyers.com/a-critical-analysis-of-surrogacy-regulation-act-2021-key-provisions-and-drawbacks/>.

<sup>24</sup> Neha Thirani Bagri & Anand, A Controversial Ban on Commercial Surrogacy Could Leave Women in India With Even Fewer Choices, *TIME* (June 30, 2021), <https://time.com/6075971/commercial-surrogacy-ban-india/>.

<sup>25</sup> Surrogacy (Regulation) Act, No. 47 of 2021, § 1, Acts of Parliament, 2021 (India).

<sup>26</sup> The Medical Termination of Pregnancy (Amendment) Act, No. 8 of 2021, Gazette of India, Extraordinary, Part II, Section 1 (Mar. 25, 2021) (India).



## IV. RIGHTS AND CHALLENGES OF SINGLE MOTHERS

Being a single mother in India isn't easy. While there are laws in place meant to protect their rights, the reality is often far more complicated. Many still face judgment from society and struggle with red tape in systems that aren't always built with their needs in mind. Despite legal progress, real change on the ground is still working in progress.

### 1. Legal Rights of Single Mothers

#### i. Guardianship and Custody

The landmark Supreme Court judgment in *ABC v. The State (NCT of Delhi)* (2015)<sup>27</sup> recognized the right of an unwed mother to be the sole guardian of her child without disclosing the father's identity. This decision highlights the importance of a single mother's liberty and the child's welfare, setting an example for future cases. However, inconsistencies remain in the application of this principle across different jurisdictions. Some courts have requested the inclusion of the father's name in official documents, citing the child's right to know their lineage.<sup>28</sup> This has led to legal ambiguities and challenges for single mothers seeking to assert their rights without compromising their privacy.

#### ii. Maintenance and Financial Support

In CPC Section 125<sup>29</sup>, single mothers have the right to seek financial support for themselves and their children from the father. This law is designed to prevent poverty and ensure that children are properly cared for. However, many mothers face significant hurdles in enforcing this right, with lengthy legal processes often delaying or complicating the maintenance they are entitled to receive.

#### iii. Property and Inheritance Rights

The Hindu Succession (Amendment) Act of 2005<sup>30</sup> marked a significant shift, ensuring that daughters were granted equal rights to patrimonial property, regardless of whether they were married. This landmark change empowered women, particularly single mothers, by giving them the right to claim their equitable share of inheritance. Not only did this provide them with financial stability, but it also strengthened the principle of gender equality in family inheritance matters.

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<sup>27</sup> *ABC v. The State (NCT of Delhi)*, (2015) 10 SCC 1 (India).

<sup>28</sup> Saptarshi Mandal, *Biology, Intention, Labour: Understanding Legal Recognition of Single Motherhood in India*, 15 Socio-Legal Rev. 131 (2019).

<sup>29</sup> Code of Criminal Procedure § 125, No. 2 of 1974, INDIA CODE (1974).

<sup>30</sup> Hindu Succession (Amendment) Act, No. 39 of 2005, Gazette of India, Extraordinary, Part II, Section 1

#### **iv. Adoption and Surrogacy**

The Central Adoption Resource Authority (CARA)<sup>31</sup> guidelines allow single women to adopt children, as long as they meet specific age and financial requirements. However, the Surrogacy (Regulation) Act, 2021,<sup>32</sup> imposes a restriction that only married couples and widowed or divorced women between the ages of 35 and 45 can pursue surrogacy. This exclusion of single women, especially those who have never been married, has been widely criticized as discriminatory, as it seems to go against the principles of equality guaranteed by the Constitution.

### **2. Social and Economic Challenges**

#### **i. Financial Constraints**

Single mothers often bear the sole responsibility for their family's financial well-being. Studies indicate that many single mothers struggle to meet basic necessities, including education and healthcare for their children.<sup>33</sup> Limited access to well-paying jobs and the absence of a co-parent exacerbate these financial challenges.

#### **ii. Social Stigma and Isolation**

Even though there have been legal strides forward, society still tends to look down on single mothers. They often deal with unfair judgment and exclusion, which can leave them feeling isolated and hurt their confidence. This kind of social rejection doesn't just affect them it can also take a serious toll on their children's emotional well-being.

#### **iii. Work-Life Balance and Support Systems**

Juggling a career while raising kids alone is no small feat for single moms. Without access to affordable childcare or flexible job options, they often have to make tough choices that can hold back their professional growth and affect their financial well-being.

#### **iv. Legal and Bureaucratic Hurdles**

Single mothers often run into a maze of paperwork when trying to get official documents for their kid's things like birth certificates or passports. It gets especially tricky if the father's information isn't available. These red tape hurdles can make it tough for both mom and child

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<sup>31</sup> Central Adoption Resource Authority (CARA), Ministry of Women & Child Development, Government of India, <https://cara.nic.in/>.

<sup>32</sup> Surrogacy (Regulation) Act, No. 47 of 2021, § 1, Acts of Parliament, 2021 (India).

<sup>33</sup> **Ashok Banerjee & Dr. Amit Kumar**, *The Social and Economic Struggles of Single Mothers*, International Journal of Advanced Research in Science, Communication and Technology, Vol. 3, Issue 1 (Mar. 2023), available at <https://ijarsct.co.in/Paper13515G.pdf>.

to access basic rights and services they're entitled to.

### **3. Psychological and Emotional Impact**

Being a single mom can take a serious toll emotionally, mentally, and financially. The constant pressure of making ends meet, feeling judged by society, and lacking a strong support system can leave many women overwhelmed. It's not uncommon for them to struggle with loneliness, anxiety, or depression, all of which can make parenting even harder. Their children, too, can face their own emotional struggles things like figuring out their identity or fitting in socially can become real challenges.

While India's legal system has made progress in recognizing the rights of single mothers, there's still a big gap between what's on paper and what actually happens in real life. Truly supporting single mothers means going beyond legal reforms. We need a shift in how society views and treats them, along with real support systems that make their lives and their children's lives a little easier.

## **V. WELFARE OF CHILDREN BORN TO SINGLE MOTHERS**

Children growing up with single mothers in India often face a mix of challenges legal hurdles, social bias, and financial constraints. Supporting their well-being requires a holistic effort, one that ensures their rights are respected, gives them fair access to resources, and shields them from discrimination.

### **1. Legal Recognition and Rights**

The Indian judiciary has progressively acknowledged the rights of children born to single mothers. In the landmark case *ABC v. The State (NCT of Delhi)* (2015),<sup>34</sup> the Supreme Court recognized an unmarried mother right to be the single guardian of her child without disclosing the father's identity. This judgment emphasizes the child's right to a dignified life and also the mother's right to privacy.

That said, hurdles still remain. For example, getting important documents like birth certificates or passports can be tricky, especially for single mothers since the process often insists on including the father's name. This kind of red tape can make things unnecessarily difficult for both the mother and the child. While some courts have stepped in and asked officials to issue these documents without requiring the father's details, there's still no consistent policy in place across the board.

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<sup>34</sup> *ABC v. The State (NCT of Delhi)*, (2015) 10 SCC 1 (India).

## 2. Government Schemes and Support Mechanisms

Recognizing the vulnerabilities of children born to single mothers, the Indian government has introduced several schemes aimed at their welfare:

- **PM CARES for Children Scheme:** Launched to support children orphaned during the COVID-19 pandemic, this scheme provides a corpus of ₹10 lakh upon attaining 18 years, free education, health insurance of ₹5 lakh, and support for higher education through scholarships or educational loans.<sup>35</sup>
- **Pradhan Mantri Matru Vandana Yojana (PMMVY):** Offers a cash incentive of ₹5,000 to pregnant and lactating mothers for the first child and ₹6,000 for the second child if it's a girl, aiming to improve health and nutrition.<sup>36</sup>
- **Integrated Child Development Services (ICDS):** Provides supplementary nutrition, immunization, health check-ups, and pre-school education to children under six years, benefiting those from single-parent households.
- **Beti Bachao, Beti Padhao (BBBP):** Focuses on the survival, protection, and education of the girl child, offering scholarships and awareness programs that can benefit daughters of single mothers.<sup>37</sup>

## 3. Role of the National Commission for Protection of Child Rights (NCPCR)

The NCPCR, set up under the Commission for Protection of Child Rights Act in 2005, is a body in India focused on defending the rights of children. Its role is to make sure that laws, policies, and programs are in line with both the country's constitutional vision of child rights and the United Nations Convention on the Rights of the Child.<sup>38</sup>

Key functions of the NCPCR relevant to children of single mothers include:

- **Reviewing Legal Safeguards:** The Commission reviews the current laws and suggests improvements to ensure better protection of children's rights.
- **Addressing Violations:** It looks into situations where children's rights may have been violated and can suggest starting legal actions if necessary.

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<sup>35</sup> PM CARES for Children, Ministry of Women and Child Development, Govt. of India, <https://pmcaresforchildren.in/>

<sup>36</sup> Ministry of Women & Child Development, Govt. Implements Schemes for Social & Economic Empowerment of Women, Including Single Mothers & Widows, Press Information Bureau (Mar. 12, 2025, 5:31 PM), <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2110900>.

<sup>37</sup> Dimple Oswal, *Support Options for Single Mothers in India*, THEYWON.IN (Apr. 17, 2024), <https://theywon.in/help-for-single-mothers/>.

<sup>38</sup> National Commission for Protection of Child Rights, About NCPCR, NCPCR (2024), <https://ncpcr.gov.in/about-ncpcr>

- **Monitoring Implementation:** The NCPCR plays an important role in overseeing the implementation of laws like the Right to Education Act.<sup>39</sup> It ensures that every child, including those raised by single mothers, gets the benefits they are rightfully entitled to under these laws.
- **Promoting Research and Awareness:** The Commission undertakes research in the field of child rights and spreads awareness through publications and media to sensitize society about the challenges faced by children from diverse family backgrounds.<sup>40</sup>

Through these functions, the NCPCR plays a pivotal role to advocate for the rights and welfare of children born to single mothers, ensuring they receive equal protection and opportunities.

#### 4. Educational and Social Challenges

Children raised by single mothers sometimes face societal challenges that can affect their self-image and how they relate to others. Research shows that these children might struggle with emotional or behavioral issues, which can influence their academic success. Economic challenges and a lack of additional support can make it harder for them to thrive in various aspects of life.<sup>41</sup>

Growing up without one of the parents often means taking on more responsibilities at an earlier age, which can have a major impact on the wellbeing of child mentally and emotionally. While support from the community and counseling services can help address these struggles, they're not always easy to access or may not even be available when needed.

## VI. SOCIAL IMPLICATIONS AND CHALLENGES

In India, single mothers often face an array of societal pressures, cultural expectations, and challenges that make their journey particularly difficult. The influence of deeply rooted patriarchal beliefs shapes how non-traditional family structures are viewed and treated. This chapter explores the diverse social challenges single mothers contend with, shedding light on how these struggles are informed by social attitudes and institutional barriers. It incorporates the latest research and insights from experts to better understand these complex issues.

### 1. Societal Stigma and Cultural Norms

In many parts of India, the traditional family structure is seen as the ideal, where a married

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<sup>39</sup> Right of Children to Free and Compulsory Education Act, No. 35 of 2009, § \_\_, India Code (2009).

<sup>40</sup> National Commission for Protection of Child Rights, About NCPCR, NCPCR (2024), <https://ncpcr.gov.in/about-ncpcr>

<sup>41</sup> K. Chavda & V. Nisarga, Single Parenting: Impact on Child's Development, 19 J. Indian Ass'n Child & Adolescent Mental Health 14, 14–20 (2023). <https://doi.org/10.1177/09731342231179017>.

heterosexual couple raises their children together. Any departure from this, like single motherhood, tends to raise eyebrows. Single mothers are often unfairly criticized, labeled as incapable or morally flawed, which can lead to social exclusion and judgment. Sadly, this stigma affects their children too, who are sometimes seen as coming from "broken homes," which can harm their self-esteem and how others perceive them.

## **2. Economic Vulnerabilities**

Financial instability is a constant struggle for many single mothers. Without a partner to share the load, they often find themselves solely responsible for managing household costs, childcare, and education. Many are forced to take on low-paying, insecure jobs, which only keeps them stuck in a cycle of financial hardship. On top of that, the lack of affordable childcare options makes it even harder for them to find stable, better-paying work, deepening the economic challenges they face every day.

## **3. Legal and Bureaucratic Hurdles**

For single mothers, navigating legal systems can be incredibly challenging. Divorce proceedings and custody battles often drag on, weighing heavily on emotions and creating stressful situations. The bureaucratic hurdles they face, like getting birth certificates or passports for their children, can add another layer of difficulty. Many of these processes require information about the father, which can be tough for mothers who may not have that information or prefer not to disclose it.

## **4. Psychological and Emotional Strain**

The stress of societal expectations, financial struggles, and legal hurdles often weighs heavily on single mothers, sometimes leading to deep emotional strain. Feelings of isolation, helplessness, and a drop in self-esteem are all too familiar. Without strong support networks to turn to, these challenges only grow more intense, affecting not just their own well-being but also their ability to create a loving, stable home for their children.

## **5. Impact on Children**

Children raised by single mothers often face a range of difficulties shaped by societal biases and economic pressures. These kids might deal with discrimination in schools or in social settings, which can affect their academic success and how they connect with others. The absence of a strong support system and witnessing their mother's daily struggles can also impact on their emotional well-being and influence their future ambitions.<sup>42</sup>

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<sup>42</sup> Sangeet, O. & Singh, S., 2022. Experiences of single-parent children in the current Indian context. *Journal of*

## 6. Role of Advocacy and Support Organizations

Non-profit organizations and public associations are essential to provide crucial support for single mothers. These groups offer legal aid, counseling, and job training programs to help single mothers build skills and regain their independence, integrating them more fully into society. Public awareness campaigns also play a significant role in breaking down stereotypes, helping to foster a more inclusive view of family structures.

## VII. COMPARATIVE PERSPECTIVES

Reproductive rights and the legal status of single mothers differ widely from one country to another, shaped by each society's unique cultural, legal, and social values. In this chapter, we explore how India approaches these issues and compare its policies with those of Sweden, the United Kingdom, and the United States. The goal is to highlight effective practices and identify where legal or policy improvements could be made.

### 1. India: Progress Amidst Persistent Challenges

India has made notable strides in recognizing reproductive rights. The Supreme Court's 2022 ruling affirmed that each woman, regardless of marital status, has the natural right to choose to undergo abortion without third-party authorization.<sup>43</sup> Additionally, the landmark case of *ABC v. The State (NCT of Delhi)* (2015)<sup>44</sup> acknowledged the right of an unwed mother to be the single guardian of her child without disclosing the father's identity.

That said, there are still some significant hurdles. The Surrogacy (Regulation) Act of 2021 only allows married couples and a limited group of women to opt for surrogacy, leaving out single women who've never been married. This restriction has sparked debate, with critics pointing out that it unfairly discriminates based on marital status. It's a clear reminder that our reproductive laws may need to evolve to be more inclusive and equitable for everyone.

### 2. Sweden: Embracing Inclusive Reproductive Rights

Sweden exemplifies a progressive approach to reproductive rights. In 2016, the Swedish Parliament enacted legislation granting single women the right to access assisted reproductive technologies (ART), including insemination with donor sperm.<sup>45</sup> This law ensures that single

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*Family Medicine and Primary Care*, 11(7), pp.3790–3794. Available at: [https://doi.org/10.4103/jfmpc.jfmpc\\_2455\\_21](https://doi.org/10.4103/jfmpc.jfmpc_2455_21)

<sup>43</sup> Amit Anand Choudhary, Every Pregnant Woman Irrespective of Marital Status Has Right to Choose to Undergo Abortion: Supreme Court, *Times of India* (Sept. 29, 2022)

<sup>44</sup> *ABC v. The State (NCT of Delhi)*, (2015) 10 SCC 1 (India).

<sup>45</sup> Rachel Irwin, *Politics, Law and a Lack of Sperm: Single Women and Fertility Treatment in the Swedish Health System*, 31 *ANTHROPOL. & MED.* 89 (2024).

women are assessed on the basis of their ability of providing a nurturing environment to their child, rather than their marital status.

Despite this inclusive legal framework, implementation challenges exist. Studies indicate that single women in Sweden often face long waiting times for fertility treatments in the public health system, leading many to seek private care or travel abroad.<sup>46</sup> These logistical hurdles highlight the importance of aligning policy with practical accessibility.

### **3. United Kingdom: Navigating Ethical and Legal Complexities**

The UK permits single women to access ART, including IVF, through the National Health Service (NHS), subject to certain criteria.<sup>47</sup> There's still a lot of discussion about whether public funding should cover fertility treatments for single women. Some people believe that assisted reproduction shouldn't be considered a basic right for everyone. They point out that we need to carefully weigh the ethical questions, the impact on society, and how the costs might affect the broader healthcare system.

Furthermore, the UK's legal stance on surrogacy is restrictive. Commercial surrogacy is prohibited, and the law primarily supports altruistic arrangements. This legal framework, while aiming to prevent exploitation, can limit options for single individuals seeking to become parents through surrogacy.<sup>48</sup>

### **4. United States: A Patchwork of Policies**

In the USA, reproductive rights are governed by a complex interplay of federal and state laws. Following the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* (2022)<sup>49</sup>, which overturned *Roe v. Wade*<sup>50</sup>, several states have enacted laws expanding fetal rights, potentially paving the way for broader restrictions on abortion.

Access to assisted reproductive technologies (ART) and surrogacy can look very different depending on where you live in the U.S. Some states are supportive and provide clear pathways for single individuals who want to start a family, while others put up legal roadblocks that make the process more difficult. This patchwork of laws highlights just how uneven reproductive rights are across the country and how tough it can be for someone going it alone to navigate the

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<sup>46</sup> Rachel Irwin, *Politics, Law and a Lack of Sperm: Single Women and Fertility Treatment in the Swedish Health System*, 31 ANTHROPOL. & MED. 89 (2024).

<sup>47</sup> Beth Ann Mayer, *Here's Why We Need the Right To Build Families Act*, Parents (Jan. 5, 2023) <https://www.parents.com/here-s-why-we-need-the-right-to-build-families-act-7091879>.

<sup>48</sup> Krishnadas Rajagopal, *Supreme Court Asks if Unmarried Women Having Children Through Surrogacy Is Against Indian Society*, *The Hindu* (Dec. 5, 2023).

<sup>49</sup> *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022).

<sup>50</sup> *Roe v. Wade*, 410 U.S. 113 (1973).



system.

## **5. Comparative Analysis and Recommendations**

While India has made noteworthy strides in some areas like improving abortion rights and legally recognizing single mothers as guardians there are still noticeable gaps. Unmarried women, for instance, face significant barriers when it comes to accessing surrogacy and assisted reproductive technologies (ART). Meanwhile, Sweden stands out for its inclusive and progressive family policies, offering support for a wide range of family structures. However, even there, access in practice doesn't always match the promise on paper. In the UK, the approach has been more cautious, shaped by ongoing ethical conversations. And in the United States, the landscape is highly fragmented what's available to someone often depends heavily on the state they live in, making reproductive rights far from consistent nationwide.

## **VIII. CONCLUSION AND RECOMMENDATIONS**

This study has explored the complex relationship between reproductive rights and constitutional law in India, with a particular emphasis on the experiences of single mothers and the well-being of their children. While the Indian Constitution especially Articles 14 and 21 offers a strong legal foundation for equality and personal autonomy, there remains a noticeable gap between these rights on paper and the realities faced on the ground.

Legislation such as the Medical Termination of Pregnancy (MTP) Act and the Surrogacy (Regulation) Act have certainly evolved over time, reflecting shifts in societal needs. A landmark 2022 Supreme Court ruling, for instance, acknowledged the right of unmarried women to access abortion up to 24 weeks a clear step forward for reproductive freedom and gender justice. Yet, contradictions remain. The continued exclusion of single women from surrogacy eligibility highlights ongoing inconsistencies within the legal framework.

Beyond legal hurdles, single mothers in India often grapple with deep-rooted social stigma, bureaucratic red tape around guardianship and documentation, and limited access to support systems. These obstacles don't just affect the mothers they also shape the lives and opportunities of their children. While courts have stepped in to address specific injustices, there is still an urgent need for a more extensive and inclusive policy approach.

In short, the research paints a picture of a legal landscape that's evolving but uneven. Progressive court rulings coexist with structural and societal challenges that limit their impact. Bridging this gap will require a holistic approach one that includes legal reform, forward-thinking policy design, and a shift in public attitudes toward single motherhood and reproductive rights.

## **(A) Recommendations**

After reviewing the current landscape, here are some actionable suggestions to better uphold reproductive rights and provide meaningful support to single mothers and their children:

### **1. Legal Reforms**

- **Modernize the Surrogacy (Regulation) Act:** Update the law to give single and unmarried women equal access to surrogacy, removing barriers based on marital status.
- **Streamline Guardianship Laws:** Create consistent rules across the board that recognize single mothers as sole guardians. This would make it easier for them to get essential documents like birth certificates and passports.

### **2. Policy Enhancements**

- **Introducing Tailored Welfare Programs:** Launch initiatives specifically geared toward single mothers—offering financial support, medical care, childcare services, and safe housing.
- **Improve Workplace Protections:** Strengthen labor rights by mandating more flexible hours, extended maternity leave, and clear anti-discrimination policies that empower single moms in the workforce.

### **3. Legal and Administrative Support**

- **Set Up Fast-Track Courts:** Establish dedicated courts for cases related to reproductive rights and child custody to speed up proceedings and ensure timely resolutions.
- **Educate Key Professionals:** Organize training for judges, police, and healthcare workers to help eliminate biases and ensure respectful, informed treatment of single mothers.

### **4. Shifting Social Perception**

- **Launch Awareness Campaigns:** Public initiatives can help challenge outdated stigmas around single motherhood and build a more accepting and inclusive society.
- **Update Education Curricula:** Integrate comprehensive sex education and conversations about reproductive rights into school programs to foster informed attitudes from an early age.

### **5. Data-Driven Improvements**

- **Encourage Research:** Support studies that delve into the real-life challenges faced by single mothers, so policy decisions are grounded in actual needs.

- Track Program Impact: Develop systems to monitor how well new laws and support programs are working, with a focus on accountability and continuous progress.

By taking these steps, India can move toward a society that not only respects reproductive choices but also ensures that every single parent and their child are treated with respect, care and attention. Achieving this vision will take a joint effort—from lawmakers and legal institutions to educators, communities, and everyday citizens.

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