

**REPRODUCTIVE RIGHTS OF TRIBAL WOMEN IN INDIA, ETHICAL DILEMMAS AND
LEGAL ISSUES IN EXERCISING REPRODUCTIVE RIGHTS**

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ABSTRACT

The current state of tribal women's reproductive health in India is discussed in the study. Due to the culture of silence, there is less research and knowledge on reproductive health issues. The majority of the information on the topic is provided by government agencies and initiatives. Overall, the tribal reproductive health situation is not encouraging when it comes to morbidity and mortality, food, marriage, family planning, breastfeeding, childcare, and nutrition. There is a widespread belief that tribal people, both men and women, who live in natural settings like forests are extremely robust and healthy. Contrarily, field studies show that the majority of tribal people actually live in nearly filthy conditions, have low and insufficient access to food, high rates of malnutrition, high mortality, and disease, no prenatal or postnatal care, food taboos, and don't use contraceptives. Due to political unrest and fundamentalist activity in locations like the north-eastern states, indigenous women's health is at risk. Whether tribal or generic, this component of reproductive health difficulties and problems are only experienced by women, and it is still more or less linked to the culture of silence among men. For each tribal community, it needs to be thoroughly researched.

INTRODUCTION

The growth of the social, economic, and human spheres depend on the reproductive system functioning properly, which is such a crucial aspect of overall health. It also includes ensuring that everyone has the same chances, rights, and conditions to engage in safe and fulfilling sexual activity and to make their own decisions about their bodies free from coercion, violence, or discrimination. However, because they have the ability to make decisions regarding reproductive health, men have specific duties and obligations in relation to women's reproductive health. Reproductive health is a sign of the condition of social justice, human rights, and tribal population empowerment, all of which are fundamental social work values.

STATEMENT OF PROBLEM

The issue is about the sexual health of the tribal women, where they have almost no reproductive knowledge and face various issues related to health and delivery of child. Even though the presence of legislatures for the protection of tribal people and imparting all the rights given to the general women are similar, still there can be noticed a huge difference in the healthcare, nutrition and sexual health of the tribal women. The issues faced by these women in getting their rights will be dealt in detail.

OBJECTIVE OF STUDY

The main aim of this research paper is to understand and try to explain the reasons due to which the problem of reproductive health exists. The study deals with the data of how different tribes face the issues of nutrition, health care, post natal care, food habits during pregnancy and the reproductive health of the women in these tribes. Also the ways in which governmental institutions can help to remove or lessen these issues by providing information and simple interface to the women in the tribal groups of India. In order to comprehend the general state of the reproductive health of the tribals in India, the current study focuses on the reproductive health of tribal women.

REVIEW OF LITERATURE

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3. Mitra, A., 2008. The status of women among the scheduled tribes in India. *The Journal of Socio-Economics*, 37(3), pp.1202-1217.
4. Sahoo, M. and Pradhan, J., 2021. Reproductive health care status of the displaced tribal women in India: an analysis using Nussbaum central human capabilities. *Health Care for Women International*, 42(4-6), pp.390-419.
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RESEARCH METHODOLOGY

The project is of non-empirical in nature. The project employs secondary sources for the fulfillment of objectives of the study. The project is of descriptive and analytical in nature and various literature have been covered from Journals, News Websites, E-books, Various published reports, Various published researches, etc.

UNDERSTANDING REPRODUCTIVE HEALTH

Reproductive health is a topic of interest for everyone, but it is especially significant for women, especially during the reproductive years. Reproductive Health is an essential component of overall wellness and has been linked to improved health in infancy, adolescence, and adulthood. Reproductive Health, according to the WHO, is a condition in which people can reproduce and control their fertility, women can give birth safely, pregnancy is successful in terms of maternal and infant survival and wellbeing, and couples can engage in sexual activity without worrying about getting pregnant or getting HIV.

Reproductive health, according to the United Nations, is "a condition of perfect physical, mental, and social well-being, and not simply the absence of reproductive sickness or infirmity, in all areas relevant to the reproductive system and to its functions and processes". "The inherent characteristic of the definition of reproductive health emphasises the right of people of both sexes to be informed about healthy reproductive practices and processes, including knowledge of safe, effective, affordable, and acceptable methods for regulating fertility, as well as men's and women's access to appropriate health care services to enjoy such rights"¹.

The quality of the environment where reproduction occurs, the sexual health of a person or of a community, and the cooperative and reciprocal interaction between humans and the environment are only a few of the many concerns that are related to reproductive health.

THE CURRENT SITUATION: REPRODUCTIVE RIGHTS IN INDIA

Understanding reproductive rights:

Individuals have the right to choose whether or not to have children and to maintain their reproductive health. This may include the freedom to have children, to end a pregnancy, to use birth control, to get reproductive health care, to learn about sex education in public schools, and to utilise contraception.

All couples and individuals have the right to make their own, responsible decisions on the number, spacing, and timing of their children. It also encompasses the right to knowledge and the means to obtain it, the right to the greatest level of reproductive health, and the right to make reproductive decisions free from violence, coercion, and discrimination. In practice, courts have led the charge in extending, defending, and advancing reproductive rights. They cover a range of civil, political, economic, and social rights, including the right to life and health, the right to equality and the prohibition of discrimination, the right to privacy and information, and the right not to be subjected to torture or cruel treatment. States' responsibilities to protect these rights include ensuring that women and girls have access to "comprehensive reproductive health information and services, as well as having positive reproductive health outcomes like lower rates of unsafe abortion and maternal

¹ Erdman, J.N. and Cook, R.J., 2011. Reproductive rights. *Sexual and Reproductive Health: A Public Health Perspective*, p.309.

mortality and the ability to make fully informed decisions”² about their sexuality and reproduction without fear of violence, discrimination, or coercion.

Due to their ability to become pregnant, women suffer the most when reproductive rights are violated, hence legal protection of these rights as human rights is essential to enabling gender justice and women's equality.

“India is also a signatory to numerous international conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); and the Convention on the Rights of the Child (CRC), all of which recognize reproductive rights.”³

Reproductive autonomy is a component of the personal liberty protected by Article 21 of the Constitution, according to the Supreme Court in *Suchita Srivastava and Others v. Chandigarh Administration*. It stated: It is crucial to understand that reproductive decisions may be made both to have children and not have any. The most important thing is to respect a woman's right to privacy, dignity, and physical integrity.

Reproductive Rights of women includes:

1. Decide the number and timing of their children.
2. The right to be physically, mentally and socially healthy and access to medical facilities
3. The rights should be exercises free of coercion and violence
4. Choose when to marry and start a family with her consent
5. Right to make all reproductive decisions
6. Live a life free of sexual violence, incest, rape, etc.
7. Management and gynaecological problems which includes infertility
8. Treatment and prevention for sexually transmitted diseases
9. Safe and affordable family planning methods
10. Safe environment for childbirth, medical care and assistance
11. Safe motherhood
12. No woman should be denied the facility due to her social or economic conditions
13. Contraceptives access

THE STATUS OF TRIBALS

The poor health status of Indian tribal peoples is evident in the state of their reproductive health, which is connected with personal and household socioeconomic circumstances. The state of a person's reproductive system also reflects their general health. Women play a reproductive role throughout the stages of pregnancy, childbirth, breastfeeding, and parenting, which puts them at the centre of a population's reproductive health. Additionally, women play an important role in many “social and economic activities in tribal societies, which necessitate reciprocal interactions with the elements that support reproductive health.”⁴

HOW THE SOCIAL STATUS OF TRIBES AFFECT THEIR REPRODUCTIVE HEALTH?

The ability of tribal groups to acquire ecological resources and their capability to engage in social and economic institutions determines the reproductive health of those populations. The degree of human rights, their ability to exercise self-determination, and their access to socioeconomic and ecological resources are all influenced by the socio-political power that tribal members of Indian culture wield. This is especially true for ecological resources that have a direct impact on the reproductive health of indigenous populations. For instance, women's health is closely tied to having access to enough food and nutrition, which depends on indigenous peoples' capacity to access forested areas.

² Kakati, B.K., Culture and women empowerment in the study of tribes in India.

³ Cook, R.J., 1991. International protection of women's reproductive rights. *NYUJ Int'l L. & Pol.*, 24, p.645.

⁴ Brulé, R. and Gaikwad, N., 2021. Culture, capital, and the political economy gender gap: evidence from Meghalaya's Matrilineal Tribes. *The Journal of Politics*, 83(3), pp.834-850.

Tribal populations may have limited access to these conventional common resources due to institutional policy framework, such as the Indian Forest Policy, which would lead to a reduction in reproductive health. "The fourth international conference on women, held in Beijing in 1995 and focused on improving women's economic and educational standing and, as a result, women's reproductive rights, identified women's access to "power and resources" as the main determinant of their reproductive health"⁵. Reproductive health thus reflects women's reproductive rights, the degree of tribal autonomy, and the extent of their sociopolitical influence.

The level of Indian tribal women's reproductive health is also correlated with the state of social justice. This connection is supported by the social justice concept, which calls for social workers' egalitarian viewpoint in order to protect clients' entitlement to get essential services

requirements and possibilities for their reproductive health. rights of tribes to transfer resources and the concept of "sustainability," which emphasises safeguarding the wellbeing of both present and future generations, is fundamental to indigenous wisdom.

Assessment of the degree to which communities use their human rights to make the most of the chance to improve reproduction in a secure environment may be done by looking at tribal reproductive health. Additionally, the periphery status of the tribal community in Indian society limits tribal members' access to resources and institutions relevant to their level of empowerment.

REPRODUCTIVE RIGHTS OF TRIBAL WOMEN

The Puttaswamy judgment explicitly perceived the established right of women which incorporates ancestral women too, to go with conceptive decisions, as a piece of individual freedom under Article 21 of the Indian Constitution. courts in India play a significant part to play in guaranteeing women' regenerative freedoms as ensured by their sacred and basic liberties. Because of their capacity to get pregnant, infringement of conceptive privileges excessively hurt women, consequently lawful security of these freedoms as basic liberties is vital for empowering orientation equity and women' fairness. The right to balance and non-segregation (Articles 14 and 15) and the right to life (Articles 21), which is perceived through statute to incorporate the privileges to wellbeing, poise, independence from torment and abuse, and protection, are among the freedoms that the Indian Constitution perceives as major freedoms that the public authority is expected to maintain.

The disavowal of conceptive privileges is presently perceived as an infringement of the fundamental and basic freedoms of ladies and young ladies by the High Court of India and various state high courts. This part centers around critical decisions that have clarified that the lawful privileges of ladies and young ladies to regenerative medical services and independence lead to various government commitments, including giving reasonable, ideal, and excellent maternal medical care, guaranteeing admittance to the full scope of prophylactic techniques in a non-coercive, top caliber, and sans target way, forestalling kid marriage, and ensuring independence from constrained pregnancy through.

As to's conceptive privileges, the High Court has taken a fairly moderate position.

Through the noteworthy choice in Navtej Johar, which decriminalized infidelity and homosexuality, the court made clearly ladies reserve a privilege to sexual independence, which is a significant part of their right to individual freedom. As per Article 21 of the Indian Constitution, ladies have the established opportunity to pick how they need to have youngsters, and this right was especially recognized in the Puttaswamy choice. The High Court administered on account of Independent Thought v. Union of India on the conceptive freedoms of females that whether or not a young lady is hitched or not, her basic liberties ought to be recognized and acknowledged.

The **Medical Termination of Pregnancy Act, 1971** (the "MTP Act") was enacted as a result of advancements in medical science that made abortions safer.

India revised the MTP Act 1971 in a historic effort to give everyone with access to reproductive health services, significantly empowering women by offering all of them complete abortion treatment.

⁵ Xaxa, V., 2004. Women and Gender in the Study of Tribes in India. *Indian Journal of Gender Studies*, 11(3), pp.345-367.

To ensure that everyone has access to comprehensive treatment, “the new Medical Termination of Pregnancy (Amendment) Act 2021 broadens access to safe and legal abortion services on therapeutic, eugenic, humanitarian, and social grounds.”⁶

ISSUES, GAPS AND COMPLIANCE WITH THE LAWS

Comprehensive health rights include the rights to sexual and reproductive health. A country must have a well-developed public health system in place to guarantee the fulfilment of these rights. This system must be able to deliver comprehensive, high-quality, universally accessible health care services that are free at the point of access and, most importantly, accountable to citizens.

Unfortunately, “a number of problems, including limited public investment, inadequate infrastructure, including medical and diagnostic facilities, and underqualified human resources, pose a threat to India's public health system.”⁷

Additionally, the health care industry has become more privatised and corporate in recent decades, and there has been a lack of strict supervision. In especially for girls, women, and marginalised populations which include the tribal women of India, this has caused a severe decline in the availability, cost, and quality of healthcare, leading to increased social, economic, and physical distances from healthcare.

Inadequate, insensitive, and harsh treatment of women especially those from marginalised groups at public health institutions robs them of their dignity and agency. Women become reluctant to seek care at public health institutions as a result, which affects access and reach. To safeguard the human rights of women, especially those who belong to marginalised groups, sexual and reproductive health care must be made available as well as reproductive rights must be upheld.

FACTORS AFFECTING TRIBAL REPRODUCTIVE HEALTH AND ISSUES IN EXERCISING THE REPRODUCTIVE RIGHTS

The low literacy rate, lack of information, prevalent cultural practises, issues with nutrition, loss of control over natural resources, low status of women, relocation, and rehabilitation all contribute to the tribal population's poor reproductive health indicators. Research on reproductive health among indigenous populations should be context-specific and engage the community. Some of these tribal communities have moved to metropolitan regions as a result of changes in the natural environment, but they now experience social isolation, marginalisation, and exploitation.

Poverty And Living Conditions Among Tribals

The factors can be divided into economic, social and ecological groups wherein economic factors include income and development. It influences the reproductive health at both macro and micro levels. At the micro level, income generation will lead to better resources for women and in the macro level the overall community development will help in elevation of the entire status of the tribals. The Supreme Tribal women carry on a variety of economic tasks, including food collecting, farming, and animal husbandry, in addition to their traditional domestic duties like childrearing. The presence of women in the labour increases their earning potential opportunity, which can affect their reproductive health by enabling them to make informed decisions about their own reproduction.

Lack Of Education And Awareness About Their Rights

Education level and various reproductive health indicators, including the usage of contraceptives, exposure to sexual activity, age at first menstruation, and women's decision-making abilities, are closely connected. Mothers' education becomes more important in tribal settings where there are little healthcare options, and infant mortality is strongly correlated with mother's education. The indigenous people often have relatively low levels of literacy. The 1991 Primary Census Abstract of India

⁶ Wang, G.Z. and Pillai, V.K., 2001. Measurement of women's reproductive health and reproductive rights: An analysis of developing countries. *Social Indicators Research*, 54(1), pp.17-35.

⁷ Erdman, J.N. and Cook, R.J., 2011. Reproductive rights. *Sexual and Reproductive Health: A Public Health Perspective*, p.309.

demonstrates the significant disparity in female literacy rates between the tribal population (14.50%) and the non-tribal population (39.29%) or general population.

The degree of education and literacy among indigenous people also varies. Women's literacy levels affect various aspects of reproductive health, including their income and reproductive health outcomes, in addition to their reproductive performance.

Illiteracy Over Reproductive Health Matters

Social factors include marriage practices among tribals, social status of women, health and hygiene practices, education especially about the reproductive topics like menstruation, pregnancy, motherhood, etc. The gender hierarchy also has a great impact among the tribals as there are many matrilineal tribes unlike the non tribal societies as it will give greater control over their bodies and reproductive decision making behaviours.

Socio Religious Practices Of The Tribals

Ecological factors include the relation between tribal and their surroundings as a total functioning ecosystem like the symbiotic relations between the tribes and the nature. Their food and nutrition are dependent on the forest based economy which is not satisfactory in the present scenario as their diet is not sufficient and lacks in important vitamins and minerals thus affecting the health.

The status of women in the tribe against the backdrop of declining sex ratio also affects the rights. The economic powers opportunities, resources and networks play an important role. The health and hygiene conditions is of utmost importance. Unlike modern day doctor tribes prefer to solve any medical issue by the supernatural beliefs with spiritual and mental support. Presence of supernatural entities is dominant in tribes and they construct the notion that diseases are cured by the supernatural and do not maintain hygienic living conditions. Thus their socio religious practices have a great impact on the reproductive health.

Women Social Status In The Tribe

The historic preferential position or status of tribal women within tribes is changing, as seen by the trend in Indian tribal communities to move away from the matrilineal system and toward the patrilineal system, and frequently from the practise of patriarchal as a lifestyle In light of the “dropping sex ratio, which fell from 987 to 972 within three decades, status of women should not be taken for granted in tribal contexts. greater sex ratio suggests higher status of women and the presence of social and cultural values defending women's interests”⁸. Women's status is related to their ability to make reproductive decisions, access to community resources and networks, economic power, and opportunities for education. These factors cumulatively potentially affect indigenous members' reproductive health.

Lack of Institutional Assistance

Poverty-stricken tribal tribes and tribal women in India have very limited access to resources and institutional assistance (Ministry of Tribal Affairs 2004; Planning Commission of India, 2008). The institutional support of pro-poor health policies, like as microcredit programmes, can have an impact on the reproductive health of tribal women in the context of the well-established relationship between poverty and vulnerable health conditions. The availability of such programmes to tribal women would improve their capacity to produce health, and improved economic conditions for individuals and families would lead to improved reproductive health. As a result, a financial component that is connected to reproductive health is access to institutional assistance.

CONCLUSION

It is also a chance to put nutrition and health challenges in native communities at the forefront of the national conversation. When tribal communities and tribal women are at the centre of solutions, India's growth trajectory may be substantially altered.

⁸ Ghosh, A.K., 2007. The gender gap in literacy and education among the scheduled tribes in Jharkhand and West Bengal. *Sociological bulletin*, 56(1), pp.109-125.

The proverb "When you empower a woman, you empower a generation and the nation" is quite true. As India develops quickly, it is imperative that we foster tribal women's collective agency in order to make Sabka Vikas (everyone's development) a reality. It is absolutely time for fair growth and affirmative action.

It may be concluded from the discussion of this study that the ecological dimension is a crucial component of the reproductive health of tribal women. It confirms the latent network of reciprocal contact and interplay that exists between tribal communities and the natural ecosystem in their surroundings.