



## **NATIONAL CONSULTATION**

### **Assisted Reproduction & Surrogacy Post 2021 Regulations in India**

**2-3 June 2023**

**New Delhi**

***Organised by-***

***Sama Resource Group for Women and Health***

***Supported by-***

***Center for Reproductive Rights (CRR)***

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The information provided in this report is for wider dissemination and may be used by anyone with due acknowledgement to Sama and CRR.

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## Background And Objectives

The Surrogacy (Regulation) Act, 2021, and Assisted Reproductive Technology (ART Regulation) Act, 2021 came into effect in January 2022. These Acts have brought back some of the long-standing concerns around the questions of equity, access, exclusion, kinship and parenthood.

The Surrogacy (Regulation) Act prohibits commercial surrogacy and the sale and purchase of human embryos and gametes but allows for altruistic surrogacy only for heterosexual Indian couples who have been married for more than five years. disqualifying others on the grounds of marital status, age, sexual orientation, and nationality. The ART (Regulation) Act establishes a National Board and State Boards to oversee and regulate the ARTs in India.

The current Surrogacy legislation's exclusion of several persons from the eligibility to avail of ART and Surrogacy has sparked debates about the boundaries of reproductive autonomy. Feminist and social justice groups have raised several concerns with the current legal framework – that the laws operate within a heteronormative morality-laden framework that prioritizes and indeed normalizes a certain experience of childbearing and family making over all others.

The current surrogacy legislation, with the stated aim to prevent surrogate woman's exploitation, also exhibits a notable omission as it disregards the value of women's reproductive labour in the context of surrogacy, failing to acknowledge the substantial efforts involved; the absence of explicit reference to a surrogacy contract and the reliance on an altruistic agreement based upon voluntary consent lacks institutional protections, rendering the arrangement inherently precarious.

Within this backdrop, Sama – Resource Group for Women and Health (Sama) with support from the Center for Reproductive Rights (CRR) organized a national convening bringing together key stakeholders to reflect on years of work in this area and discuss important issues we have looked at over the years, particularly in the context of emerging issues that necessitate revisiting them; and to take stock of how the two key legislations are working on the ground and better understand the continuing barriers and emerging discourses to equitable and non-discriminatory access to assisted reproduction.

### The Objectives of the Consultation

1. What are the social, political, and economic implications of the legal regulation of ART and surrogacy?
2. How can we place reproductive technologies in conversation with reproductive justice?
3. Did the ban on commercial surrogacy ultimately protect women and birthing bodies? What has or has not changed since the ban?
4. What are the key asks that should form part of an advocacy plan and strategy in the wake of these regulations?

## An overview

For one and a half days, the discussions interspersed across three panels that structured the deliberations:

### **Panel one: Current status of surrogacy and assisted reproduction in India**

What are the social, political, and economic implications of ART and Surrogacy? How the whole issue of the service industry is helping the growth of capitalization. The fact is that reproductive labour lies at the intersection of the marketplace and home. In this panel, speakers engaged with these questions and contextualized the debate on ART and surrogacy and also discussed its current status in India.

### **Panel two: Legislations and Issues of Access and Equity**

In this panel, we focused on the recent legislation passed in India in 2021, that is meant for regulating surrogacy and assisted reproductive technologies. Multiple provisions of these legislations have been challenged in different Indian courts for the exclusion of several persons from the eligibility to avail the ART and Surrogacy services, based on their marital status, sexuality and gender identity, and age. Feminist and social justice groups have raised several concerns with the current legal framework – that the laws operate within a heteronormative morality-laden framework that prioritizes and indeed normalizes a certain experience of childbearing and family making over all others.

### **Panel Three: Emerging Issues, Evolving Strategies**

While people's movements-feminist, queer, disability, health, youth, racial justice, and others continue to resist the controls and power hierarchies, the transformative politics of the body through concerted understanding and action seeking and the subversion of hetero-patriarchal knowledge and politics remain critical. With the recognition that the new regulations fall short of addressing the needs and goals of our advocacy efforts spanning several decades, it is evident that there remains significant work to be undertaken. Against this backdrop, this panel revisits the advocacy strategies to better understand the continuing barriers to equitable and non-discriminatory access to assisted reproduction and Surrogacy while at the same time placing it in the broader discussion on equity, reproductive justice, and human rights.

## Programme Agenda

### Day One: 2<sup>nd</sup> June

Time	Agenda
9:30 am to 9:45 am	Registration
9:45 am to 10:15 am	Welcome and Introductions
10:15 am to 10:45 am	Context setting, objectives of the Consultation: Brototi Dutta and Misbah Haqani  Sama's 20 years of engagement on Infertility, Surrogacy and ARTS: Adsa Fatima
10:45 am to 11:15 am	Tea Break
11:15 am to 1:00 pm	Panel one Current status of surrogacy and assisted reproduction in India  Facilitator/s: Lakshmi Lingam Speaker 1: Sneha Banerjee Speaker 2: Arathi P.M Q&A and Discussion
1:00 pm to 1:45 pm	Lunch Break
1:45 pm to 2:30 pm	Panel two Legislations and Issues of Access and Equity  Facilitators: Sarojini Nadimpally & Vrinda Marwah  Speaker 1: Mrinal Satish Speaker 2: Chayanika Shah
2:30 pm to 3:00 pm	Tea break
3:30 pm to 5:30 pm	Q&A and Discussion

### Day Two: 3<sup>rd</sup> June

Time	Agenda
9:45 am to 10:15 am	Tea
10:15 am to 10:30 am	Recap of Day 1
10:30 am to 12:45 pm	Panel Moving Forward: Emerging Issues, Evolving Strategies  Facilitators: Sandhya Srinivasan, Renu Khanna, and Brototi Dutta
12:45 pm to 1:00 pm	Closing remarks

## Sama's 20 years of engagement on Infertility, Assisted Reproductive Technologies and Surrogacy-Looking back & Reflections

Sama's work around ARTs is guided by the perspective that the interrelationship between reproductive technology and its end user is governed by gender, as well as by caste, class, sex, religion, ethnicity, sexual orientation, and other axes of power. Over the last two decades, Sama's work on infertility, reproductive technologies and surrogacy has time and again revealed that there can be no single node of analysis, or method: and the vast scholarship and activism in India that has engaged with the same, gives evidence of multiplicity of practices, meanings, locations and investments in operation. In the plane of social action and interventions, we often find ourselves grappling with these complexities. We have organized Consultations at regional and national level to understand the social, economic and ethical implications of these technologies and arrangements. Our research on infertility, ARTs and surrogacy, over the years, has examined the trope of motherhood from the perspective of medicalization and vivisection through the experiences of intended couples, and women engaged in surrogacy arrangements. The research studies and consultations have thrown up many more challenges and concerns. Some of these have been questions that various movements are already grappling with, while others are the results of newer and emerging developments.

Furthermore, Sama tried to unearth the ways in which biomedical economies operate, sustain and assume a global dimension. Sama made an attempt to understand how the surrogacy networks/chains were built, policies formulated leading to different kinds of interactions and interfaces at multiple levels; changing institutional forms and structures, national priorities and global flows of capital.

In the two decades, Sama tried to draw linkages from the micro and macro realities through research, contributing to the academic discourse, and building advocacy by engaging with the stakeholders on the issues of infertility, Assisted Reproduction and Surrogacy. Sama made submissions to the Parliamentary Standing Committee on Health and Family Welfare at various stages of the development of regulatory frameworks.

### Panel One-Current Status of surrogacy and assisted reproduction in India

#### Facilitator's Remarks

##### **Lakshmi Lingam**

There has been a shift in our position on surrogacy - from banning to regulating ARTs and surrogacy. We cannot disagree that the areas of ART and surrogacy have hierarchies of class and caste and they cannot be overlooked.

In 1989, at a FINRRAGE<sup>1</sup> Conference in Bangladesh, Maria Mies and Jalna Hanmer were phenomenal in critiquing the existing population policies and contraceptive technologies. In the consultation today, with twenty years of Sama's experience in this field, we must also remember feminist activists Maria Mies and Jalna Hanmer for their insights. Today, interesting perspectives have developed both against the pro-natalist and anti-natalist policies. Back then, Maria Mies spoke about the correlation between the control over nature and the control over women's bodies, particularly in the global south. She also focused on the need to look into the development of women. In these three decades of acceptance of surrogacy and ART from 1989 to 2023, we have seen that even in the film industry, actors opt for surrogacy without disrupting their career trajectory. It is evident that biological reproduction and social reproduction can be outsourced and people value their time and body. There is an opportunity cost of your pregnancy versus someone else's pregnancy.

There has also been a shift in our own position on surrogacy — from banning to regulating ARTs and surrogacy. We cannot disagree that the areas of ART and surrogacy have hierarchies of class and caste, and they cannot be overlooked. Today, with the legalization of altruistic surrogacy and ART, there is a need to see who is being excluded from these technologies and what the technologies may potentially give us. Therefore, it is important to look into both the Acts simultaneously and shape our collective thought process on this.

## Contemporary views on surrogacy and ART

### Speaker: Sneha Banerjee

In 2002 India legalized commercial surrogacy. Until 2005, there were no guidelines that governed the practice of assisted reproduction or surrogacy in India. It was only in 2005 that the Indian Council of Medical Research and the National Academy of Medical Sciences came out with the National Guidelines for Accreditation, Supervision, and Regulation of Assisted Reproductive Technology Clinics in India. In 2009, the Law Commission of India also emphasized the “Need for Legislation to regulate Assisted Reproductive Technology Clinics as well as Rights and Obligations of Parties to a Surrogacy.” It recommended a ban on commercial surrogacy and endorsing the views of the Ministry of Home Affairs, the Government of India banned commercial surrogacy for foreigners vide a notification in 2015. Consequently, the first Surrogacy (Regulation) Bill was introduced in 2016 in the Lok Sabha but it lapsed in the Rajya Sabha and was sent to the Parliamentary Standing Committee. In 2017, the Committee in its 102nd Report opined that prohibiting commercial surrogacy is unacceptable and is based more on moralistic assumptions than on any scientific criteria.

In 2019, again, the Surrogacy (Regulation) Bill was introduced. It banned commercial surrogacy and allowed altruistic surrogacy in India. In 2020 the Assisted Reproductive Technology (Regulation) Bill, 2020 was also introduced in the Lok Sabha to provide for the regulation of

<sup>1</sup> FINRRAGE (Feminist International Network of Resistance to Reproductive and Genetic Engineering) is an international network of feminists who are concerned with the development of reproductive and genetic technologies and their effects on women. <https://www.finrrage.org/>

Assisted Reproductive Technology services in the country. It was only in 2021 that Acts to regulate surrogacy and ART were passed. We have now come to a point where the technical terms ‘surrogacy’ and ‘ART’ do not need an introduction and have become a part of the mainstream domain.

We must look at the macro-level issues and not lose sight of the micro picture as well. We also cannot lose sight of the fact that there still exists a stigma around using third-party reproduction. The secrecy and the stigma are fueled by the connection between femininity and masculinity that are hinged upon fertility and virility, at least in a heterosexual context.

In law, there has been a shift from a permissive environment to a prohibitive one. Earlier suggestions and serious deliberation were banning commercial surrogacy. Then there was a shift in the narrative to compensate for it. It finally came down to being regulated by altruistic legislation. There still exists an idea of compensation in the law but it is only in the context of insurance.

Both the Surrogacy and the ART Acts have left a lot of aspects to the enactment and the implementation of the Rules within them. Even with regards to the compensation in the context of insurance, the Rules leave it to ‘general insurance’. It is then surprising to see that in general medical insurance in India pregnancy and maternity are not covered. Therefore, it is worth contemplating what the Rules connote when they refer to ‘general insurance’. This is noteworthy because the Surrogacy Act talks about special issues that entail surrogacy. However, from a *de facto* operation of the market there now is a creation of more barriers for women who are acting as surrogates to access reproductive rights. The insurance coverage that is contemplated in the Surrogacy Act for thirty-six months should rather cover maternity-related complications and post-natal complications.

There is also a shift in surrogacy from allowing any woman (without regard to hierarchy, power asymmetry, rich/poor divide, trans national asymmetry) to only close relatives being only allowed to act as surrogates – to now ‘willing women’ who agree to be surrogate to act as one. Although, despite the shift, the surrogate is likely to be a relative or a known marginalized person with a social relationship illustratively a domestic worker.

### ***Flexibilization of labour***

There was a push towards informalization of the neo-liberal market. Surrogacy can be located on a spectrum of labouring possibilities facilitated IVF. The industry can be viewed as a service for the work of the gestating mother and childbirth, and there has been a navigation in the moral compass of the commodification of the children of surrogacy. The entire surrogacy industry is structured in a way as to minimize the control of the surrogate mother over the labour process, including their control over their relationships with the intended parents.

However, similar to the gig economy workers, agencies facilitate surrogacy arrangements, organizing matches and ensuring that the process runs smoothly. This allows the ‘employer’ to share responsibilities among multiple parties, and it can be difficult to determine who is in fact responsible in case of problematic situations. For instance, it is common practice to ensure that there is no direct contract between a surrogate and the intended parents. Instead, contracts are made between the agency and the surrogate mother, and between the agency and the intending parents. One could argue that acting as a surrogate is one of the works that women were engaging in, amongst others, as gig workers. As gig economy deepens, technology opens newer avenues for



work. The line between home and work has blurred in the aftermath of the pandemic. The overlaps of surrogacy with care work are relevant.

### *Technology and desire*

Technology is a space where we can think of desire as a frontier of possibilities available to different individuals. These technologies can be used to see how certain things can be regimented within patriarchy. Some social, political, and economic implications can entail a shift from regulations being restricted within the fold of marriage to the inclusion of individual women who can access such technology. However, even these women are cis women who have been married within the heterosexual arrangement, i.e., divorced or widowed, and not single women who have never married. We should look at queering of family and alternative visions made possible because of ARTs. However, the uncomfortable coexistence of the technologies by deprioritizing other aspects and only addressing infertility, especially in the context of chosen families instead of blood relatives, is an example of how things can be regulated by using policy. This also leads to concerns regarding compulsory parenthood in heterosexual contexts where couples who may not otherwise want to have a baby may be forced to go to IVF clinics.

### *Caste-based perspective & discussion in surrogacy*

The contemporary discussion on ART and surrogacy must be with a caste-based perspective on surrogacy that seeks Dalit feminist engagement with surrogacy. It is very important to foreground the caste and class location of the women who have done surrogacy work in ethnography. In ‘Dalit Feminist Voices on Reproductive Rights and Reproductive Justice’ talks about the standpoint by drawing upon Sharmila Rege’s work where she refers to what the Dalit feminist standpoint is. She talks about the possibility that “we do not argue that non-Dalit feminists can speak for Dalit women.” She argues it is extremely important to foreground the lived experience of women who have acted as surrogates. Reaching out to women who have done this work demonstrates that there is an acute need for regulation that foregrounds their interest – the abolitionist stand is no different from the moralist stand. Dignity is an even more elusive goal when there is prohibitionist legislation particularly when it does not have a reproductive justice rationale but solely confers with the heteronormative nature.

## **Impact of legislation, observations from the ground**

### **Speaker: Arathi PM**

The panelist started working with IVF clinics in Kerala. Thereafter, in 2017, she undertook ethnographic studies in Mumbai and Delhi. At this time, surrogates were concerned about their position and protections and hence wanted their views to be put before the government. Surrogacy is a multi-faceted industry with differences in different regions. The differences exist on account of the region’s cultural, political and economic factors. Illustratively, the agents for surrogacy in Mumbai were mostly women whereas in the Delhi-NCR region (newly industrialized areas) it was the men who came as agents and were running surrogacy hostels. These men have a lot of power compared to women who were earlier surrogates in Mumbai and therefore this difference influences the

approach and treatment given to surrogates. On account of the difference in agents, the interaction of the intending couples with the surrogates was also different. In Delhi-NCR, the hostels of the agents where the surrogates lived allowed intending couples to mix with surrogates, but the same was not the case in Mumbai. The compensation accorded to surrogates was also observed to vary with the regions. At present, there is a lack of understanding of such regional and cultural differences in the practice of surrogacy and it is thought of as a homogenous practice throughout the country.

It is pertinent to reflect on how the surrogates themselves internalize and articulate what they are doing. Is their work ‘work’ in the traditional sense of the word? Or is it altruism? Or is it something in between the two? Or is it a different category for the surrogates? Can we think of a new category of work emerging in the history of surrogates?

In 2021, the panelist returned to Kerala. Her ethnographic experiences in the surrogacy industry both prior to the enactment of the 2021 legislation on surrogacy and ART and after show that the legalization of surrogacy and ARTs in India has made it tougher for researchers to undertake ethnographic studies, particularly with surrogates.

### *Changes after enactment of legislation on Surrogacy and ARTs in 2021*

The Surrogacy Act came into effect on 25 January 2022. The law permits altruistic surrogacy and bans commercial surrogacy. Both the presence and the absence of law allowed the IVF clinics heavy benefits on account of the spreading misinformation. Before the law came into effect and after it was enacted there existed a grey period that benefitted the IVF industry. This period allowed the IVF industry to create assumptions about whether it is legal or not to engage in surrogacy. When we talk about the regulatory paradigm and legal development process, it is seen that the moment there is legal regulation in an industry, the industry is viewed as something that is not right in the popular equation and notion, and using the said notion to their benefits, IVF clinics have developed themselves. The presence of the law allowed the IVF clinics to make the process of surrogacy more expensive for couples citing adherence to laws and has also allowed for reduced compensation for surrogates. The question that we must therefore ask is who has benefited from the legalization of the process of surrogacy? It appears it is only the IVF clinics.

After the enactment of the Acts, several provisions of the legislations have been criticized and challenged in courts. Illustratively, the Kerala High Court, in the context of an upper age limit to avail of the ART procedure, has observed that the personal choice of one to procreate and to build a family is a facet of the fundamental rights under Article 21 of the Constitution, and any upper age limit<sup>2</sup> restricting the same appears irrational and arbitrary. The High Court gave a directive to petitioners that those who had started the process of ART as of 25 January 2022, i.e., on the day the ART legislation came into force, could continue, and directed the National ART and Surrogacy Board to revisit the upper age limit prescribed for using ART.

### *Difficulties in practical implementation of the requirements of the regulation*

The legislation on surrogacy prescribes a six-month waiting period for both the intending couple and the surrogate to get clearance. However, the process of collating documents for surrogates is

<sup>2</sup>Section 21(G) of the Assisted Reproductive Technology (Regulation) Act, 2021

difficult in as much as the law mandates a certificate from a Judicial Magistrate. Moreover, different IVF clinics insist on different types of such documents, while some do not ask for them. This in turn creates confusion for the general public as to what are the essential documents required/mandated under the law. Ultimately, the most benefitted out of the tirade of (i) intending couples, (ii) surrogate babies and (iii) surrogate mothers are none other than the IVF industry, which is not even a part of this tirade.

## Discussion points

- It is important to take into account the pressure to have one's baby in contrast to an egalitarian society where there are no class, caste, or religious barriers. Professional women who engage in commissioned surrogacy is viewed as people with different interpersonal dynamics i.e., commodity relations. In the present nature of surrogacy, the body has been evaded in different ways and that makes it different from other commodity relations. There is a need to ask why maternity is so important. Is there a perception within society that motherhood completes a reproducing person?
- Surrogacy allows for no interpersonal relation even where parents are from the same cultural background though with a difference in caste/class. It is essential to contemplate how the intending couples and surrogates can enter into contracts when the law provides such surrogacies to be altruistic. How is then the relationship between the intending parents and surrogate mother shown by the IVF clinics?
- Why is infertility increasing? It appears we are simply looking at producing a baby but not addressing it as a health concern. There may be epidemiological reasons for infertility instead. According to a report in the magazine *Down to Earth*, there is global evidence to say that the percentage of sperm count is coming down. It is imperative to look at what kind of occupations are men getting into. Is it because of the use of plastics, injection of carcinogens, or stress? We must take them into account instead of looking at a technological quick fix for growing male infertility.
- The existing stigma concerning surrogacy is high when it comes to surrogates compared to the commissioning parents. Indian parents in surrogacy ask for the colour of their skin and the background of their families while opting for surrogacy. The views of purity and pollution are more complex and need to be understood in the context of egg donation versus surrogacy. It is important to contemplate how is social acceptance helping elevate the complexity of the discourse. Is there a shift in the notion of surrogacy after the laws? Many States in India have not even made an appropriate authority as required under the Act and therefore there is no data in this regard.
- The law uses the phrase "willing woman". There appears to be a contradiction in who is a willing mother in the law and the rules. Such concerns were again to be fleshed out in the drafting of the rules. The Rules to be enacted under the respective Acts were to look into the fleshing out of specifics of each of the Acts but the legislature has failed to work on it.
- What changes can be demanded with the decriminalization of homosexual relationships under Section 377 of the Indian Penal Code, 1860, and ongoing conversations about chosen families in the marriage equality petitions pending in the Supreme Court of India?

- What is the role of the public health system in going forward or integrating into this process?
- Under the ART Act, egg extraction is limited to five eggs as per the World Health Organization recommendation, but practically, how do we have any data on how many eggs are being extracted?
- There is a boom in the private sector in Bio-banking. Egg freezing is catching up in a big way. There is a need to look into what happens to the residuary eggs and who owns the biological material.
- There is a need to talk about ART as much as we talk about surrogacy.

## Panel Two- Legislations and Issues of Access and Equity

### Facilitators' Remarks

#### **Sarojini Nadimpally and Vrinda Marwah**

##### *Sarojini Nadimpally*

The background of equity and access, legal provisions, and the legal framework require us to focus on all people. The existing legal framework, however, focuses on individual rights that fit a certain identity as per the heteronormative framework and excludes certain groups of people.

With respect to access, the facilitator emphasized that there is no reference to access to safe abortion in either the Surrogacy or the ART legislation. There is no mention in the legislations of what happens if a surrogate mother wishes to terminate the pregnancy. Further, the aspect of the death of the surrogate mother or the child is also not addressed. Illustratively, cases of stillbirth, post-delivery depression, post-delivery complications, and mental health issues following the relinquishment of the child are not covered by insurance.

Additionally, in the existing legislation, genetic lineage is the only way to form a family, and given the conversations around same-sex marriage and the right to choose a family, we must contemplate how to challenge genetic lineage as the only mechanism to form a family.

It is also pertinent to see how the new and advanced reproductive and genetic technologies would span in the next decade where lab-grown eggs could allow biological children.

##### *Vrinda Marwah*

The narrative in the legislations appear to be that love and family are not commercial, but rather altruistic. Family is represented as a realm of love and therefore, the legislation is altruistic and not commercial as one does things for a family out of love and not for money. However, we must bear in mind that altruism under the name of love and family does not necessarily mean that the exchange is not exploitative. We must also take responsibility for the wrong that groups such as Sama have done over the last 10–15 years when discussing reproductive justice. Meeting after meeting, we

were struck on the aspect of money in the context of reproductive justice, and we had a moralistic take on payment.

The aspect of payment and commercial and the reasons why surrogates may want that money remains a part of this discussion.

We should not approach ART or Surrogacy as an exceptional issue along any contested lines and debates that have kept emerging as we revisit them today. We need to distinguish between what are the practical issues or proximal for engagements and the larger issues that are systemic.

Overall, there is a need for us to identify and distinguish between practical issues — what we can do — and the larger issues, such as the medicalization of infertility, to be able to chalk out our plan of action. We have existing data on surrogacy being maintained by the Registry. What we need is more information on whether it has become a black market. One way to go about it could be to put our heads together and analyze the positions on some of the old issues that were flagged prior to the passing of the legislations.

## Looking through the law(s)

### Speaker: Mrinal Satish

It is interesting to look at the space of reproductive justice through laws aligned with the criminal legal justice system. This approach that we will solve the problem using criminal law is the biggest problem. One thing that's informing newer legislation is its complexity which is making it difficult for lawyers even what to say. This also benefits those who are profiting here and could say one or the other things and get out.

If we look at the preamble of ART Act, it looks like a cut-paste job from different drafts, one part progressive and the next regressive leaving much confusion, gaps, and conflict unresolved. The preamble states prevention of misuse, the use of ART for improving reproductive health, the regulation concern of research, etc. This reads like 'good' language. However, the objectives right after this section show dissonance. It mentions India as becoming one of the major countries in this field- the global fertility industry. It is unclear as to why that would be the objective of the law. A lot of ART bills were being informed by the surrogacy Bill. Who is going to use ART— there are two kinds of understandings, first that it will be used for surrogacy purposes, and second about heterosexual married couples using other gametes. There are also conflicts between the legal age of marriage and the legal age that is prescribed under the law.

Section 21 of the ART Act provides the general duties of ART clinics and banks. As per clause (e) of Section 21, *“the clinics and banks shall ensure that information about the commissioning couple, woman and donor shall be kept confidential and the information about treatment shall not be disclosed to anyone except to the database to be maintained by the National Registry, in a medical emergency at the request of the commissioning couple to whom the information relates, or by an order of a court of competent jurisdiction.”* Such information and records are required to be

maintained by the clinics and banks for a period of ten years.<sup>3</sup> However, the Act fails to address the scenario in which such clinics or banks shut down.<sup>4</sup>

It also does not address this eventuality in the context of the biological materials that may be residual or left out. Furthermore, the legislation makes no mention of how the data would be used by the government or why the government needs such data in the first place. Overall, we are looking at a legislative framework featuring extreme complexity that fails to effectively regulate ART and raises questions and concerns regarding the misuse or further exploitation of surrogates in this context.

The law mentions a National Registry, a central database of clinics, and what they should do; Section 21(e): conflation between clinics and banks – confidentiality protected except to the National Registry (Govt. will have your data); over vigilance with the data (in perpetuity)

With respect to donor banks and the requirements for sourcing gametes by ART banks, Section 27(4) of the ART Act provides for the sourcing of gametes by ART banks. It states that an oocyte donor shall donate an oocyte only once in her life, and not more than seven oocytes shall be retrieved from the oocyte donor.

The maximum limit of oocyte retrieval recommended by the World Health Organization (WHO) is more than the limit of 5 oocytes. Further, the legislation fails to address the eventuality when more than seven oocytes are retrieved. It is pertinent to note that the limitations on the withdrawal of oocytes have only been specified for ‘ART banks’. Does this mean that a clinic extracting oocytes is permitted to withdraw as many oocytes as it deems fit? Surely not; however, the Act fails to address such an eventuality as well.

Similar to other laws in reproductive justice, the legislations on surrogacy and ART also focus on the service providers. Under the legislations, the clinics are to ensure that (i) the couple is eligible to avail the services;<sup>5</sup> and (ii) commissioning couple is an infertile married couple<sup>6</sup>.

Another aspect that we must look into is the rights of children born through surrogacy. There are concerns regarding children being abandoned under the Juvenile Justice Act, of 2013. Conflation about this anxiety on succession/inheritance laws leads to a lot of complexity in the law even though legally there is no difference between the child born through ART and through own gametes.

Even though Form 13 is the Consent Form for the Donor of Oocytes states that the donor understands that there will be no direct or indirect contact between the donor and the recipient, and that the donor’s personal identity will not be disclosed to the recipient or the child born through the use of the gamete, the form makes it mandatory for the donor to provide her Aadhar details in the form.

Overall, the entire regulatory framework under the ART Act is extremely complex. It is important to evaluate whether it effectively regulates ARTs, particularly because the language in the legislations is currently enabling misuse and providing opportunities for bribery rather than providing what the

<sup>3</sup> Section 23(c) of ART Act.

<sup>4</sup> ICMR guidelines provide at Guideline 3.9.1.2. that “The bank will ensure that all criteria mentioned in Section 3.6 (Requirements for a sperm donor) are met and a suitable record of all donors is kept for 10 years after which, or if the bank is wound up during this period, the records shall be transferred to an ICMR repository.”

<sup>5</sup> Section 21 (a) of ART Act.

<sup>6</sup> Section 2(j) of ART Act.

Preamble promises, i.e., an Act for the regulation of the practice and process of surrogacy and for matters connected therewith or incidental thereto.

## Legal Contexts, equity, and Challenges with ART & Surrogacy

### Speaker: Chayanika Shah

The discussion on the use of new technologies in the context of reproductive justice began in 1989 at a FINRRAGE Conference. There was a discussion on contraceptives and ARTs, and the discussion reached a deadlock because of the apprehension that any intervention to take over natural processes was not in consonance with the global political economy point of view. However, today, individual understanding of how we understand technology and bodies has shifted. For instance, if we look at trans lives, we now understand how to articulate where the boundary is between a natural body and a body that requires assistance. The question has shifted to who requires assistance and who does not. Disability groups have also told us how ableist narratives are dominating, and there is a spectrum of voices.

Taking forward the discussion on equity, we need to ask the questions on the laws who does it exclude and what does this exclusion mean? There are shifts in the understanding of technology and body – to articulate where the boundaries could be to us being natural bodies and to accepting assistance. The question then is not about interventions and their need but who needs interventions/assistance and who does not flag the disability concerns and ableist narratives and different ways of understanding that it gives us on the queer persons and the range of voices for understanding the spectrum. Questioning the naturalness of motherhood and the need to have genetic children and create families through marriage and procreation brings out the assumed naturalness and how we imbibe this in our lived realities (of heteronormativity).

If we look at the current marriage equality petition and struggles in the court; the demand is for the State to recognize other relationships and provide for instance marriage certificates wherein the social hierarchies and norms are not giving it the due recognition. Validation of that marriage can then be used as a tool by the gender-oppressed communities and concerned individuals to challenge this assumed naturalness of the family and have the choice themselves to have a chosen family which is crucial, especially in an increasingly privatized world. We are seeing the reiteration of heteronormative families in multiple ways. What we have made natural is not necessarily natural for everybody and leads to the same exclusion that we questioned in the beginning.

There is no critique of the ART Act either, and we appear to be uncomfortable asking for assistance with reproduction but not with contraception. Not all sexual choices lead to conception, and it appears that technology for contraception is acceptable, but the same technology is not acceptable when it comes to assisted reproduction. Natal family violence is taking place because parents see children as property. Patriarchy also uses the language of love to further this. Perhaps motherhood needs to be questioned at the level that those who have it, have to reject it. It is imperative to see who the legislation excludes and what this exclusion means.

We need to pause for ourselves and relook at our positions. Additionally, we keep talking about increasing infertility, but is that an increase in social infertility of women? We must move beyond physical and biological infertility and ask questions about social infertility.

## Discussion points

- Given the inconsistencies pointed out in the legislations, there is a need to look at the forms appended to the legislations that are inconsistent with these very laws.
- We should look into the drafting of these laws, the gaps between the sections and the amendments, and consequently the circulars being released for the implementation. Opinion pieces and briefs could be developed to engage on this.
- We also need a discussion going beyond the laws, and talk about varied basis and ideas around motherhood.
- Despite the specific pronouncement of the Supreme Court that Aadhar cards cannot be made mandatory, why do the legislations emphasize the use of Aadhar numbers in the forms? The Aadhar issue is also not exclusive to the topic of surrogacy and ART. There appears to be a general acceptance of Aadhar in any general processes such as college admission and many other such activities.
- Maternity benefits in the context of surrogate mothers and the commissioning couple/woman should have also been accounted for in the legislations, but they have not been included.
- When comparing the penalty provisions in the ART Act, Section 33(2) (reference to penalty for legal breach) only provides for a fine in the first offence, followed by more severe punishment afterwards. The Surrogacy Act, on the other hand, provides for imprisonment for the first offence. The justification for this disparity in penalizing approaches under the two laws is also unclear. One way to look at it is that commercial reproduction is being punished more severely than other violations
- There is an urgency to the fact that legislation on surrogacy and ART needs to have more discussions and imagination to find answers to the many questions we are asking. Single women, trans men, trans women, single men, and queer persons are across the board doing care work.
- We have looked at Preimplantation Genetic Testing (PGT) in the past in the context of eugenics to detect chromosomal abnormalities. However, the misuse of PGT also remains a question. What is our position on these concerns emerging through the disability rights movement? From a growing tendency to look for certain traits, innovations, etc., we must contemplate how technology has been misused in relation to disability rights.
- How do we think of alliance building in the context, of advocating for regulation along with service providers and industry?
- There are issues of trans-exclusionary dialogues and those faultlines must be flagged concerning



ARTs and Surrogacy discussions as well. Learning from ongoing SRHR movement discussions and contestations on these aspects can be drawn upon. We need to sharpen our arguments; put out knowledge material in public, and recognize the reality of the context today.

## Panel Three-Moving Forward: Emerging Issues & Evolving Strategies

### Facilitators' Remarks followed by open discussion

#### **Renu Khanna, Sandhya Srinivasan, and Brototi Dutta**

##### *Renu Khanna*

As a reflection on yesterday's discussion, it appears that there has been a noticeable shift in our understanding and positions. This shift has been influenced by personal conflicts and our growth within the women's movement. These changes have affected us both individually and as a feminist community. For instance, we have moved from advocating for bans to advocating for regulation, and our perception of surrogates has evolved from seeing them solely as victims to recognizing them as individuals exercising their agency.

We could look at the three different approaches to take this further-

##### → *Discourse shifting/building*

Knowledge and information materials development that are accessible and can be used for dissemination at varied levels.

It involves framing issues on the basis of the voices of the surrogates and listening to their lived experiences. It is based on the lived experiences of the surrogates and hearing invisible voices. It also involves changing the language from fertility clinics to infertility – biological, physical and social infertility. We are working in a rapidly changing political economy and social context. There exist parallels between domestic work, bar dancing work, and sex work. There is also a need to contemplate if the work in the reproductive labour industry is even 'work' or if it is altruistic or distorted altruism.

##### → *Public engagements-Widening the dialogue with different multi-stakeholders*

We need to sharpen our analysis and engage in dialogues and conversations with the trans rights groups, disability rights groups, and child rights groups and revisit the line we draw with science and technology as a women's movement space and question. We need to critically look into the State's approach to family, marriage, women, and their reproductive health as well as by many other institutions. Reproductive issues such as post-partum complications, stillbirth, and medical and ethical standards on these issues need to be discussed.

##### → *Evidence building-Research, scholarship, ethnographies, etc*

It was commonly agreed that small group discussions and consultations such as this are extremely

important in moving forward as well, as it helps in being reflexive, informed, updated and contribute to the multi-faceted discussions that are required for building a comprehensive engagement on the issues of ART and Surrogacy in India.

***Sandhya Srinivasan***

There is a shift in language in the industry from the infertility industry to the fertility industry. The terminology is being used to create a market demand. In terms of the category of work, we must evaluate the work in the context of gig economy vis-à-vis surrogacy. We have overlooked the potential environmental causes of infertility.

We need to learn from what has been done and what is being done: experience of bar dancers in court resulted in failure, because by the time the decision came, we learnt that the environment had changed. We must also learn from the marriage equality petition, and what is currently going on in the Supreme Court, and keep in mind the lessons we are learning and have learned as we try to challenge the provisions of the surrogacy and ART legislations.

***Brototi Dutta***

There appears to be a prohibitionist approach to the existing laws. There is also regional mirroring that leads to greater and more insidious ways of controlling our bodies. There appears to be an overarching criminalization approach to policymaking. This is not just common to the two legislations at hand but is a common feature that runs across legislations. We must recognize the limits of the law, and understand the law better.

There are gaps in the evidence, and we need to work with them. We need to identify regional variations and evidence-building that connects these to the possibilities of advocacy. Is it possible to work with some State Boards and see what is building in the respective States? In the short term, what are the possible areas we can plug into and work on?

The ability to use progressive language has also shrunk, and we are using discourse building as an overarching framework. We must recognize the limits of the law, and understand the law better. There are gaps in the evidence, and we need to work with them. We need to identify regional variations and evidence-building that connects these to the possibilities of advocacy.

The existence of the National Registry vis-à-vis the data being collected and used also needs to be analyzed. Who has access to this data? Will researchers be allowed to access it? It could be one way to think about evidence within the realm of the law. There is also a need to harmonize the existing legislation with other laws.

***Intervention-Prabina Bajracharya:***

As a strategic conversation, we must contemplate how India's regulatory landscape is located within the transnational context. Surrogacy and ART are not just national issues but transnational ones; from Thailand to India, now to Cambodia and the Philippines, we could shape them as regional issues. Even though the abortion jurisprudence from the UN is advanced, it is still grappling with ART and Surrogacy, given the lack of understanding of different aspects. We also must look at

other countries. The general recommendation on treaty provisions or country-specific reviews can be considered.

Post-2021, with the enactment of the legislation, there is a need to mainstream conversations around surrogacy. It is important to think about communication strategies.

The conversations around surrogacy were earlier from a victim-centric approach to now from an agency-choice approach. Therefore, the language of personal and bodily autonomy must be given more emphasis in discourse shaping and advocacy. We need to understand the entire discourse by applying the following principles;

- bodily autonomy
- equality and non-discrimination
- the highest attainable standard of health
- privacy and informed consent
- inclusion and participation of those most impacted

We need long-term and short-term strategies, where the short-term goal is to understand the law and make explainers of the laws. After that, we need to talk about contradictories and inconsistencies in these laws. We also need to look at the evidence of the two laws and assess their impact

## Concluding reflections and discussions

1. It is important to keep reflecting and be aware of our social positionality on surrogacy and ART. We must think about how we can bring in younger feminists for discourse building. We must push back against protectionist thinking and create safe spaces rather than closing them down. In unpacking the concepts of bodily autonomy, agency, and choice, how do we understand the relationship between our body and choices? There are issues of rights versus morality. We must create a language by which we can unpack what choice-making means, what autonomy means, and what demand for choices means.
2. We need to revisit the lessons that can be learnt from other movements, including that of the sex workers movement, we see that the sex worker rights movements collaborated with the Indian Labour Organization (ILO) and changed the narrative to include work safety, the right to dignified work, and unpacking labour. These movements are bound to make some feminists uncomfortable. But this sort of discourse shift is necessary, and for this, we need to think radically and beyond sexual autonomy. Can the body be seen as something that can be transacted?
3. We must see if it is possible to segregate the discourses on reproductive justice into two aspects – (i) exploitative labour (including surrogacy) and (ii) emancipatory potential of technology. Under exploitative labour, we can look at exploitation, labour, occupational health, and related aspects. Then, if we take the exploitative discussion out of it and create a different discourse accepting surrogacy as work, we can think of the emancipatory potential of ART and surrogacy. We can also evaluate these legislations from these two lenses and contemplate the solutions.

4. There is a need to think about altruism. How can surrogates get protection? We are using the language of labour, and we are using the body to provide a “service.” In doing so, we must not misconstrue the ‘uterus’ to be a mere technology. We must expand the meaning of labour and build a discourse on labour. Reproduction should be seen as labour; the use of one’s body—sexual or reproductive or otherwise— for labour, including care work.
5. The process of surrogacy is not only exploitative but also stigmatizing. There is a need to talk about stigmatization, as ‘stigma’ is what is common between a sex worker, a bar dancer, and a surrogate. Moreover, in the context of ART and genetic children, it is important to bring back the discussion on family and democracy since violence exists within families
6. In the context of ART and genetic children, it is important to bring back the discussion on family and democracy since violence exists within families. We are not talking about marital families. It is an important conversation to debunk “genetic” love and the naturalness of love within bloodlines. There is a need to talk of intimacies as a space where power is negotiated.
7. There exists potential to use contract law in favour of private parties since the private parties use lengthy contracts that protect intending parents. The legislations on the other hand, are to safeguard the interests and support the rights of the surrogate. How do we document such inconsistencies?
8. Without forgetting the disability movement, access to safe abortion is a right, and we must develop a set of principles to guide collaborative work. There are common grounds for working together across countries and generating intergenerational dialogues.
9. We must also attempt to group people based on legal background and come up with legal analyses of these legislations.
10. Moreover, it is important to identify not just the inconsistencies in the law but also the gaps, in as much as there are various facets that have been raised in the discussion as areas that have not been touched upon in the legislations.
11. To ensure mass participation in critiquing the law, it is essential that explainers on the law are created for common people to understand what the legislations are talking about, and what they provide.
12. A longer-term research agenda that incorporates evidence generation through the lived experiences of stakeholders, accounts for existing disparities, and brings out such differences by identifying patterns in regions, is also essential.

## Annexures

### About Sama and CRR

Sama Resource Group for Women and Health is a Delhi-based resource group working on issues of women's rights and health. Sama seeks to locate the concerns of women's health in the context of socio-historical, economic and political realities, and find linkages between women's well-being and livelihoods, food, violence and other larger issues that affect their lives. Sama considers health a fundamental right and believes this can be achieved by strengthening the public health system, regulating the private sector, and curtailing multiple forms of discrimination based on caste, class, gender, religion, ethnicity, ability, and sexual orientation. Sama has been working closely with community-based organizations, health networks, people's movements, women's groups and healthcare providers across the country, primarily through building capacities, action research and advocacy. Sama engages with multiple issues including but not limited to Public Health and Right to Health; Sexual and Reproductive Health and Rights; Assisted Reproductive Technologies and Surrogacy; Gender-Based Violence; Ethics in Clinical Trials and Access to Medicines; Bioethics; Population Policy and Two Child Norm. For more details: <https://samawomenshealth.in/>

The Center for Reproductive Rights (CRR) is a global human rights organization of lawyers and advocates who ensure reproductive rights are protected in law as fundamental human rights for the dignity, equality, health, and well-being of every person. Since its founding in 1992, the Center has played a critical role in advancing reproductive rights issues including access to life-saving obstetrics care, contraception, maternal health, and safe abortion services, as well as the prevention of forced sterilization and child marriage, including before national courts, UN Committees and regional human rights bodies. The Center envisions a world where every person participates with dignity as an equal member of society, regardless of gender. Where every woman is free to decide whether or when to have children and whether to get married; where access to quality reproductive health care is guaranteed; and where every woman can make these decisions free from coercion or discrimination. For more details: <https://reproductiverights.org/>

## List of Participants

S.No	Name of the Participant	S.No	Name of the Participant
1	Adsa Fatima (Sama Resource Group for Women & Health, Delhi)	16	Pramada Menon (Human Capability Foundation)
2	Arathi P M (Mahatma Gandhi University, Kerala)	17	Priya Nanda (Independent Consultant, Delhi)
3	Ashok Yadav (Sama)	18	Ragini De, Volunteer (Delhi)
4	Brototi Dutta (Center for Reproductive Rights)	19	Renu Khanna (SAHAJ & CommonHealth, Vadodara, Gujarat)
5	Chayanika Shah (Forum Against Oppression of Women, FAOW, Mumbai, Maharashtra)	20	Richa Chintan (Jan Swasthya Abhiyan, Delhi)
6	Debajanee Bora (UGC Centre for Women's Studies, Dibrugarh University, Assam)	21	Rupsa Mullick (Independent Public Health Consultant, Mysore, Karnataka)
7	Gargi Misra (C-HELP, Pune, Maharashtra)	22	Sandhya Srinivasan (IJME, Freelancer, Mumbai, Maharashtra)
8	Harshita Singhal (Nyaay Darshak, Siliguri, West Bengal)	23	Sarojini Nadimpally (People's Health Movement and Sama)
9	Kruthika R (Center for Reproductive Rights)	24	Sneha Banerjee (University of Hyderabad, Telangana)
10	Lakshmi Lingam (Independent Consultant, Mumbai, Maharashtra)	25	Shubhangi Singh (Sama)
11	Misbah Haqani (Sama)	26	Suneeta Dhar (Independent Consultant, Delhi)
12	Mrinal Satish (National Law School of India University, Bangalore, Karnataka)	27	Vatsala N (Sama)
13	Neelanjana Das (Independent Public Health Researcher, Hyderabad, Telangana)	28	Vibhuti Patel (Anusandhan Trust, Mumbai, Maharashtra)
14	Prabina Bajracharya (Center for Reproductive Rights)	28	Vrinda Marwah (Delhi)

## Facilitators

**Dr Lakshmi Lingam** is a well-known women's studies researcher, gender expert, teacher, administrator and trainer. She worked at the TISS, Mumbai for nearly 35 years and retired in February 2023. She held the positions of Dean, School of Media and Cultural Studies; Deputy Director, TISS Hyderabad; Dean, Research & Development and Chairperson, Centre for Women's Studies at TISS during her long years of career at the TISS. Dr. Lakshmi was a Fulbright Fellow twice, an Indo-Shastri Fellow and Visiting Fellow with the University of Michigan, USA. Lakshmi Lingam is on the Governing Board of reputed Indian Universities and women's organisations. She has written and published extensively. Dr Lakshmi is one of the earliest researchers to write and publish on Assisted Reproductive Technologies.

**Sarojini Nadimpally** is a feminist, public health researcher, and health rights advocate and one of the co-founders of Sama Resource Group for Women and Health. She has led several studies and advocacy over the past three decades on public health, medical and reproductive technologies, and access to medicines to name a few. She is an active member and former co-chair of People's Health Movement (PHM), a global public health network. She was a former member of the Central Ethics Committee of the Indian Council of Medical Research (ICMR) and was involved in developing Ethical Guidelines for Biomedical Research on Human Participants 2017 by ICMR. As part of Sama, she made submissions on the ART and the Surrogacy (Regulation) Bills, to the Parliamentary Standing Committee on Health and Family Welfare.

**Vrinda Marwah** is an Assistant Professor in the Department of Sociology at the University of South Florida. She received her PhD in Sociology from the University of Texas at Austin in 2021, before which she worked in India with Sama and CREA. She has co-coordinated studies on surrogacy while at Sama and engaged in advocacy at various levels. Her research interests are in gender and political sociology, particularly in reproductive health policy in India.

**Sandhya Srinivasan** is a Mumbai-based freelance journalist, researcher and editor with a background in philosophy, sociology and in public health. She was the executive editor of the Indian Journal of Medical Ethics for 14 years and is currently consulting editor with the IJME. Ms. Srinivasan writes on ethical issues in healthcare and research, and she has reported on the emergence and dissemination of assisted reproductive technologies in India. Since 2005, she has been documenting concerns in international drug trials here and has been involved in advocacy regarding health research. She has worked on projects supported by the Council of Social Development, the European Commission, the World Health Organisation (WHO), the United Nations Research Institute for Social Development, and other organisations, in addition to her work in the general media.

**Brototi Dutta** is the Advocacy Adviser, Asia Program at the Center for Reproductive Rights, and works on the Center's programs in India. Brototi is a lawyer with an LL.M. in Human Rights Law and has extensive gender (EVAW), law, and human rights experience with the Government, UN agencies, and within the non-government space in India. She has previously worked as a Senior Consultant with the Government of India and with the UN in India in various capacities. She has co-authored a Handbook for Judges and was a contributing author in an anthology on Domestic Violence law in India and has written policy papers and opinion pieces on women's rights and SRHR issues.

**Renu Khanna** has over four decades of experience in gender equality and human rights related to health in general, and sexual and reproductive health in particular. In 1984 she co-founded a community-based non-profit organisation SAHAJ (Society for Health Alternatives) which began its work with the urban poor waste-picking women. For 15 years she worked with the Public Health Department of the Bombay Municipal Corporation as a Co-Principal Investigator in a series of collaborative projects with the Liverpool School of Tropical Medicine (LSTM), UK, and the Royal Tropical Institute (KIT) Amsterdam. Currently, she is the Vice Chair of the Advisory Group of ARISE Consortium led by the LSTM. Presently, she teaches a course on Gender, Health and Rights at the Azim Premji University. Over the years, she has contributed to several UN Organisations. Currently, she is also a Lancet Commissioner for Gender and Global Health.



## Speakers

**Dr Sneha Banerjee** is the Assistant Professor in the Department of Political Science, University of Hyderabad. She completed her PhD at the Centre for Comparative Politics and Political Theory, Jawaharlal Nehru University, New Delhi. She has been a Postdoctoral Fellow at the Centre de Sciences Humaines (CSH), New Delhi (2018-19) and was also a recipient of the Swiss Government Excellence Scholarship at the postdoctoral level at the University of Zürich (2017-18). She also worked as a Project Coordinator at Sama Resource Group for Women and Health after completing her doctoral work in 2016-17. Her research on commercial surrogacy in India, with a focus on its regulation has been published in national and international journals, edited volumes and as opinion pieces in the media including some that have been co-authored with Sarojini N. and Deepa V. Her larger research interests are in gender and law, politics of reproduction, and feminist International Relations.

**Dr P.M. Arathi** is currently the director of the School of Gender Studies as well as an Assistant Professor at the School of Indian Legal Thought, Mahatma Gandhi University, Kottayam, Kerala. Her post-doctoral academic work and publications cover the area of public health laws, the politics of reproductive technologies, social determinants of health, feminist jurisprudence and the regional modernity of Kerala. She has co-edited *Universalising Health Care in India, Journey Through Time, from Care to Coverage* (Springer 2019). Recently she edited *Public Health in India: Policy Shifts and Trends* (Sage Publication 2022). She teaches gender-specialised courses like bioethics and law; Gender rights and technologies. Her research "Legal and ethical challenges of surrogates in Delhi and Mumbai" (2017) funded by NHRC and her research and publications on surrogacy and ART laws brings her here.

**Chayanika Shah** is a queer feminist activist who is part of the Forum Against Oppression of Women and Hasrat-E-Zindagi Mamuli, both voluntary collectives based in Mumbai. She is an independent researcher; some of her work reproductive technologies and population control politics, education, science studies, and queer and gender areas are studies

**Prof Mrinal Satish** is a Professor of Law, and Dean (Academics) at the National Law School, Bangalore. He is the former Chairperson of the Delhi Judicial Academy, and has worked as a faculty member at the National Judicial Academy, and at the National Law University, Delhi. Mrinal specializes in criminal law. His research and teaching interests include Medical Law, and Reproductive Justice. He is the co-author of "Securing Reproductive Justice in India: A Casebook", and a report titled "Legal Barriers to Accessing Safe Abortion Service in India". He has taught courses on reproductive justice, and surrogacy laws. On invitation, Mrinal made a presentation on the Surrogacy (Regulation) Bill, 2016 to the Parliamentary Standing Committee on Health and Family Welfare.