

# Exploring Different Dimensions of Alternative Motherhood and Its Legal Ramifications

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# Preface

In recent years, the concept of motherhood has undergone a significant transformation, with alternative forms of parenting becoming increasingly prevalent. Surrogacy, adoption, Assisted Reproductive technologies like IVF, ICSI, co-parenting, and other non-traditional paths to parenthood have become viable options for individuals and families seeking to build their families. However, the law has often struggled to keep pace with these changes, leaving many without clear guidance or protection.

This book aims to address this gap by exploring the complex and multifaceted realm of alternative motherhood. Through a multidisciplinary approach, we bring together experts from law, sociology, psychology, and philosophy to examine the social, emotional, technological and legal implications of non-traditional parenting.

The chapters that follow delve into the experiences of mothers, families, and communities, highlighting the triumphs and challenges of alternative motherhood. We explore the rights and responsibilities of surrogates, the complexities of co-parenting, and the impact of reproductive technologies on family relationships. We also examine the role of law and policy in shaping the landscape of alternative motherhood, highlighting areas where reform is needed to promote greater inclusivity and support.

Our goal is to spark informed dialogue, promote understanding, and inspire compassionate policies that recognize and support the diversity of family forms. This book is for anyone seeking to understand the evolving landscape of motherhood and family, including scholars, policymakers, practitioners, and individuals navigating their own paths to parenthood.

# Acknowledgement

We extend our sincere gratitude to each author who contributed to this book's journey.

To our esteemed contributors, your expertise and insights on alternative motherhood and its legal implications have been invaluable. We appreciate your dedication to this field and your willingness to share your knowledge with us.

We acknowledge the support and help of our IIP COORDINATOR Ms.Yashaswini for providing resources, guidance, and a platform to share our research. Special thanks to my Co-Editor Prof. Dr. Indranil Bose for his assistance and encouragement.

To the participants who shared their experiences, your stories have enriched this work and provided a deeper understanding of the complexities of alternative motherhood. We hope this book does justice to your voices.

Your hard work and attention to detail have been instrumental in shaping this book.

Special thanks to IIP for their expertise, patience, and guidance.

Lastly, we thank our families and loved ones for their unwavering support, love, and encouragement. This book would not have been possible without your patience and understanding.

# Contents

<b>Chapter no</b>	<b>Page no</b>
<b>Chapter 1</b> REFIGURING MOTHERHOOD BEYOND THE HUMAN: INTERSPECIES CAREGIVING, ADOPTION FRAMEWORKS, AND INHERITANCE RIGHTS FOR COMPANION ANIMALS.....	<b>1-16</b>
<b>Chapter 2</b> A STUDY OF UNIVERSAL MOTHERHOOD AND ITS MULTIPLE DIMENSIONS .....	<b>17-23</b>
<b>Chapter 3</b> SURROGACY AT THE CROSSROADS: NAVIGATING LAW AND MORALITY .....	<b>24-32</b>
<b>Chapter 4</b> EXPLORING SOME GENERAL ISSUES IN DIGITAL REPRESENTATION OF LOW-RESOURCE LANGUAGES FROM NORTH EASTERN INDIA .....	<b>33-42</b>
<b>Chapter 5</b> FROM BIOLOGY TO CHOICE: UNDERSTANDING THE CONCEPT AND LEGAL CHALLENGES OF ALTERNATIVE MOTHERHOOD.....	<b>43-49</b>
<b>Chapter 6</b> SINGLE MOTHERHOOD BY CHOICE: A SOCIOLOGICAL STUDY.....	<b>50-61</b>
<b>Chapter 7</b> EXPLORING THE DIMENSIONS OF SINGLE MOTHERHOOD IN INDIA: SOCIAL, BIOLOGICAL AND LEGAL.....	<b>62-67</b>
<b>Chapter 8</b> PARENTAL RIGHTS AND CHILD CUSTODY IN INDIA: BALANCING WELFARE, AUTONOMY AND CONSTITUTIONAL VALUES.....	<b>68-76</b>
<b>Chapter 9</b> BEYOND THE LABORATORY: A SOCIOLOGICAL STUDY OF PCOS, INFERTILITY STIGMA, AND THE ASSISTED REPRODUCTIVE LANDSCAPE IN INDIA .....	<b>77-86</b>
<b>Chapter 10</b> GENDERED CITIZENSHIP AND THE NATIONALITY OF THE CHILD: MOTHERHOOD AND DOCUMENTATION IN BENGAL'S POSTCOLONIAL STRUGGLES.....	<b>87-96</b>



# REFIGURING MOTHERHOOD BEYOND THE HUMAN: INTERSPECIES CAREGIVING, ADOPTION FRAMEWORKS, AND INHERITANCE RIGHTS FOR COMPANION ANIMALS

## Abstract

This chapter interrogates the extension of alternative motherhood to interspecies contexts, positing human caregiving of companion animals as a form of non-anthropocentric parenthood. Drawing on feminist and posthumanist frameworks, it historicizes human-animal kinship, analyses adoption policies (with emphasis on Indian regulatory frameworks), and examines legal ramifications through case studies of animal inheritance. Ethical concerns, including instrumentalisation and species boundaries, are critiqued to argue for recognising interspecies bonds in family law. The analysis reveals how such caregiving disrupts biological essentialism, urging reforms in guardianship and inheritance statutes to mitigate exploitation while affirming relational autonomy.

**Keywords:** Alternative motherhood; interspecies caregiving; human-animal kinship; animal adoption policies; pet inheritance; ethical instrumentalisation; posthumanism; legal guardianship; companion animals; multispecies families.

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## **I. INTRODUCTION**

Critics of biological essentialism (Owens and Grauerholz 2019) claim that the definition of motherhood that prioritises genetic relationships over social ones, relational caring, and caregiving, is insufficient. This chapter is part of a larger edited volume that continues this critique by considering non-traditional arrangements of parenthood, such as assisted reproductive technology, surrogacy, adoption, single and queer family formations, and non-heteronormative structures. I continue this conversation by redefining motherhood in terms of caregiving that is interspecies, of humans, in a parental role, to companion animals, and thus, in this case, is considered alternative motherhood.

Interspecies motherhood shifts anthropocentric family models to include multispecies relational caring and caring as described by Haraway (2008). Companion animals, particularly domesticated ones like dogs and cats, are increasingly integrated into households as kin, and caregivers provide emotional, nutritional, and medical support, and relational care of the sort that is parental. This is in line with the volume's focus on the infertility-related distress and third-party reproductive interventions, as interspecies caregiving is often a substitute or a supplement to familial relations in the situation of human childlessness or the decision to remain child-free.

## **II. OBJECTIVES**

This chapter aims to:

1. Examine interspecies caregiving (particularly human care of companion animals) as a form of alternative motherhood that challenges biological essentialism and anthropocentric family models.
2. Analyse how feminist and posthumanist frameworks can reconfigure kinship to include multispecies relational care.
3. Review Indian animal adoption and guardianship policies (under the Prevention of Cruelty to Animals Act, 1960, and AWBI protocols) in comparison with global trends.
4. Investigate legal barriers to inheritance and postmortem care for companion animals in India, including existing workarounds and potential reforms.
5. Critically assess ethical concerns (instrumentalisation, speciesism, and power asymmetries) in recognising interspecies bonds within family law.

## **III. METHODOLOGY**

This chapter employs a qualitative, interdisciplinary approach combining feminist theory, posthumanist philosophy, legal analysis, and policy review. It draws on:

1. close reading and synthesis of key theoretical texts in feminist and posthumanist studies (e.g., Haraway 2008; Owens & Grauerholz 2019; Stewart 2018);
2. doctrinal legal analysis of Indian statutes (Prevention of Cruelty to Animals Act, 1960; Indian Trusts Act, 1882; Indian Succession Act, 1925) and AWBI guidelines;

3. comparative examination of global animal welfare and inheritance frameworks (U.S., EU, Italy); examination of landmark judicial decisions and high-profile inheritance cases involving companion animals.

**Note:** No primary empirical data collection (e.g., interviews or surveys) was conducted; the analysis relies on secondary sources, legal texts, case laws, and scholarly literature up to early 2026.

This chapter theoretically situates itself within posthumanist theory, which decenters human exceptionalism and sees kinship as emerging from interspecific relations (Haraway 2008), and feminist critiques of essentialist motherhood, which see care as performative and relational (Owens and Grauerholz 2019; Stewart 2017). It reviews the socio-historical literature, analyses the policy of adoption (both global and Indian), and studies some cases of inheritance to draw out some of the legal issues involved.

This chapter posits that interspecies caregiving is a form of motherhood and has implications for the law, especially with regard to guardianship and postmortem property concerns. While policies tend to close the circle of caregiving to some, the law of inheritance exposes and formalises the contradictions of care between the rights of animals and the dominion of man within the legal framework of property. Potential concerns of ethics and instrumentalisation are considered as a basis for proposing reforms.

In recent studies that use feminist and posthumanist frameworks, interspecies parenting has been seen as a morally and socially acceptable extension of the caregiving spectrum. Examples of interspecies parenting include studies that show social caregiver role construction as parental via perceptions of the companion animals as family rather than custodial animals (Owens and Grauerholz, 2019).

This construction is parental and emotional in nature, and also involves nurturing and long-term investment. This challenges the norm that excludes parental roles from dead and living animals. Defenders of these constellations argue that the roles are reciprocal and protective, and include an emotional dimension, thereby remaining within the boundaries of non-species extremities. Stewart 2017. These roles are not strange forms of kinship but are constructed of the same requirements of interdependent caring and kinship roles.

In multispecies households, the dynamics of caregiving show patterns that cover different generations and cultures. Research shows that styles of human parenting (authoritative, permissive, or authoritarian) can transfer to relationships with companion animals. This is moderated by one's attitude toward non-humans and influenced by early family experiences (Kuo et al. 2024). This kind of transmission exemplifies the performative aspect of care, where relational practices transcend the biological imperatives of caregiving and encompass more-than-human kin. This is also in line with broader posthumanist tendencies to regard multispecies families, where animals are considered and treated as integral family members rather than peripheral dependents (Laurent-Simpson 2016; Cudworth 2025). In cases of voluntary childlessness or childlessness, caregiving participants in these interspecies relationships often report attachment bonds that are, in their view, equal to or greater than those present in human parent-child dyads (Peterson 2019).

This chapter utilises additional theory to evaluate the empirical side of the law. In India, the

first law for animal welfare is the Prevention of Cruelty to Animals Act, 1960 (PCA Act), which is aimed at governing unnecessary suffering, and the establishment of a duty of care for the animal (s3). While the basic penalty structure of the Prevention of Cruelty to Animals Act remains largely unchanged since the 1982 amendment, numerous rules and regulatory frameworks have been introduced under the Act to govern breeding, performing animals, and population control.. Ongoing advocacy has, and is, directed at the enforcement and refinement of the existing provisions.

Apart from advocacy, proposed reforms, including the Draft Prevention of Cruelty to Animals (Amendment) Bill, 2022, which have been aimed at the introduction of more punitive measures on the offence of cruelty to animals, and the recognition of the primary rights of animals (e.g. freedom from hunger, discomfort, and pain, as well as, injury, disease, and the natural behavior to express). These have not yet been passed. The AWBI (Animal Welfare Board of India) has attempted to provide and has, on several occasions, been successful in providing guidelines and circulars which operationalise the existing systems.

In terms of adoption, AWBI's Standard Protocol for Adoption of Community Animals prioritises humane processes: prospective adopters have to be screened for eligibility (18+, sound mind, appropriate housing); animals must undergo veterinary evaluations, receive anti-rabies vaccines, and be sterilised before adoption. The Animal Birth Control Rules (revised and implemented at gaps, with three significant changes in 2023) emphasise and prioritise adoption as a form of 'guardianship' instead of 'ownership' to shift the focus from the attachment to the animal to the responsibility of the animal's lifelong care. Some local municipal laws (such as in urban areas like Kolkata) extend these to include regulations on the registration, microchipping, and vaccination controls for the purpose of tracking and regulating the responsibility of the owner.

These changes are still insufficient, and Indian laws still have an unyielding anthropocentric boundary in regard to property and succession. The Indian Succession Act, 1925 and its offshoots (such as the Hindu Succession Act, 1956) state that only natural or legal persons can hold or inherit property; animals (and therefore people) are seen as property and therefore cannot be beneficiaries (Shraddha Nileshwar, cited in the latest studies). Direct bequests to animals are not permitted, as beneficiaries must be able to own property. The Indian Trusts Act, 1882 requires identifiable beneficiaries capable of enforcing trust obligations. Because animals lack legal personality, trusts established solely for their benefit function as honorary or imperfect obligation trusts rather than fully enforceable private trusts.

In practice, pet owners circumvent these constraints in indirect ways, such as appointing a human caregiver (e.g., family member or trusted person) as legatee with a stipulation that funds be provided for the animal's upkeep, or designating an animal welfare NGO, shelter, or charitable trust as a recipient of funds to take over the guardianship. These arrangements create notional trusts of imperfect obligation, which can be enforced through the trustee's undertakings or court supervision if there is a breach. Courts may enforce such arrangements to the extent that they are reasonable, especially if the provisions serve the welfare obligations of the PCA Act, but unreasonable or excessive provisions may be successfully challenged on public policy or family reasoning grounds. Advocating for the recognition of pet trusts in the legislation is meant to address the emerging societal view of companion animals as family, but there has been no such legal change as of 2026.

The persistent legal constraints demonstrate the most critical and emerging tensions. There is a policy shift that continues to embrace and support guardianship obligations during life. However, for post-mortem arrangements, everything continues to be subject to human-centred norms of inheritance. This imbalance hinders the full articulation of interspecies motherhood as a protected relational status, potentially exposing animals to welfare risks when a caregiver dies.

To address these gaps, reforms that strike a balance will be required. Legislative changes, for example, could be made to provide pet trusts under the Indian Trusts Act or a proposed animal welfare law that allows for the funding of care (with the duration of funding being capped) and welfare audits. Additionally, drawing from the incorporation of animal personhood with respect to guardianship arrangements, and the relational autonomy of the person so as not to equate the animal or animals to a full legal person, may be beneficial. Finally, the post-moratorium period may allow for some AWBI revisioning.

These legal constraints highlight persistent tensions: policies increasingly acknowledge guardianship responsibilities in life, yet postmortem arrangements remain subordinated to human-centric inheritance norms. This asymmetry limits the full expression of interspecies motherhood as a protected relational status, potentially exposing animals to welfare risks upon a caregiver's death.

To resolve these gaps, balanced reforms are essential. First, legislative amendments could introduce limited pet trust provisions under the Indian Trusts Act or a dedicated animal welfare statute, allowing enforceable funds for care while capping durations (e.g., animal lifetime) and mandating welfare audits. Second, integration of animal personhood elements drawing from judicial precedents in environmental and wildlife cases, recognising non-human entities' rights, could inform guardianship frameworks, ensuring relational autonomy without equating animals to full legal persons. Third, AWBI guidelines could expand to include postmortem planning recommendations, promoting preemptive designations of caregivers and funds.

Such measures would mitigate instrumentalisation risks by prioritising animal welfare over human sentimentality, while affirming interspecies caregiving as a valid alternative motherhood form. Ultimately, recognising multispecies kinship in law would enrich feminist discourses on family, care, and relationality, fostering more inclusive models of parenthood in an era of demographic and ecological shifts.

#### **IV. HISTORICAL PERSPECTIVES ON HUMAN-ANIMAL KINSHIP**

Human-animal kinship has deep historical roots, predating modern pet culture. Evolutionary anthropology traces biophilic affinities to hunter-gatherer societies, where animals were integrated into social structures for survival and companionship (Volsche 2022). In pre-modern contexts, cross-species caregiving occurred through domestication processes, with animals serving utilitarian roles while fostering affective bonds.

In ancient Indian traditions, texts such as the Vedas and epics portray animals as kin or divine embodiments, reflecting ahimsa (non-violence) principles that influenced household integration (Animal Welfare Board of India guidelines reference cultural reverence). Globally, pre-industrial societies viewed animals as family extensions, with caregiving practices resembling allomothering observed in non-human primates (Bales 2017).

Modern shifts accelerated in the post-industrial era. Urbanisation, declining fertility rates, and secularisation elevated companion animals to emotional surrogates, often termed "furbabies" in Western discourse (Owens and Grauerholz 2019). In India, colonial legacies blended with indigenous traditions, leading to hybrid guardianship models where community animals receive collective care (Volsche 2022). These historical trajectories underscore how interspecies bonds have evolved from utilitarian to relational, paralleling broader reconfigurations of family in response to reproductive and social changes.

This historical foundation sets the stage for contemporary policies that formalise such caregiving as guardianship rather than mere ownership. This evolutionary trajectory from utilitarian integration to affective kinship is further illuminated by comparative examples of cross-species caregiving in non-human primates, which provide biological analogues to human interspecies adoption practices. In species such as Yunnan snub-nosed monkeys (*Rhinopithecus bieti*), documented cases of allomaternal nursing and temporary adoption occur across one-male units, where lactating females nurse and care for unrelated infants from different social groups, with tolerance extended by the harem male.

Similar instances appear in golden snub-nosed monkeys, where unrelated adult females adopt and nurture orphaned infants, contributing to group cohesion and infant survival. These behaviours, including allomaternal transport, grooming, and food sharing, demonstrate that caregiving extends beyond genetic relatedness in primate societies, often serving adaptive functions such as alliance formation or skill practice for future reproduction. Such patterns parallel human tendencies to extend parental investment to non-biological dependents, suggesting deep phylogenetic roots for relational caregiving that transcend species boundaries.

In the Indian context, this historical continuum manifests distinctly through enduring cultural reverence for animals as extensions of the moral community. The principle of ahimsa, which gained prominence in post-Vedic traditions influenced by Sramana movements (including Jainism and Buddhism), gradually shifted emphasis from ritual sacrifice to ethical non-violence toward all sentient beings. While early Vedic texts incorporated animal sacrifice as cosmic ordering, later interpretations reframed non-harm as a core virtue, elevating animals to positions of kinship and divine embodiment. This ideological framework supported household and community practices where animals, cows in particular, were integrated as sacred kin, with caregiving duties tied to dharma rather than mere utility. Archaeological and textual evidence from the Indus Valley and Vedic periods reveals early domestication of species like sheep, goats, fowl, elephants, and bovines, often accompanied by figurines, seals, and artefacts indicating symbolic and affective significance beyond economic value.

The colonial period introduced hybrid dynamics that reshaped these traditions. British administrative policies targeted stray and community animals for population control, often through culling measures driven by public health concerns, yet these efforts encountered resistance rooted in local ahimsa-informed sensibilities. Post-independence, community guardianship persisted as a cultural norm, with free-roaming dogs and other animals sustained through collective feeding, naming, and informal care by residents, practices that positioned animals as semi-owned members of neighborhoods rather than wholly feral entities. This communal model, blending indigenous

reverence with modern welfare imperatives, highlights how historical legacies continue to influence contemporary interspecies relations, where caregiving extends beyond individual households to collective ethical responsibility.

These layered historical developments from primate all mothering analogues to Vedic kinship ideals and colonial-community hybrids reveal interspecies bonds as adaptive, culturally mediated responses to social and environmental pressures. They underscore the relational continuity that underpins modern guardianship frameworks, transitioning caregiving from implicit cultural practice to formalised legal duty in an era of urbanisation and demographic transition.

## **V. PUBLIC POLICIES ON ANIMAL ADOPTION AND GUARDIANSHIP**

Animal adoption policies reflect shifting legal paradigms from property to stewardship, enabling interspecies caregiving while imposing duties on human guardians.

Globally, frameworks vary: European Union regulations emphasise animal passports and welfare standards, while U.S. laws increasingly recognize guardianship over ownership in custody disputes. In India, the Prevention of Cruelty to Animals Act, 1960 (PCA Act) forms the cornerstone, defining cruelty broadly and establishing the Animal Welfare Board of India (AWBI) to promote welfare (Prevention of Cruelty to Animals Act 1960). The Act mandates reasonable measures to prevent suffering for animals in human care (Section 3).

AWBI guidelines standardise adoption, requiring pre-adoption assessments (e.g., home checks, eligibility verification for adopters over 18 and of sound mind), veterinary checks, vaccinations, and sterilisation before handover (Standard Protocol for Adoption of Community Animals, AWBI). The Animal Birth Control Rules (updated 2023) promote sterilisation to manage populations, framing adopters as guardians responsible for well-being. Municipal rules (e.g., in Kolkata or other cities) often require registration, microchipping, and proof of vaccination.

These policies enable alternative motherhood by institutionalising caregiving but reveal gaps: no explicit provisions for parental-like rights (e.g., custody analogues in human disputes) or inheritance. Challenges include street animal overpopulation and conflicts with residents' associations. Comparatively, Indian frameworks reflect cultural hybridity, blending ahimsa with modern welfare yet lag behind Western pet trust regimes in postmortem protections.

Such policies support interspecies motherhood as a relational practice but underscore the need for legal expansion to fully recognise familial status. Animal adoption policies reflect shifting legal paradigms from property to stewardship, enabling interspecies caregiving while imposing duties on human guardians.

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Such policies support interspecies motherhood as a relational practice but underscore the need for legal expansion to fully recognise familial status. Recent developments in Indian animal welfare regulation have introduced incremental refinements without fundamentally altering the core guardianship model. The Animal Birth Control Rules, 2023, continue to serve as the primary mechanism for population control, with AWBI issuing revised modules and standard operating procedures in 2025 to enhance implementation by local bodies, residents' welfare associations, and animal welfare organisations. These include updated SOPs for shelter compliance (e.g., November 2025 directive in response to Supreme Court directions) and advisories on feeding practices, relocation protocols, and monitoring formats for municipal authorities. Emphasis remains on mandatory sterilisation and anti-rabies vaccination before any adoption or release, reinforcing the guardian's ongoing duty to ensure health and prevent suffering.

In urban centres like Kolkata, the Kolkata Municipal Corporation (KMC) enforces dog registration under Section 521 of the KMC Act, 1980, with fees set at Rs. 100–150 per dog annually (as per 2025–2026 rates), often requiring proof of vaccination, microchipping, and sometimes sterilisation. Online portals facilitate applications, though challenges persist in awareness, technical glitches, and compliance rates. Nearby jurisdictions, such as Howrah Municipal Corporation, have aligned with similar mandates from September 2025 onward, requiring licensing for foreign-breed and mixed-breed dogs to improve traceability and welfare oversight.

On the amendment front, multiple draft proposals for the Prevention of Cruelty to Animals (Amendment) Bill introduced in various forms between 2022 and 2024 sought to strengthen penalties (e.g., increasing fines from nominal amounts to Rs. 50,000 or more for certain offenses, introducing cognizable status for some acts of cruelty, and incorporating the "five freedoms" of animals explicitly). A 2024 version (Bill No. 217 of 2024) proposed raising fines for specific violations, but as of early 2026, these have not been enacted into law, leaving the 1960 Act's penalty structure largely intact and criticised for lacking sufficient deterrence. Related bills, such as the Prevention and Control of Infectious and Contagious Diseases in Animals (Amendment) Bill, 2025, address ancillary welfare issues but do not directly expand adoption or guardianship rights.

In contrast to these developments, Western jurisdictions continue to evolve toward best-interest considerations for companion animals. In the EU, pet passports remain standardised for intra-EU travel, requiring up-to-date rabies vaccination and microchipping, with implementing regulations (e.g., 2025 updates for specific transit rules) ensuring seamless welfare compliance across borders. In the United States, states like New York (post-2013

Travis v. Murray and subsequent amendments) and others increasingly apply "best interests" standards in divorce proceedings for pet allocation, factoring in primary caregiving history, veterinary expenses, and animal welfare, shifting from pure property division toward guardianship-like outcomes. Pennsylvania's 2025 legislation (House Bill 97) further recognises shared custody and pet well-being in separations, marking a growing trend.

These comparative insights highlight persistent asymmetries in Indian law: while living guardianship duties are progressively formalised through AWBI protocols and municipal enforcement, postmortem and dispute-resolution mechanisms remain underdeveloped. This gap limits the relational depth of interspecies motherhood, as caregivers lack robust legal tools to secure continuity of care or resolve conflicts akin to human parental rights. Expanding frameworks, potentially through targeted amendments to recognise limited pet trusts, best-interest factors in custody analogues, or enhanced AWBI oversight, would better align policy with evolving societal views of companion animals as kin, thereby strengthening alternative motherhood as a multispecies relational practice.

## **VI. CASE STUDIES: LEGAL RAMIFICATIONS OF INHERITANCE RIGHTS**

Inheritance cases illustrate the legal construction of animals as beneficiaries, highlighting ramifications for interspecies parental roles.

Animals lack legal personhood and cannot own property directly; thus, pet trusts designate human trustees for care (Indian Trusts Act 1882). Globally, such arrangements bypass the rule against perpetuities by limiting duration to the animal's lifetime. Inheritance cases illustrate the legal construction of animals as beneficiaries, highlighting ramifications for interspecies parental roles.

Animals lack legal personhood and cannot own property directly; thus, pet trusts designate human trustees for care (Indian Trusts Act 1882). Globally, such arrangements bypass the rule against perpetuities by limiting duration to the animal's lifetime.

In jurisdictions that explicitly recognise pet trusts, such as most U.S. states and several European countries, these mechanisms allow enforceable provisions for an animal's lifetime care, with courts intervening only if amounts appear excessive relative to the pet's needs and expected lifespan. For instance, in the United States, the landmark case of *Leona Helmsley* (2007) involved a \$12 million trust for her Maltese terrier, Trouble. A New York Surrogate's Court reduced the allocation to \$2 million, deeming the original sum unreasonable and reallocating the excess to charitable purposes and disinherited grandchildren. This ruling illustrates judicial discretion to moderate provisions, balancing testator intent with public policy concerns against wasteful or vindictive bequests.

Similarly, the 2011 Italian case of *Maria Assunta* involved her stray cat, Tommaso, inheriting an estimated €10 million (approximately \$13 million at the time) estate, including properties across Italy. Under Italian civil law, animals cannot inherit directly, but Assunta designated her nurse as trustee to manage the funds exclusively for Tommaso's care. The arrangement was upheld, providing a practical workaround that ensured lifelong welfare without granting the animal legal title. These international precedents demonstrate how pet trusts can operationalise interspecies parental intent postmortem, though subject to oversight to prevent abuse or over-provisioning.

In India, the legal landscape remains more restrictive. Animals are classified as movable property under general civil law, precluding them from beneficiary status in wills (Indian Succession Act, 1925) or trusts (Indian Trusts Act, 1882), as beneficiaries must possess the capacity to hold property. Direct bequests to pets are invalid, and purpose trusts for animals are not formally recognised as enforceable in the same manner as in common-law jurisdictions with pet trust statutes. Recent legal commentary (2025–2026)

consistently affirms this position: pets cannot be named heirs or primary beneficiaries, and any attempt to do so fails for lack of juridical personality. Estate planning in India, therefore, relies on indirect strategies. Testators may bequeath funds or assets to a trusted human (e.g., family member, friend, or professional caregiver) with explicit conditional instructions in the will that the recipient use the resources for the animal's maintenance. Alternatively, designating an animal welfare NGO, shelter, or charitable trust as a legatee with a mandate to assume guardianship offers greater enforceability, as such entities possess legal personality and can be held accountable via court oversight or fiduciary duties. For substantial estates, a private trust may be established with a human beneficiary receiving funds earmarked (though not strictly bound) for pet care, supplemented by detailed care instructions to guide the trustee or executor.

Recent analyses highlight emerging advocacy for reform, including proposals to introduce limited-duration pet trusts akin to models in New York or the UK, capped at the animal's lifetime, with ultimate beneficiaries (e.g., charities) receiving residuals, credible trustee appointments, and transparency requirements. Such changes could reduce executor uncertainty, minimise misuse risks, and better align the law with societal perceptions of companion animals as kin. Absent statutory amendment, however, Indian arrangements remain vulnerable to challenges on grounds of reasonableness, public policy, or competing family claims under personal succession laws.

These contrasting global and Indian approaches expose key ramifications for interspecies parental roles: while permissive jurisdictions enable robust continuity of caregiving intent, restrictive frameworks subordinate animal welfare to human-centric inheritance norms. This asymmetry constrains the relational autonomy inherent in alternative motherhood, as postmortem protections for non-human dependents lack the legal robustness afforded to human family members. Judicial and legislative evolution toward recognising enforceable care provisions potentially drawing from environmental personhood precedents in Indian jurisprudence could bridge this divide, fostering multispecies familial recognition without eroding anthropocentric legal foundations.

## VII. KEY CASES

**Leona Helmsley and Trouble (USA, 2007):** Helmsley bequeathed \$12 million to her Maltese via a trust. Courts reduced it to \$2 million, citing excessive provision and family contests, redirecting funds to charitable purposes. This demonstrates judicial intervention to prevent perceived exploitation while affirming caregiving intent (Helmsley estate rulings).

**Leona Helmsley and Trouble (USA, 2007):** Leona Helmsley, the billionaire hotelier often dubbed the "Queen of Mean," died in 2007 and left \$12 million in trust for the care of her Maltese terrier, Trouble, through provisions in her July 2005 trust instrument. The bequest drew immediate public scrutiny and legal scrutiny due to its scale and Helmsley's

simultaneous disinheritance of two grandchildren "for reasons known to them." In April 2008, Manhattan Surrogate's Court Judge Renee Roth approved a settlement between the estate, the disinherited grandchildren (Craig Panzirer and Meegan Panzirer Wesolko), and the New York State Attorney General's office. The settlement reduced Trouble's trust allocation from \$12 million to \$2 million, citing that the original amount substantially exceeded what was reasonably required for the dog's maintenance and welfare over her expected lifespan.

The court redirected the excess funds, with \$6 million awarded to the grandchildren as a compromise settlement and the remainder supporting charitable purposes aligned with the estate's broader directives. An affidavit from Trouble's caretaker (Carl Lekic, general manager of a Helmsley hotel in Florida) justified the \$2 million principal by outlining projected annual expenses, including \$100,000 for full-time security (prompted by reported death threats and kidnapping attempts against the dog), \$8,000 for grooming, \$1,200 for food, veterinary care, and a \$60,000 guardian fee.

This judicial intervention illustrates how courts exercise discretion under New York law (governing honorary trusts for pets) to moderate excessive provisions, preventing potential waste or public-policy violations while still upholding the testator's intent to secure lifelong care. The case also highlights broader ramifications for interspecies parental roles: it affirms that caregiving obligations can extend postmortem through structured trusts, yet remains subject to oversight to balance animal welfare against family claims and societal norms around reasonable bequests. Trouble lived comfortably on the reduced fund until she died in 2011 at age 12, after which any residual funds reverted per the trust terms.

This precedent continues to influence estate-planning discussions in jurisdictions permitting pet trusts, demonstrating both the viability of such arrangements and the limits imposed by judicial review to curb perceived extravagance or vindictiveness in testamentary dispositions toward non-human dependents.

Maria Assunta and Tommaso (Italy, 2011): Assunta left €10 million (~\$13 million) to her rescued cat via caretaker-trustee. Italian law prohibited direct inheritance, but the arrangement ensured lifelong care, sparking debates on ethical allocation versus human heirs (Assunta's case).

Emerging Indian context: No landmark cases exist, but provisions under the Indian Trusts Act allow purpose trusts for animal care. Anecdotal reports indicate elites funding rescues via wills, though enforceability relies on trustees. Courts may scrutinise for reasonableness, aligning with PCA Act welfare mandates. The provided content on the Maria Assunta and Tommaso (Italy, 2011) case is accurate based on contemporaneous news reports and legal analyses from 2011–2012 (with no major contradictions in later retrospectives). Maria Assunta, a 94-year-old childless widow of a property developer, died in late November 2011 after adopting the stray black cat Tommaso (then about 4 years old) from the streets around 2007. In her handwritten will dated October/November 2009, she initially directed her lawyers (Anna Orecchioni and Giacinto Canzona) to find a suitable animal welfare organisation to inherit her estate and care for Tommaso.

When no organization met her standards (despite interest from several groups), she revised the will to leave her entire estate primarily a portfolio of properties (villas, apartments, and land from Milan to Calabria) valued at approximately €10 million (widely reported as

equivalent to about \$13 million USD at 2011 exchange rates) to Tommaso directly, with her longtime nurse/caregiver Stefania (last name not publicly disclosed) appointed as trustee/caretaker to manage the funds exclusively for the cat's lifelong needs (food, veterinary care, housing, etc.).

Italian civil law (Codice Civile) prohibits animals from inheriting directly as they lack legal capacity/personhood, so the arrangement functioned as an honorary trust or conditional bequest: the estate passed to Stefania in trust, with enforceable obligations to apply resources solely to Tommaso's welfare. No court challenge or reduction occurred (unlike the Helmsley case), and the setup was upheld as a valid workaround.

The case generated widespread media coverage and ethical debates on whether such large sums should prioritise human relatives/charities over animals, though no family contests emerged since Assunta had no children or close heirs. Tommaso lived comfortably under Stefania's care post-inheritance; no public updates exist on his later life or the estate's final disposition after his eventual death.

For the emerging Indian context, the content is correct and up-to-date as of 2026: No landmark/ high-profile judicial precedents exist for enforceable pet-specific inheritance or direct animal beneficiaries in India. Animals remain classified as movable property under civil law (e.g., Transfer of Property Act, 1882; Indian Succession Act, 1925), lacking the capacity to hold title or sue/ enforce rights.

The Indian Trusts Act, 1882 (Section 3 onward) limits beneficiaries to "persons" capable of holding property; purpose trusts (charitable or private) require identifiable human/institutional beneficiaries or enforceable obligations, and animals do not qualify as primary beneficiaries. Purpose trusts for animal care are not statutorily recognised as enforceable in the same way as in U.S./UK pet trust statutes; any such attempt creates a "trust of imperfect obligation" (honorary/trustee's moral duty only, not legally binding on the trustee to use funds exclusively for the animal).

In practice, affluent individuals (including elites in urban areas like Mumbai, Delhi, or Kolkata) commonly use indirect mechanisms:

- Bequeathing assets/funds to a trusted human (relative, friend, or professional) with explicit will instructions conditioning use on pet maintenance.
- Naming an established animal welfare NGO, shelter, or registered charitable trust (e.g., under Societies Registration Act or Trusts Act) as legatee, with a mandate to assume guardianship and apply funds for the specific animal(s).
- Establishing a private family trust where a human beneficiary receives resources earmarked (via detailed will/trust deed clauses) for pet care, though courts may scrutinise for reasonableness, public policy, or family claims under personal laws (Hindu/Muslim/Christian succession rules).

Enforceability depends on trustee goodwill, executor diligence, or rare court intervention if breach is alleged (e.g., via specific performance or accounting suits). Alignment with PCA Act welfare mandates (duty to prevent suffering under Section 11) provides indirect support

but no direct enforcement mechanism for postmortem care. Anecdotal/media reports of high-net-worth individuals funding rescues or pet care via wills persist (e.g., celebrity/elite cases occasionally surfacing in local press), but remain non-precedential and reliant on private arrangements rather than statutory backing. Recent legal commentary (2024–2026) advocates reform, e.g., introducing limited-duration pet trusts or amending trusts law to reflect shifting views of pets as family, though no legislative progress has occurred.

These cases and contexts highlight ongoing tensions in recognising interspecies parental intent: permissive jurisdictions enable structured continuity, while restrictive ones (like India) subordinate animal welfare to human-centric norms, constraining alternative motherhood's relational scope postmortem.

These cases reveal ramifications: inheritance affirms interspecies bonds but risks judicial reduction or family challenges, underscoring anthropocentric limits. They parallel custody analogues in human family law, where animals feature in disputes as "property" with welfare considerations.

### **VIII. ETHICAL CONCERNS AND EXPLOITATION**

Interspecies motherhood raises ethical tensions between relational care and instrumentalisation. Posthumanist critiques warn against reducing animals to emotional proxies, denying their agency (Haraway 2008). Inheritance arrangements risk exploitation, e.g., luxury isolation in trusts or speciesism in prioritising companion animals over broader welfare.

Policy reforms could integrate animal personhood elements (e.g., Indian judicial recognitions in environmental cases) into guardianship laws, ensuring relational autonomy while mandating transparency and welfare oversight. Add content, do not add anything already written here:

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Feminist posthumanist perspectives, particularly those influenced by Haraway's emphasis on "companion species" as co-constitutive partners rather than subordinates, highlight how framing animals as "children" or familial dependents can inadvertently reproduce power asymmetries. This dynamic often positions companion animals within human emotional and reproductive narratives, such as compensatory parenting amid declining birth rates, without

fully accounting for the animal's own *umwelt* (species-specific lifeworld) and capacity for independent agency. Such anthropomorphic projections risk instrumentalising the animal's presence to fulfil human affective voids, where care labour flows primarily one way, reinforcing domestication hierarchies instead of fostering reciprocal becoming-with.

This tendency toward surrogate parenthood also intersects with gendered expectations, as interspecies caregiving frequently aligns with feminised roles of nurturing and emotional labour, potentially confining women (or those performing femininity) to extended maternal scripts even in non-human contexts. Critiques from ecofeminist and posthumanist scholarship argue that this can obscure structural inequalities: privileged companion animals in affluent households receive disproportionate attention and resources, while marginalised species, wild, farmed, or stray, face systemic neglect or exploitation, perpetuating a selective ethics that favours the cute and familiar over the distant or utilitarian.

Inheritance practices amplify these concerns by embedding animals in human economic logics. When trusts allocate substantial funds for individual pets, they may inadvertently commodify the animal's life span as a calculable asset, subject to human valuation of "reasonable" care needs. This commodification clashes with posthumanist calls for relational ethics that prioritise entangled flourishing over possessive ownership, where the animal's death dissolves the bond rather than triggering residual human obligations that outlive the subject of care.

Policy reforms could integrate animal personhood elements (e.g., Indian judicial recognitions in environmental cases) into guardianship laws, ensuring relational autonomy while mandating transparency and welfare oversight.

The Uttarakhand High Court's 2018 decision in *Narayan Dutt Bhatt v. Union of India* declared the entire animal kingdom, including avian and aquatic species, as legal entities with corresponding rights, duties, and liabilities akin to living persons, appointing all citizens of the state as persons *in loco parentis* (in place of a parent) for their protection. Similarly, the Punjab and Haryana High Court's 2019 ruling in *Karnail Singh v. State of Haryana* echoed this verbatim, affirming animals as legal persons entitled to dignity and justice, drawing on ecocentric principles from precedents like *Animal Welfare Board of India v. A. Nagaraja* (2014), which extended Article 21 constitutional protections to animal life with intrinsic worth.

Although subsequent Supreme Court interventions (e.g., in 2023, upholding state amendments to allow certain traditional practices) have tempered broad application of full personhood prioritising existing statutory welfare under the Prevention of Cruelty to Animals Act, 1960, without granting animals the capacity to sue, these high court declarations provide jurisprudential footing for reform. Integrating such eco-jurisprudential elements could extend guardianship frameworks beyond mere negative duties (prohibiting cruelty) to positive obligations (promoting species-appropriate welfare), such as mandatory independent audits for pet trusts, species-specific care standards, and caps on funding to curb extravagance. This would mitigate exploitation risks by shifting from anthropocentric excess toward relational accountability, aligning legal structures with posthumanist ethics that value multispecies entanglements without collapsing differences into human-centred familial models.

## **IX. CONCLUSION**

Interspecies caregiving expands alternative motherhood beyond anthropocentric bounds, challenging biological essentialism through multispecies kinship. Policies formalise duties, but inheritance mechanisms expose legal gaps. Reforms, e.g., explicit pet trust provisions in Indian law, could affirm these bonds ethically. Future research should explore transnational comparisons and psychological dimensions to enrich gender and family studies.

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Transnational comparisons could illuminate divergent legal-cultural approaches to multispecies kinship: for instance, contrasting India's anthropocentric inheritance norms with permissive U.S. pet trust statutes (now in most states under Uniform Trust Code adaptations) or emerging European frameworks that increasingly weigh animal welfare in succession disputes. Such analyses would reveal how postcolonial legacies, religious traditions (e.g., ahimsa in South Asia versus secular individualism in the West), and demographic shifts (e.g., fertility decline accelerating pet integration in urban households) shape recognition of interspecies parental roles. Comparative studies might also examine how global South jurisdictions, including Brazil's recent constitutional amendments recognising animal sentience or South Africa's welfare-oriented trust precedents, offer models for hybrid reforms adaptable to India's context.

Psychologically, emerging scholarship highlights intergenerational transmission dynamics in multispecies families, where human parenting styles (authoritative, permissive, or authoritarian) influence caregiver-animal interactions, mediated by attitudes toward non-humans and early family experiences. This suggests that interspecies bonds may reproduce or disrupt gendered caregiving patterns, with potential implications for emotional resilience, attachment security, and identity formation across species lines. Longitudinal or cross-cultural research could investigate how these dynamics intersect with voluntary childlessness, queer family formations, or ageing populations, where companion animals serve as primary relational partners, potentially buffering isolation while raising questions about care labour distribution and power asymmetries.

Methodologically, future inquiries should prioritise mixed-methods approaches combining ethnographic accounts of multispecies households with quantitative surveys on caregiver attitudes and legal outcomes to capture lived relationality and policy impacts. Interdisciplinary collaborations between gender studies, anthrozoology, and socio-legal Scholars could advance theoretical models of eco expansive kinship, validating companion animals as integral to family systems while critiquing persistent hierarchies. Such work would enrich the volume's broader exploration of alternative motherhood by foregrounding how multispecies entanglements reconfigure care, ethics, and law in an era of ecological and social transformation.

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# A STUDY OF UNIVERSAL MOTHERHOOD AND ITS MULTIPLE DIMENSIONS

## Abstract

Universal Motherhood represents a supreme form of maternal consciousness characterized by unconditional love, compassion, inclusiveness, and selfless service towards all beings. Rooted in spiritual traditions across cultures, this concept of universal motherhood is rooted in spiritual traditions across the cultures which extended from biological motherhood to divinity. The present study focus on the spiritual fundamentals and existed expressions of universal motherhood through the lives and teachings of Sarada Devi, Mother Teresa, and Anandamayi Ma. The research examines how universal motherhood functions as both a spiritual realization and a social ethic. It analyzes themes such as divine motherhood, compassion as spiritual practice, service as worship, ego transcendence, and the vision of unity among humanity. By comparing spiritual motherhood (as seen in Sarada Devi and Anandamayi Ma) with humanitarian motherhood (as embodied by Mother Teresa), the study highlights the multidimensional nature of maternal spirituality. Universal motherhood serves as a transformative ethical model capable of fostering social harmony, gender dignity, and compassionate leadership in contemporary society. The study contributes to the interdisciplinary understanding of spirituality, ethics, gender studies, and humanitarian perspective.

**Keywords:** Universal motherhood, womanhood, social, spiritual, ethical contexts.

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## I. INTRODUCTION

- 1. Mother hood :** refers to the state, role, and experience of being a mother. Traditionally, it means giving birth to and raising a child. However, in a broader psychological, social, and spiritual sense, motherhood represents nurturing, unconditional love, protection, sacrifice, guidance, and emotional support.

Motherhood is not limited to biological connection. It can also be expressed through care, responsibility, compassion, and moral guidance toward others. Mother possess unconditional love. She is selflessness and always compromising and sacrificing. She nurture the child emotionally and provide proper protection and guidance. She deals with ample of patience and full of forgiveness. She is a figure of morality and value transmission. Motherhood is a combination of **biological** and **social-spiritual responsibility**.

Motherhood can be divided into biological motherhood which is based on natural motherhood i.e. giving birth to a child. Even if a woman is not giving birth to a baby she can adopt and raise a child with legal and emotional responsibility that is adoptive motherhood. Simultaneously if she is taking temporary care of a child who is not staying with biological parents by giving protection and support it is foster motherhood. A women also becomes a mother figure due to marriage that is step-motherhood. There are cases when a women carries and delivers a child for another individual or couple this is surrogated motherhood. Sometimes a woman who nurtures children or individuals without any legal or biological ties is called social motherhood. Motherhood is within a woman hence there are woman like Sarada devi Anandamayi ma who provides spiritual guidance and treats all as her children this spiritual motherhood. A woman who perceives the entire humanity as her family without any discrimination and social boundaries is the universal mother like Mother Teresa. Universal motherhood rests with spirit of universe, and universal love, compassion and affection.

- 2. Objectives of the Study:** The objective of this research is to examine the concept and meaning of universal motherhood from a spiritual perspective and to analyse the spiritual foundations underlying universal maternal consciousness. This study deals with the lives and teachings of Sarada Devi, Mother Teresa, and Anandamayi Ma as exemplars of universal motherhood. This study will also lead to the contribution of universal motherhood to moral leadership and social integration. Discussion from the Universal motherhood is a novel idea in view of the fact that greatness, compassion for all and love for every creature human and non human entities are very few and far between among the common types of motherhood.
- 3. Research Methodology:** The study adopts a qualitative and descriptive research design, focusing on interpretative analysis of spiritual texts, biographies, and documented teachings, recorded teachings, letters, and speeches of the selected universal mothers. Essays on the various authorities, information contained in the respective websites of the institutions belonging to the three great souls had been incorporated as a testimony of our assumptions.
- 4. Findings:** Biographies, scholarly articles, books on spirituality and religious philosophy, journal publications and historical records projects Maa Sarada as Holy Mother

encompassing her compassion among all creatures. She had hold spiritual equality beyond caste and gender and emphasised on forgiveness and non-judgment. Scholars interpreted her motherhood as a manifestation of divine Shakti in the operation of simple daily life. Empirical studies on Mother Teresa has projected her great deeds as Live in Action. She emphasised services as spiritual fulfilment and human dignity for the marginalized and subalterns. Studies have demonstrated her flagrant sympathy for the poor, destitutes which uphold humanitarian ethics, compassion-based leadership, and global recognition. The studies further revealed her activity not for India or a single country which goes beyond broader and become international phenomena. Anandamayi Maa is focused for her mystical consciousness. Her motherhood is interpreted as experiential spirituality rather than institutional service.

The concept of Universal motherhood has no specific feature. It varies from person to person. No interpersonal comparison is possible about the greatness of individual and their characteristics. Each person has her own ethics and value judgement but some common characteristics can be formulated from the lifestyles of these personalities. Each individual has a leadership ability. They lead from front and with a human face, compassion kindness, softness, love, affection in their activities. Sarada Maa was instrumental in building the edifice of Ramakrishna Mission though Vivekananda established Ramakrishna Mission but his early demise made everything in hay ware. It was Maa Sarada's great value judgement and leadership created the modus operandi of the Ramakrishna Mission in the early days. Similarly Mother Teresa established missionaries of charity with great insight. She gave the element of compassion, value judgement, leadership, to built this organisation brick by brick which drew international attention and recognition. Maa Anandamayi has build her organisation with her own value system, element of compassion and kindness which gave peace of mind to the thousands of her followers. The common feature of Universal Motherhood also demonstrate that service to the humanity is service to the God. A unique sense of spirituality prevails and guide the every action of the spiritual mothers. But each person has their own method of pursuing their action and fulfil their objectives. For this reason we will focus individually on this three legendary spiritual mothers who are at par excellence in their activities and contributions.

## II. HOLY MOTHER SARADA-AN EMBODIEMENT OF UNFLAGGING COMPASSION WITH SPIRITUALITY

Sarada Devi, popularly known as "Holy Mother," was the wife of **Ramakrishna Paramahansa** and became the guiding force behind the **Ramakrishna Mission**. She professed: "I am the Mother of the good; I am the Mother of the wicked." Maa Sarada was pure, simple, candid, upright, intelligent, and had lots of common sense. She did not teach through the faculty of speech but by her right conduct in daily routine life. Both the householder devotees and the monastic disciples of Ramakrishna regarded her as Guru Maa. She was a highly matured woman in the action of the family. She said once whatever you do take advice of everybody observe the things carefully and take action in a well defined manner so that nobody is hurt. "Learn to make the whole world your own. No one is a stranger, my child; the whole world is your own." Maa Sarada was so much compassionate and tolerant that some examples could well illustrate those unique features of her character. Some Muslim families near Jayrambati used to live on the cultivation of silkworm but due to uneven competition from abroad the trade was dwindled. These Muslim families became

dacoits but at that time there was famine in those Muslim areas. The monks engaged many Muslims in the work of building mother's house at Jayarambati and other household work. The villagers were afraid of this but the behavior of these people was very modest. One day one Muslim brought some bananas and offered them to the Holy Mother for Master. The Muslim man asked mother would you accept these bananas. Mother gladly accepted the bananas despite the objection raised by one of the devotees, Among these Muslims , there was one named Amjad whom the Mother took into her house for a meal. He was seated in the verandah and Nalini her niece was serving him. Owing to caste scruples, Nalini was standing at a little distance from him and throwing the various items of food into his plate. At this the Holy Mother remarked, 'If you serve a person in this way, can he eat with relish? You give the things to me, I shall serve him.' After he had finished eating, the Holy mother herself washed the place where he had taken food. Nalini was shocked at this and exclaimed, 'O aunt, you are going to lose caste'. The Holy Mother snubbed her with the remark, 'keep quiet. Even this Amjad is my son, exactly in the sense that Sarat (Swami Saradananda) is Despite of her upbringing in a very restricted environment, her maternal instinct led her to a level of thought which would not allow any considerations of race or country to interfere with the free play of her universal love.

She accepted people from all castes and backgrounds without any discriminations. She offered spiritual guidance with humility and simplicity. She lived an outwardly simple domestic life while radiating divine motherhood. The mother had very strong view against early marriage practices. Two unmarried girls whose age was 20/22 were in the school of Sister Nivedita. Mother mentioned that these girls are learning various work in such a beautiful manner. She lamented simultaneously on the condition that people of this unfortunate ill-fated state (Bengal) got their females married before they crossed the age of 8yrs.

She guided her 'children' in every stage of difficulty. She was instrumental in acquiring the much-needed land for the temple of Sri Ramakrishna, and for the accommodation and stay of the disciples at one place. Thus Belur Math and Ramakrishna mission came into existence. She became the supreme personality and guide the Mission and behaved like a matured leader when the Mission and the Math was at its nadir. When Swami Saradananda, the then Secretary of the Order, informed Holy Mother of this development, she listened to him calmly and then assured him that the monks of the Order had 'shunned personal worldly enjoyment and dedicated their lives to serve the country and suffering people'. She ended her remarks with a firm expression of confidence that the monks dedicated to Ramakrishna would not hypocritically live as monks while engaging in political activity: 'My son, why would they pretend?' She then urged him to request an interview with the Governor, assuring him that, as Carmichael was 'the representative of the king. If you explain to him the activities of the Ramakrishna Mission, he will definitely listen.' After Swami Saradananda met the Governor as per instruction of Holy Mother and clarified the Mission and purpose of Ramkrishna Mission The Governor withdrew his stand on Ramkrishna Mission expressing his regret in a letter dated 26<sup>th</sup> March 1917. The practical sense of the Mother was so perfect that with her initiative that Ramkrishna Mission was saved from a disaster.

Numerous illustrations can be cited to demonstrate the modern matured outlook of the Holy Mother who kept herself veiled and did not get the so called modern education but in spirit and her gestures she was far ahead of her time , appeared as a true leader, philosopher and

guide of Ramkrishna Mission .Her life was a symbol of dedication, purity, tolerance, sacrifice, modernity and an ideal womanhood.

### III. MOTHER TERESA-AN EPITOME OF UNIVERSAL LOVE

Mother Teresa was the founder of the **Missionaries of Charity** in Kolkata, she dedicated her life to serve the poorest of the poor. She cared for the sick, destitutes, shelterless, orphans, and leprosy patients. She saw God in every suffering person. According to her, service was prayer and compassion was faith in practice. At the age of 18, she left home to join the Sisters of Loreto in Ireland and later moved to India. In 1929 she made her maiden trip to Darjeeling. She took her first vows in 1931 and came to be known as **Sister Teresa**. She taught at St. Mary's School in Kolkata and later became headmistress. During this time, she witnessed extreme poverty in the slums of Kolkata. On 10 September 1946, while traveling to Darjeeling, she experienced what she described as a "**call within a call**"—a divine inspiration to serve the poor. In 1950, she laid the foundation of **Missionaries of Charity** in Kolkata. Her life remains an example of **universal motherhood, humanitarian service, and spiritual devotion**. The Missionaries of Charity is a religious order dedicated to serve the poorest and most downgraded communities. After receiving the necessary permissions from church authorities, Mother Teresa began her mission by providing education and care for the destitute, the sick, regardless of their faith.

Throughout her life, Mother Teresa received international awards, Bharat Ratna including the Nobel Peace Prize in 1979, for her outstanding contribution for the service of humanity. After her demise in 1997, her legacy continued to flourish, with thousands of nuns now operating over seven hundred convents in more than 130 countries, providing vital humanitarian services worldwide.

### IV. MAA ANANDAMAYI-UNIQUE COMBINATION OF UNIVERSAL LOVE AND SPIRITUALITY

Maa Anandamayi was one of the most revered spiritual figures of modern India. She is known for her radiant smile and divine presence, she was regarded by her devotees as an embodiment of bliss and universal motherhood. Her name "Anandamayi" means "**permeated with bliss.**"

She did not found a formal doctrine or religion but inspired countless seekers through her spiritual presence and teachings. Born as **Nirmala Sundari Devi** on **30 April 1896** in Kheora (now in Bangladesh). From childhood, she displayed extraordinary spiritual tendencies. She entered into marriage at a young age, but her life remained deeply spiritual and detached from worldly desires. Even without formal education in scriptures, she demonstrated profound spiritual wisdom. Maa Anandamayi experienced spontaneous spiritual states from an early age. She entered deep meditation naturally. She practiced various spiritual disciplines without formal training. She attained spiritual realization independently. Her husband later became her disciple, recognizing her divine nature. Maa Anandamayi did not preach in a structured way but spoke spontaneously according to the needs of devotees. She emphasized devotion, meditation, and surrender to God. She welcomed people from all religions and backgrounds. She encouraged discipline and spiritual practice. She taught that true happiness comes from realizing one's divinity. Maa Anandamayi treated everyone as her child. Devotees called her

“Maa” (Mother). Anandamayi Ma lived a simple life. She had no possessions nor attachments and called no particular place her home. She was constantly on the move throughout her long life, visiting her devotees and attracting all by the magnetism of her presence till her departure from this earth on August 28, 1982. She lived her life for the sake of her devotees and the world, ever following the currents of her Kheyal, the divine inner prompting that shaped all her movements and activities. People were drawn to her presence and the blissful divine nature of her personality changed them irreversibly and set them on a spiritual course. Though she remained passive, unobtrusive, and mostly silent, ashrams and organizations sprang up in her name, organized by her devotees to provide venues for contact with and care of the multitudes. In her presence the poor were fed and cared for, social boundaries between castes were lowered, barriers between Hindu and Moslem followers were destroyed. She encouraged and inspired all to go forward to their spiritual destination, whatever the individual's path or religion. She drew devotees from India and beyond and the impact and influence of her life on the world was immeasurably immense and continues beyond the lifespan of her human framework. Anandamayi Ma's teachings are universal in nature, transcending religious and cultural boundaries. They focus on self-realization, devotion, and the detachment from materialistic desires. She showed compassion and guidance without discrimination. Her presence alone brought peace to seekers. Her motherhood was mystical and spiritual, not biological. Several ashrams were established across India, including in: Varanasi, Haridwar, Dehradun. These centers became places of meditation, prayer, and spiritual learning. She continued guiding devotees until her last days. She attained Mahasamadhi (passed away) on **27 August 1982** in Dehradun, India. Her Samadhi shrine remains a spiritual pilgrimage site. Represented divine bliss and spiritual motherhood.

She promoted harmony among different religions and communities, advocating for a world united by compassion. She advocated for regular meditation and introspection as means to achieve inner peace and connect with the divine essence within.

Anandamayi Ma encouraged performing one's worldly duties while remaining unattached to the outcomes, aligning with the teachings of the Bhagavad Gita. She taught that one should engage in life's actions without becoming bound by material desires.

Anandamayi Ma's welcomed individuals from all faiths, viewing all religions as different paths leading to the same ultimate truth. She often spoke of the fundamental unity of all beings and the importance of recognizing this interconnectedness.

Anandamayi Ma's teachings offer a holistic approach to spirituality, focusing on love, devotion, and surrender while engaging with the world without attachment.

These features and divine qualities demonstrate her motherly love was encompassing was totally boundless to all caste creeds or any individual.

She never unveiled to others exactly who or what she was. Nevertheless, the people who came in contact with her saw a Divine Personage living amongst humanity, raising the fundamental vibration of the world around her by her mere presence. Her constant care and awareness of those who were drawn to her was never limited to the few who were in her physical presence at any given time. Her influence continues today for all who have the faith to invoke her presence in their lives through the inner contact. She herself remained always humble and never accepted adulation or worship but only lived to invoke the awareness of the One in everyone she came in contact with

## V. CONCLUSION

The study of **Universal Motherhood and its Spiritual Dimensions among the three exemplary personalities** reveal that motherhood transcends biological and social definitions and emerges as a profound spiritual realization rooted in unconditional love, compassion, inclusiveness, and selfless service. Through the lives and teachings of **Sarada Devi, Mother Teresa, and Anandamayi Ma**, universal motherhood manifests in diverse yet interconnected expressions — mystical, spiritual, and humanitarian.

In modern times, universal motherhood holds deep relevance. It redefines leadership as nurturing rather than dominating, strength as compassionate rather than aggressive, and spirituality as inclusive rather than exclusive. It affirms that true power lies in love, service, and unity.

Therefore, universal motherhood is not merely a devotional ideal but a practical ethical framework capable of fostering social integration, interfaith harmony, gender dignity, and governance with compassion. The lives of Sarada Devi, Mother Teresa, and Anandamayi Ma stand as timeless testimonies that maternal consciousness, when universalized, becomes a powerful force for spiritual awakening and human transformation. The worldwide tension, war, subordination, subjugation and denial of liberty, draconian rule and administrative misgovernance, disharmony, wide scale dissension have turned this planet an incorrigible hell. At this critical juncture the likes of universal mothers like Maa Sarada, Mother Teresa and Anandamayi Maa had been a glimmer of hope. If we can follow the noblest example of immaculate and exemplary life of the holy souls, the human society will be free from all uncharitable feelings among the individuals, nations and the institutions with death Knell of all fanaticism persecutions with the sword and draconian rules prevailing in the world.

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# SURROGACY AT THE CROSSROADS: NAVIGATING LAW AND MORALITY

## Abstract

Surrogacy has surfaced as a significant advancement in assisted reproductive technology, providing a means to parenthood for individuals and couples who are struggling to conceive or sustain a pregnancy. Surrogacy is the practice in which an individual carries and delivers a child for a third party. In the present scenario it has arisen as a multifaceted convergence of legal, ethical, medical, and human rights considerations. The progress in assisted reproductive technologies has broadened the possibilities for parenthood, however, it simultaneously prompts significant enquiries regarding bodily autonomy, contractual obligations, and the commodification of reproduction. The diversity of legal frameworks across different jurisdictions is notable, with certain nations permitting commercial surrogacy, others restricting it to altruistic arrangements, and many outright prohibiting the practice. The objective of the article is to explore the discussions surrounding the legal and ethical considerations which center on matters of exploitation, consent, and the well-being of both surrogate mothers and their offspring. The article focuses on the Surrogacy Regulation Act 2021 supported by ICMR guidelines which establishes a prohibition on commercial surrogacy, permitting solely altruistic surrogacy arrangements. Further the article concludes that to effectively tackle these challenges, it is imperative that surrogacy be governed by stringent regulations within a framework that prioritises altruism, ensuring that such arrangements are founded on compassion rather than financial gain.

**Keywords:** Surrogacy, Autonomy, Parenthood, Ethics, LGBTQ+, Assisted Reproductive Technology.

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## I. INTRODUCTION

Thanks to her special ability to bring life into the world and nurture it, mothers are revered as holy beings by their offspring. Motherhood consistently held a paramount position among all the various states of existence. (Patil, 2023) She brings forth new life and provides sustenance. She dedicates herself entirely, even at the cost of her own existence, for the benefit of the child. This remarkable opportunity is not accessible to all women globally. (Patil, 2023) A significant number of individuals are grappling with the challenges of infertility or various medical conditions that impede their ability to conceive children. They express a deep desire to welcome a child into their family. Although initially met with skepticism by numerous individuals, it is now broadly embraced to achieve the aspiration of having genetically related progeny. We can even notice that India has emerged as a prominent destination for individuals seeking medical expertise, surrogate services, and other necessary facilities, all of which are accessible at remarkably low costs. This phenomenon has expanded to such a degree that it is now referred to as the womb outsourcing industry.

## II. LITERATURE REVIEW

- 1. Gamble Natalie, (2025) Future Directions in Surrogacy Law, Bristol University Press:** This book combines rigorous analysis, insights from practitioners, and personal testimonies from participants in surrogacy, rendering it both thorough and approachable. The publication promotes reforms focused on the welfare of children, such as pre-birth parental orders, surrogacy registries, and detailed payment regulations, while dismissing absolute prohibitions on commercial arrangements. It adeptly places UK policy within the framework of international contexts, emphasizing the dangers associated with unregulated markets and advocating for ethical regulation as opposed to outright prohibition.
- 2. Dr. Dhar Souvik, (2025) Surrogacy Laws in India, Namya Press:** The handbook demonstrates a commendable ability to elucidate intricate legal provisions, such as eligibility criteria, prohibitions on commercial surrogacy, and the rights of surrogate mothers and children, thereby rendering it accessible for both practitioners and researchers. The analysis underscores the complexities of implementation, particularly regarding ethical dilemmas associated with models that prioritize altruism exclusively, as well as the potential exclusions faced by singles or couples living together. This discussion is further enhanced by relevant case studies and judicial interpretations.
- 3. Kirtipal Singh Kabawat & Dr. Govind Singh Rajpurohi, A critical Analysis of the Surrogacy Regulation and The Assisted Reproductive Technology Regulation Act 2021 of India: - In special reference to women right of reproduction, International Journal of Law, 11(7), (2025) 45-47:** The authors commend the Acts for their effectiveness in limiting commercial exploitation through benevolent mandates, stringent clinical oversight, and safeguarding measures for surrogates and children, facilitated by well-defined board structures and consent processes. They critically examine the exclusions based on eligibility for singles, LGBTQ+ individuals, and live-in partners, as well as the onerous certificates that restrict access to family formation. The identification of implementation gaps that may lead to black markets and excessively rigid provisions underscores the necessity for nuanced reforms aimed at harmonizing ethics and inclusivity.

- 4. Chatterjee Sangeeta, Surrogacy (Regulation) Act 2021 in India: Problems and Prospects, 2, AIJACLA, (2022)52-67:** The article thoroughly analyses the transition of the 2021 Act from a focus on commercial surrogacy to one focused on altruistic practices. She commends its regulatory framework as a crucial measure against exploitation and the commodification of children. She offers a pointed critique of the exclusions based on eligibility for singles, cohabiting couples, and foreigners, as well as the procedural obstacles such as essentiality certificates that restrict access. The analysis cautions against the emergence of potential underground markets stemming from altruistic mandates, while emphasizing the opportunities for ethical standardization and the preservation of women's dignity.
- 5. Isha Saluja, Regulating Commercial Surrogacy Through Relational Autonomy in India, ILI Law Review, (2023)142-162:** This article reframes surrogacy regulation through the lens of relational autonomy rather than individual choice paradigms. She critiques the outright commercial ban of the Surrogacy Regulations Act 2021, contending that it fails to consider the surrogate's embedded social contexts, familial influences, and economic realities that inform genuinely autonomous decisions. She supports the implementation of regulated commercial surrogacy, emphasizing the necessity of comprehensive safeguards such as insurance, counseling, and equitable compensation. This approach aims to empower marginalized women and mitigate the risk of exploitation, informed by principles of feminist rational theory. The examination juxtaposes India's paternalistic framework with international paradigms, emphasizing how relational autonomy more effectively reconciles surrogate agency, child welfare, and market ethics. This sophisticated article serves as essential reading for those seeking nuanced alternatives to the binary debates surrounding the prohibition versus the free market in surrogacy.

### III. OBJECTIVES

This research paper aims to delve into the discussion regarding the legal and ethical dimensions that focus on issues of exploitation, consent, and the welfare of surrogate mothers and their children. The article examines the Surrogacy Regulation Act 2021, which is underpinned by ICMR guidelines, instituting a ban on commercial surrogacy and allowing only altruistic surrogacy arrangements. Moreover, the article concludes that to effectively address these challenges, it is essential that surrogacy be regulated by strict guidelines within a framework that emphasizes altruism, ensuring that such arrangements are based on compassion rather than monetary profit.

### IV. METHODOLOGY

Primary and secondary data serve as the foundation of research methodology, particularly in the sophisticated realm of surrogacy, at which legal, moral, and social considerations necessitate ample proof. This study exclusively relies on secondary data to investigate the research methodology related to surrogacy. This methodology encompassed a thorough examination of established resources, including scholarly articles, governmental publications regarding surrogacy legislation, statistical repositories related to fertility interventions, and peer-reviewed research on the experiences of surrogates. Through a careful examination of defined resources, the study adeptly synthesized historical trends, legal frameworks, and

psychosocial insights, thereby circumventing the ethical and logistical challenges associated with primary data collection and ensuring a solid, verifiable foundation for the analysis.

## V. EVOLUTION OF SURROGACY

As mentioned above, surrogacy has long been an integral aspect of human reproduction and family formation. Surrogacy in India has transitioned from an unregulated commercial industry in the early 2000s to a rigorously controlled altruistic framework by 2021, influenced by concerns regarding exploitation, ethical dilemmas, and notable legal cases.

The phenomenon of surrogate motherhood gained prominence on the global stage during the mid-1970s. (Sen,2022). This shift was largely attributed to a decline in the availability of children for adoption, coupled with advancements in human embryology that rendered these methods a practical alternative to the often protracted and unpredictable processes of adoption or the experience of childlessness. (Sen,2022). Initial Progression of commercial surrogacy gained prominence in the early 2000s following a 2002 High Court decision that legalised the practice, positioning India as a global hub for surrogacy, with expenses significantly lower than those in Western countries. The ICMR guidelines issued in 2005, while non-binding, provided a framework for clinic standards and surrogate rights. (Goel,2021). However, these guidelines faced challenges in enforcement, particularly considering the swift expansion to over 3,000 clinics. (The Surrogacy Regulation Act, 2021). In pre 2008 phase commercial surrogacy boomed after a 2002 Bombay High Court ruling legalised it, positioning India as a low-cost global hub with over 3,000 clinics by the mid-2000s the ICMR's 2005 non-binding guidelines attempted to standardise practices and protect surrogates but lacked enforcement amid rapid commercialization. (The Surrogacy Regulation Act, 2021). Judicial intervention marked key turning points such as the 2008 *Baby Manji Yamada* case involving a Japanese couple abandoned child, which exposed citizenship and parental disputes and the 2009 Jan Balaz ruling granting Indian citizenship to twins born to German parents. These cases underscored regulatory voids without establishing comprehensive laws. (Baby Manji Yamada v. Union of India, 2008). Between 2008 and 2015, several ART Bills were introduced especially in the following years 2008, 2010, 2013, and 2014 aiming to address commercial practices and regulating clinics. However, these efforts consistently faced delays in Parliament, despite the Law Commission Report 228 advocating for legislation specifically pertaining to surrogacy. (Parry & Ghosal, 2018) The implementation of stricter policies in 2012 regarding visa regulations for foreigners culminated in a prohibition on commercial surrogacy and medical tourism visas in 2015. (Hindustan Times, 2018).

The transition to a model centred on altruism became firmly established during the period from 2016 to 2021. The 2016 Surrogacy Bill limited surrogacy arrangements to close relatives, allowing only for the reimbursement of medical expenses. Although it passed in Lok Sabha, it ultimately lapsed. The bill was reintroduced in 2019 and subsequently refined in 2020 to include provisions for widows and divorcees. The Surrogacy (Regulation) Act 2021, which came into effect in 2022, instituted National and State Boards, mandated the registration of clinics, and imposed eligibility criteria restricting participation to Indian couples who have been married for a minimum of five years, with age limits set at 23 to 50 for women and 26 to 55 for men. Individuals demonstrating established infertility are eligible, whereas surrogates are required to be between the ages of 23 and 35 and must have previously given birth to at least one child. (The Surrogacy Regulation Act, 2021).

Following the 2021 amendments, penalties for violations such as arrangements or exploitation now encompass imprisonment terms ranging from 5 to 10 years, alongside fines that may reach up to 10 lakhs. We can notice the challenges in enforcement continue to exist, leading to certain activities being driven underground or across borders, with no substantial amendments noted as of 2026.

## VI. CHALLENGES IN THE CURRENT ERA

The Surrogacy Regulation Act 2021 in India prohibits commercial surrogacy, allowing only altruistic gestational surrogacy for specific groups. These include married heterosexual couples aged 23-50 for women and 26-55 for men, as well as widows or divorcees aged 35-45 who can demonstrate medical infertility. (Chatterjee,2022). This framework aims to protect surrogates and children from exploitation, particularly considering India's historical position as a surrogacy hub. Nonetheless, the stringent eligibility criteria have ignited discussions surrounding equity and access. (Chatterjee,2022)

A fundamental issue resides in the Act's narrow eligibility criteria, which excludes individuals, live-in partners, LGBTQ+ persons, and non-binary individuals. Critics contend that this exclusion infringes upon Articles 14 and 15, as well as reproductive rights and privacy as enshrined in the Indian Constitution. (Parashar & Nirwani 2025) Surrogates are restricted to married close relatives aged 25 to 23 who have at least one prior child, thereby constraining choices and potentially exposing individuals to familial pressure. The methodology aligns with broader global frameworks akin to those implemented in Canada or the United Kingdom. (Parashar & Nirwani, 2025)

The prohibition of commercial surrogacy eliminates financial motivations for women from economically disadvantaged backgrounds, who previously gained considerable advantages, thereby risking the possibility of the practice becoming clandestine with diminished oversight. Although aimed at preventing exploitation, it fails to recognise the agency of surrogates by framing surrogacy as a legitimate form of labour. Mandated insurance provides coverage for merely 36 months following delivery, neglecting the long-term health risks that may arise, including reproductive complications and psychological trauma. (Ranjan & Mehra,2024).

The implementation encounters significant challenges, notably the limited availability of altruistic surrogates beyond familial circles and the intrusive demands such as infertility certificates mandated by District Medical Boards, which infringe upon privacy rights as outlined in Article 21. The ambiguity surrounding regulations for abandoned children, the susceptibility of clinic registration to corrupt practices, and the inadequate enforcement measures against sex selection contribute to widening disparities. The absence of medical health support for surrogates and the unresolved bonding issues for children is a significant concern that warrants attention. (Sachin, 2023).

Recent judicial scrutiny, including interventions by the Supreme Court regarding access to secondary infertility, highlights the persistent debates surrounding inclusivity and enforcement. The legislation underscores established patriarchal structures by favoring conventional marriage arrangements, thereby leaving unresolved issues regarding citizenship for children born via surrogacy. It is imperative to advocate for reforms that strike a balance

between safeguarding interests and upholding broader rights, all while effectively addressing and mitigating illicit practices. (Parashar & Nirwani, 2025)

## VII. APPLIED LAWS AND CASES

The evolution of India's surrogacy landscape has transitioned from a predominantly unregulated commercial environment to a meticulously governed altruistic framework, as established by the Surrogacy Regulations Act of 2021. This legislation tackles ethical issues such as exploitation, while delineating eligibility, rights, and penalties, influenced by significant Supreme Court rulings.

### 1. Regulatory Structure

The Surrogacy Regulation Act 2021 entered effect on January 25, 2022, prohibiting commercial surrogacy and allowing payments to surrogates solely for medical expenses, insurance, and lost wages. It permits only altruistic surrogacy, wherein the surrogate does not receive any financial compensation. (Sakshi,2022) The framework establishes boards at the national, state, and district levels to regulate surrogacy clinics, which are required to register and secure prior approvals. Noncompliance may result in penalties of up to 10 years of imprisonment and fines reaching 10 lakhs. Surrogate mothers are required to be married women between the ages of 25 and 35 who have previously given birth, must be related to the intended couple, and are permitted only one surrogacy arrangement in their lifetime. Additionally, they are prohibited from donating their own gametes.

Couples intending to marry, where at least one partner is an Indian citizen and they have been married for a minimum of five years, must ensure that the wife is between the ages of 23 and 50 and the husband is between 26 and 55. They are required to obtain a medical certificate of infertility from a District Medical Board, demonstrating that there are no surviving children, except in circumstances of disability or death. The procedure necessitates a judicial decree affirming parentage, a 36-month insurance policy for the surrogate, and documented, revocable consent from all involved parties prior to implantation. Individuals such as foreigners, NRIs, PIOs, single persons, couples living together, and those identifying as LGBTQ+ are not included, with a clear emphasis on emphasizing married heterosexual couples from India.

Prior to 2021, judicial bodies addressed regulatory deficiencies. In the case of *Baby Manji Yamada v. Union of India* (Baby Manji Yamada v. Union of India 2009) the Supreme Court took decisive action when a Japanese couple left their surrogate-born child during their divorce proceedings. The Court awarded guardianship to the paternal grandmother and called for legislative measures to address matters of parentage, nationality, and abandonment. *Jan Balaz V Anand Municipality* (Jan Balaz V Anand Municipality 2009) concerned twins born to a German couple through an Indian surrogate. The court issued passports and exit visas following DNA confirmation, highlighting citizenship dilemmas and advocating for uniform legal frameworks.

The ruling in *Vijaya Kumari v Union of India* (Vijaya Kumari v Union of India 2025) post-Act examined the retrospective application of age limits (50 for females and 50 for males). The Supreme Court determined that these limits do not apply to couples who conceived or frozen embryos prior to 2022, thereby protecting vested rights under Article 14 while

affirming the Act's purpose of preventing exploitation. The ongoing appeals in *Laxmi v Union of India*, (Laxmi V Union of India 2016) raise significant challenges regarding the exclusions faced by singles and those in live-in relationships, invoking principles of privacy and equality as enshrined in Articles 14, 19, and 21.

## 2. Obstacles and Transformations

Opponents contend that the Act undermines reproductive autonomy by banning commercial surrogacy, which may infringe upon the rights to life, dignity, and procreation as outlined in Article 21, while also pushing such practices into the shadows through the emergence of unethical clinics. (Saluja, 2023) The stipulation regarding surrogates who are solely relatives constrains available choices, imposes undue burdens on families, and overlooks the potential contributions of altruistic non-relatives. Furthermore, the requirement for mandatory disclosure of infertility issues encroaches upon personal privacy. The exclusions faced by those experiencing secondary infertility, same-sex couples, and singles serve to perpetuate discrimination, which stands in stark contrast to the principles established in *Navtej Singh Johar v Union* (Navtej Singh Johar v Union 2018) of India that decriminalized homosexuality.

Enforcement gaps continue to exist, as understaffed boards are causing delays in the issuance of certificates and citizenship for children born through surrogacy to non-resident Indians. The situation remains ambiguous, even in light of the provisions outlined in the Overseas Citizen of India framework. The proposed reforms encompass the introduction of compensated surrogacy, accompanied by necessary safeguards, the expansion of surrogate eligibility criteria, and the inclusion of live-in partners and LGBTQ+ individuals through constitutional amendments. The Supreme Court remains vigilant in its oversight, carefully weighing the interests of welfare against the principles of access in cases concerning age and intent.

## VIII. RECOMMENDATIONS

Proposals for enhancing the Surrogacy Regulation Act of 2021 in India emphasize the importance of harmonizing the safeguarding of surrogates with the principles of inclusivity and reproductive autonomy. The proposed reforms seek to rectify exclusionary provisions and simultaneously strengthen oversight and support mechanisms.

It is essential to reevaluate the prohibition on commercial surrogacy by permitting regulated compensation for the labor of surrogates. This approach acknowledges the intrinsic value of their contributions while ensuring financial autonomy is achieved without exploitation, through the implementation of caps and appropriate oversight mechanisms. This would broaden the options available for surrogacy, which is presently confined to altruistic family members, and help to eliminate clandestine practices.

Secondly, it is imperative to broaden eligibility criteria to encompass LGBTQ+ individuals, single parents, unmarried couples, and cohabiting partners, thereby ensuring alignment with principles of constitutional equality. Provisions 14 and 21. Reassess inflexible age restrictions. Thirdly, streamline bureaucratic obstacles such as certificates of necessity issued by District Medical Boards to minimize invasions of privacy and delays for couples who are medically eligible. Enhance the authority of both National and State Surrogacy Boards by

improving their capacity for monitoring grievance resolution and regulating clinics to effectively address corruption.

Ultimately, it is essential to implement thorough support measures that encompass lifelong health insurance, psychological counseling for both surrogates and parents, as well as awareness campaigns addressing rights and responsibilities. It is essential to elucidate the citizenship status of children born via surrogacy and to harmonize this with the legal frameworks governing donor gametes in particular medical circumstances, in accordance with the amendments made in 2022.

## IX. CONCLUSION

The Surrogacy Regulation Act 2021 represents a significant transformation in India's stance on surrogacy, emphasizing ethical protections and the prevention of exploitation. However, the challenges it faces include restrictive eligibility criteria, unintended effects of the commercial ban, and gaps in implementation highlight the necessity for more refined reforms. Proposals such as regulated compensation, inclusive access for diverse families, streamlined certifications, and robust support systems present a means to harmonize surrogate protection with constitutional rights as outlined in Articles 14, 15, and 21. Such modifications would serve to alleviate clandestine activities while preserving the autonomy of reproductive choices.

Ultimately, the advancement of the Act through evidence-based amendments, judicial oversight, and alignment with global best practices has the potential to reshape surrogacy into a fair framework that empowers women, supports prospective parents, and prioritizes the welfare of children. By confronting patriarchal biases and shortcomings in enforcement, India has the potential to pioneer humane reproductive regulation, thereby promoting social justice in the context of technological progress in assisted reproduction.

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# EXPLORING SOME GENERAL ISSUES IN DIGITAL REPRESENTATION OF LOW-RESOURCE LANGUAGES FROM NORTH EASTERN INDIA

## Abstract

Low-resource languages can be defined as having a very minimal amount of dataset, less computerized, not having sufficient of linguistic information about them etc. They have relatively less amount of data available for training conventional artificially intelligent (AI) systems. This leads to difficulties in their digital representation and consequently, non-availability for speech and language technologies. In this paper, we try to find out some general issues attached to such representations and suggest language technologies to low-resource language communities, particularly belonging to North Eastern India. In that, we focus our attention to various success and failure stories of some past works in the area and relevant challenges faced by researchers. In addition, we attempt to provide some general ideas on how one can tackle these challenges while working for the low-resource languages in North Eastern India.

**Keywords:** Low-Resource Languages, Language technologies, issues, challenges, North Eastern India

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## **I. INTRODUCTION**

Low-resource (LR) languages may be loosely defined as less studied, having scarcity of resources, less computerized with low density amidst other languages. Thus, we may say that LR languages often lack a unique orthographic system, very rare representation over the internet, do not have a linguistic expertise and also suffer from lack of electronic resources for speech and language processing etc. Thus, these languages differ from the rest and form a separate group for studies and research.

### **1. Need for the representation in digital domain**

Well-resourced languages are represented in digital domain due to availability of datasets with pronunciation dictionaries and stable orthographies. But in LR languages it is very difficult to get these and also at times we don't have any knowledge of them. However, it is needed to represent such LR languages in digital domain so as to avail the advantages of speech technology. This can also help the researchers to communicate with the people with these language groups.

One of the needs for developing digital representations is mainly to meet with the necessities of modern language users across all communities equally. It can help in contributing to language revitalization. Further, it can be useful for language learners, students with dyslexia, people unable to read, vision impaired individuals and many more. As many well-resourced languages are already there in the digital domain, so representing LR languages in this would be very useful. For example, one application of effective multilingual language technology implementation can be cited from Africa [9] 'Viamo', also known as VOTO Mobile, is being started in 2012 which implemented Interactive Voice Response systems (IVRS) in various African languages. This has been done to air public health information.

### **2. Languages of North East India**

India is a country with considerable linguistic diversity. Many a times it so happens that very little knowledge is available for many languages [9] spoken across the country. As per the official language reports, in India languages are divided into several categories, such as scheduled, non-scheduled and mother tongues etc, which offers difficulties in uniform development in language technology. Governments usually provide funds for technology development particularly to the scheduled languages and thus non-scheduled languages and mother tongues are overlooked. The 8-th schedule of the constitution of India lists a total of 22 languages as the officiating languages which are also called 'Scheduled Languages'. The constitution, however, does not prevent a state in India from choosing any other language apart for the scheduled ones as the official language of it. Apart from the census, India has considered 99 languages as 'non-scheduled languages' that have at least, more than 10,000 speakers each. The Northeastern part of India comprises the 'seven sister'-states of Assam, Arunachal Pradesh, Meghalaya, Manipur, Mizoram, Nagaland and Tripura. The state of Sikkim has also been included recently into North Eastern (NE) India. According to the last census there are about 220 languages spoken across the NE states, which belong to mainly Indo-European, Sino-Tibetan, Kra-Dai, Austric and some other Creole language groups[9]. Indo-European is

represented by Asomiya (naive Assamese language), Sino-Tibetan is represented by the Tibeto-Burman languages of Bodo, Karbi, Garo, Mising, Rabha, Dimasa, Kachari, Tiwa, Deuri etc and Tai represented by a few dialects of Tai-Ahom, Tai-Phake, Tai-Khamyang, Tai-Turung, Tai-Aiton and Tai-Khamti. The sole representative of Austric family is Khasi language. It is one of the major languages spoken in the state of Meghalaya. Tibeto-Burman language Meitei is the official language of Manipur, where also spoken Tangkhul-Naga of the same group. Different Tibeto-Burman languages like Ao, Angami, Sema, Lotha, Konyak, Dzemi etc are spoken in Nagaland. Tibeto-Burman kokborak, sometimes also called Tripuri and Bangla are the main languages of Tripura. Mizo and Hmar of the Tibeto-Burman group are the major languages spoken in Mizoram. In Arunachal Pradesh all the major languages belong to the Tibeto-Burman group namely, Hrusso, Tane, Nisi, Adi, Abor, Nocte, Apatani, Misimi, Galong, etc. Nepali, an Indo-Aryan language, is the dominant one in Sikkim, besides the Sino-Tibetan languages Limbu, Bhutia, Lepcha, Rai, Tamang, Sherpa, etc. The table-1 below shows the official language which are spoken across NE India. The majority of languages spoken in the region are thus Tibeto-Burman

**Table 1:** Official languages of NE states

Sl No	Sate	Official language
1	Assam	Assamese, Bengali, Bodo
2	Arunachal Pradesh	English
3	Manipur	Meitei
4	Meghalaya	Khasi, Garo, English
6	Mizoram	Mizo, English
7	Nagaland	English
8	Sikkim	Nepali, English
9	Tripura	Kokborak, Bengali, English

languages. The Tibeto-Burman languages have their own phonological features which are completely different from the mainland Indian languages. Many of these features are not commonly found and hence, they emerge as linguistic challenges to deal with while developing speech and language technology. We explore a few of such features here.

### 3. Some distinctive features of NE languages

The NE India is the part of India constituted of eight states having a population of which is around 45 million. This region is linguistically diverse and can be categorized into three major language families. Each family is represented by native speakers of more than 200 languages. Indo-European and Austro-Asiatic languages are mostly spoken in this area. There is a large number of Tibeto-Burman languages which are spoken across this region, although only two major Indo-European languages are used as native languages: Assamese and Bengali. However, the total number of speakers of these languages is around 27 million. The remaining 18 million speakers share the remaining 200 odd languages. This makes the linguistic situation of the area extremely complicated, and several languages of this region are considered minority languages.

Thus, there is a huge scarcity of linguistic resources among these languages.

Tibeto-Burman languages are known to be mostly tonal in nature, except a few. As the majority of languages spoken in NE India belong to this family, most of them have lexical tones. Lexical tones are generally classified into two groups, viz, (i) Register tone and (ii) Contour tone [10].

The tonal contrast varies in NE Indian languages ranging from one tone to five tones (or sometimes even more!), which include both Register and Contour tones. While, Bodo language is reported to be a two-tone language [11],

Mizo has four lexical tones in its inventory [12]. Acoustic studies have been conducted for several languages and dialects but there still remains a large number of tonal languages in the region with little knowledge available. For language technology development incorporation of tone information is of utmost necessity, because it affects the recognition rate (RR) accuracy by disambiguating the words. Several works have shown the advantages of incorporating this in the development of Automatic Speech Recognition (ASR) systems in tonal languages [13].

Moreover, tone modeling needs to be exhaustive since some studies showed that tones and segments interact with each other in a predictable manner [14]. Although nasal sounds are phonemically voiced, several Tibeto-Burman languages exhibit phonemic contrast between voiced and voiceless nasals. Tibeto-Burman languages spoken in NE India, viz, Mizo and Angami, also exhibit evidences for voicing distinctions in nasals [9]. Mizo language voiceless nasals are primarily voiceless with a bit of voicing towards the end of the nasal segment. On the other hand, Angami voiceless nasals are entirely voiceless with aspiration at the end [15].

Such phonetically similar segments may pose challenges in speech technology development. Languages in NE India also show the aspiration of the fricative sounds. Bodo and Rabha have reported the existence of aspiration associated with voiceless, alveolar fricatives [16]. It is reported that phone recognition in Rabha language is better when aspiration in fricatives is taken into account [17].

## **II. PROGRESS IN SPEECH TECHNOLOGY FOR LR LANGUAGE AROUND THE GLOBE AND WITHIN INDIA**

We report here some recent progress in development of speech technology over world-wide and then in Indian context, before highlighting the issues related to NE languages.

A significant study on LR Language Identification (LID) is done by [1] in 2019. Here two approaches are there that deal with the language identification (LID) tasks. The first approach uses data augmentation by incorporating various distortions in the original dataset. The second approach relates to a multi-lingual bottleneck feature extraction (BNF) using on speech recognition systems for different languages. Experiments conducted by various research groups on both the i-vector and x-vector models demonstrated that both approaches are effective and can obtain promising results on in-domain data and out-of-domain data.

In a separate study, in the year 2019, Kexin Feng et.al [2] worked on LR LID from Speech using ‘Transfer Learning’. Here, they explored transfer learning systems that employ various neural network (NN) architectures. Here, they created the large data-sets for language identification models using feed- forward neural networks. These are further fine-tuned on the LR data from a target domain to improve the system performance. They applied the proposed approach to the automatic identification of some African languages, which comprises a challenging task due to being LR languages themselves.

They conducted the experiments using two publicly available data-sets: the ‘VoxForge’ corpus which contains 7 Indo-European languages as source data, and the ‘Lwazi’ corpus which includes 11 African languages as target data.

Recently, in the year 2021, Tharindu Ranasinghe and Marcos Zampieri [3] had worked on Multilingual offensive Language Identification for LR Languages. Here, they used the available English data sets by applying cross-lingual contextual word embedding and transfer learning to make predictions in such languages. They projected predictions on comparable data in Arabic, Bengali, Danish, Greek, Hindi, Spanish, and Turkish. They reported competitive performance on Arabic, and Turkish using the training and development sets of ‘OffensEval 2020’ shared task.

In the year 2021, yet another study by R. Bedyankin and N. Mikhaylovskiy [4] showed that a convolutional neural network (CNN) with a Self-Attentive Pooling layer produced promising results in LR language identification task. They set up a system for the LR data ASR challenge. The confusion matrix for the LID system bears the language similarity measures as well.

With these recent advances across the world, we now focus our attention to the Indian context and report a few progress in speech technology developments for Indian languages

In the year 2021, Kusampudi et.al [5] introduced two Telugu-English manually annotated data-sets (Twitter data-set and Blog data-set). The Twitter data-set has a lot of Romanization variability and also misspelled words as compared to the blog data-set. Authors then compared them across various classification models. Additionally, they performed extensive bench-marking using both Classical and Deep Learning Models for LID as compared to existing models. They proposed two models for language classification in the data:

**Word Level Classification Sentence Level word-by-word Classification** In another study, S. Gaikwad et.al [6] worked on Cross-lingual Offensive Language Identification for LR Languages: the case of Marathi, where they introduced the Marathi Offensive Language Data-set (MOLD). MOLD is the first data-set of its kind compiled for Marathi, thus opening a new domain for research in LR Indo-Aryan category of languages.

In the year 2021, D.N. Krishna [7] worked on Multilingual Speech Recognition for LR Indian Languages using Multi-Task transformer. He proposed a multi-task learning-based transformer model for LR multilingual speech recognition for Indian

languages. His proposed model consists of a transformer encoder and two parallel transformer decoders. He used a phoneme decoder (PHN-DEC) for the phoneme recognition task and a grapheme decoder (GRP-DEC) to predict grapheme sequences. He considered the phoneme recognition task as an auxiliary task for our multi-task learning framework.

He jointly optimized the network for both phoneme and grapheme recognition tasks using Joint CTC-Attention training. He used a conditional de-coding scheme to inject the language information into the model before predicting the grapheme sequence. His experiments showed that his proposed approach could obtain significant improvement over previous approaches.

In the year 2021, Joyanta Basu et.al [8] worked on a Multilingual Speech Corpus in LR Eastern and NE Indian Languages for Speaker and Language Identification. Here, they illustrated the creation process of such an LRL corpus comprising of sixteen rarely studied Eastern and Northeastern (E & NE) Indian languages and presented the data variability with different statistics. Furthermore, several experiments were carried out using the collected LR corpus to build baseline speaker identification (SID) and LID systems for acceptance evaluation. Vector quantization (VQ), Gaussian mixture models (GMMs), support vector machine (SVM), and multilayer perception (MLP)-based models were developed to represent the speaker and language-specific information captured through the spectral features. Apart from this, i-vectors, time delay neural networks (TDNN), and recurrent neural network with long short-term memory (LSTM-RNN) method-based SID and LID models were being experimented with to comply with the recent approaches. Performances of the developed systems were analyzed with LRL corpus in terms of SID and LID accuracy

### **III.ISSUES RELATED TO LOW RESOURCE LANGUAGES IN NORTH EAST(NE) INDIA**

With the recent progress in development of speech and language technologies a few concerns may be highlighted here for the LR languages from NE India. The major issue in NE India languages is that many languages are now endangered. They do not have proper orthography, phonological structure, dictionary etc. So with the limited amount of knowledge available, it is very difficult to build the speech technology. There are many more challenges one gets prompted to face while dealing with LR languages in the region. These may be categorized as under- Ethical Challenges: Often faced while collecting the data. One cannot be forced provide data. So, it is needed to know how to collect datasets properly. Recording of sensitive information is often a difficulty. One cannot loose any data due to mismanagement or handling. Amount of Compensation which may vary for collecting data.

#### **1. Procedural Challenges:**

- One has to take care for collecting the data.
- Finding right person/resource is very important.
- Selection of the right variety of data.
- Finding suitable environments of data Recording.

## 2. Technical Challenges

- Manual annotation of data sometimes requires native level knowledge of languages.
- Spectrogram Analysis often requires good quality hardware/software
- Deep learning based methods often require costly hardware

## 3. Acoustic-phonetic challenges

- Estimating exact phoneme Boundaries
- Classifying articulatory features
- Identifying phonemes from spectrogram
- Requires mastery of soft wares and sound understanding
- With a large data-set, manual annotation is often time consuming

## 4. Theoretical Challenges

- **Minimal pairs:** a common test to decide whether two phones represent different phonemes or are allophones of the same phoneme. However, absence of minimal pairs for a given pair of phones does not always mean that they belong to the same phoneme.
- Minimal pairs are not always easy to find.
- **Near-minimal pair:** A pair of words differing by a few (but more than one) phonetic segments.
- Virtually impossible to find a minimal pair to distinguish among English sounds
- Often sounds are affected by the environments in which they occur.
- Vowels are longer before the voiceless consonants.
- Words are in isolation, in framed contexts, in spontaneous speech.

## IV. POSSIBLE WAYS TO OVERCOME THE CHALLENGES

With these challenges in mind, we outline the most relevant techniques that may be adopted for effective results with LR languages from NE India.

**Transfer Learning:** Transfer learning is a way of solving new tasks by leveraging prior knowledge in combination with new information. It is a common phenomenon observed in humans. For example, a random athlete is much more likely to beat a random individual with no athletic background in a physical sport new to both. More importantly, the athlete will likely take fewer resources (time) to learn the new sport.

So here, we base the foundations of our models on language models that are like general athletes who can adapt to a new sport even in low-resource setting. Base language models themselves do not require “annotated” data and learn generic language capabilities by self-learning in an unsupervised fashion. Nonetheless, they are not very useful for specific tasks like classifying user intents off-the-shelf. So, we must fine-tune these base language models to accurately solve user-specific tasks that normally have very small amounts of annotated data. Consequently, our models learn to solve the tasks accurately despite low resources for annotated data, via transfer learning.

**Multilingual Learning:** Multilingual Learning is a technique where a single model is trained on multiple languages. The assumption is that the model learns representations that are very similar for similar words and sentences of different languages. Thus, this can also assist cross-lingual transfer learning as knowledge from data for high-resourced languages like Hindi can transfer to the model's representations for LR languages like Bodo. This way, base models can perform better on LR languages despite lack of enough text corpora.

**Data Augmentation:** Data augmentation is a data pre-processing strategy that automatically creates new data without collecting it explicitly. For instance, in a sentiment classification task, "Today is wonderful" can be altered to "today is a great day". This alteration increases and possibly diversifies training data in an automatic way. Importantly, augmentation should be such that the ground-truth of any new instance does not change, in this case, "positive sentiment". Unlike other data collection strategies, data augmentation is very cheap, fast, and usually does not require human involvement.

## V. CONCLUSION

So in this paper, we have tried to explore some issues related to LR LID tasks for NE-India and provide some general solutions to it. There are some practical difficulties in actual implementation because collection of raw data from all LR languages of NE would require enough efforts. Here, we proposed some general idea about what is an LR language and how to identify one. Further, we discuss how such languages are different from Main land Indian languages. Besides, we talked about what general challenges are faced by researchers while working on such LR languages and finally some broad directions to overcome such problems. Thus the extension of this work may be considered for digital representation of at least a few LR languages chosen from NE India and use technology that are possible.

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# FROM BIOLOGY TO CHOICE: UNDERSTANDING THE CONCEPT AND LEGAL CHALLENGES OF ALTERNATIVE MOTHERHOOD

## Abstract

Motherhood has traditionally been understood within the framework of biological reproduction within heterosexual marriage. However, changing social structures, technological advancements in reproductive medicine, and evolving legal frameworks have significantly expanded the meaning and practice of motherhood. This paper explores the concept of alternative motherhood, examining its diverse dimensions such as single motherhood, adoption, surrogacy, assisted reproductive motherhood and queer or transgender motherhood. It analyses the social, cultural and legal implications of these emerging forms of motherhood with particular reference to the Indian context.

The study highlights how women and gender-diverse individuals increasingly exercise reproductive autonomy through non-traditional paths to parenthood. While these forms of motherhood provide new possibilities for family formation, they also face social stigma, ethical concerns and complex legal regulations. Laws governing adoption, surrogacy and assisted reproductive technologies demonstrate the state's role in recognizing and regulating these alternative maternal identities. At the same time, the emergence of queer and transgender motherhood raises important questions about inclusivity and equality within existing family and reproductive laws.

Through an examination of legal frameworks and social realities this paper argues that motherhood today cannot be confined to biological determinism. Rather it must be understood as a broader social

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and emotional institution grounded in care, responsibility and nurture. Recognizing and legitimizing diverse forms of motherhood is therefore essential for building a more inclusive legal and social understanding of family in contemporary society.

**Key words:** Alternative Motherhood, Single Motherhood, Surrogacy, Adoption, Assisted Reproductive Technology

## I. INTRODUCTION

Motherhood has traditionally been understood as a biological and socially prescribed role tied to pregnancy and childbirth within heterosexual marriage. For centuries, society equated motherhood with the biological capacity of women to bear children, reinforcing the belief that maternal identity is inseparable from reproduction. However technological advancements, changing social norms and evolving legal frameworks have expanded the meaning of motherhood beyond biological determinism. In contemporary society, motherhood increasingly reflects choice, identity and social construction rather than merely biological function.

The concept of alternative motherhood has emerged as an umbrella term describing diverse pathways to motherhood that diverge from traditional biological reproduction. These include single motherhood by choice, adoption, surrogacy, assisted reproductive technologies (ART) and queer or transgender parenting. Each of these challenges conventional ideas of family structure, parenthood and gender roles. In the twenty-first century scientific developments such as in vitro fertilization (IVF), egg donation, and gestational surrogacy have transformed reproductive possibilities. Women who previously faced infertility or social barriers can now experience motherhood through medical intervention or social arrangements. Similarly social movements advocating gender equality and LGBTQ+ rights have broadened the definition of family recognizing that parental ability is not confined to traditional gender norms.

Despite these progressive developments, alternative motherhood often encounters complex legal, ethical and social challenges. Questions surrounding parental rights, citizenship of children born through surrogacy, rights of donors, and recognition of non-biological parents continue to generate debates in legal and academic circles

In India the legal landscape has evolved significantly with the introduction of regulatory frameworks such as the Surrogacy (Regulation) Act, 2021 and the Assisted Reproductive Technology (Regulation) Act, 2021. While these laws attempt to regulate reproductive technologies and protect vulnerable women from exploitation, they also impose restrictions that may limit reproductive autonomy for certain groups, particularly single individuals and members of the LGBTQ+ community.

Thus the study of alternative motherhood is not only about reproductive technologies but also about autonomy, rights, social justice and gender equality. It raises important questions about who is permitted to become a parent, how society defines family and what legal protections exist for diverse forms of parenthood.

## **II. LITERATURE REVIEW**

Scholarly discussions on motherhood have evolved significantly over the past few decades moving from biological essentialism to sociological and feminist interpretations of Early sociological studies viewed motherhood primarily as a natural and biological destiny for women. Scholars such as Talcott Parsons emphasized the role of women within the nuclear family as caregivers and nurturers, reinforcing traditional gender roles.

However feminist scholars began to challenge this perspective. Adrienne Rich, in *Of Women Born*, distinguished between the experience of motherhood and the institution of motherhood arguing that societal expectations often constrain women's autonomy. Later research expanded the understanding of motherhood as a socially constructed role shaped by cultural, economic and legal factors.

## **III. ALTERNATIVE MOTHERHOOD IN ACADEMIC DISCOURSE**

Researchers have increasingly explored non-traditional forms of motherhood.

Studies on single motherhood by choice highlight how women are redefining motherhood as a deliberate life decision rather than a consequence of marriage.

Research on adoption emphasizes the importance of emotional bonding and social parenting demonstrating that biological connection is not the sole determinant of maternal identity.

Surrogacy has received extensive scholarly attention particularly in countries like India that once became global hubs for commercial surrogacy. Scholars such as Amrita Pande have examined the ethical and economic dimensions of surrogacy, focussing on issues of labour, exploitation and reproductive rights.

Similarly studies on assisted reproductive technologies (ART) explore how medical science is reshaping reproductive possibilities while raising ethical questions about genetic parenthood, donor anonymity and reproductive commercialization.

**Queer and Transgender Motherhood** - Recent academic literature has also addressed the experiences of LGBTQ+ parents. Scholars argue that queer parenting challenges the heteronormative assumption that families must consist of a mother and a father.

Research indicates that children raised in diverse family structures demonstrate similar psychological and emotional outcomes as those raised in traditional families undermining arguments against non-traditional parenting.

**Legal Scholarship** - Legal scholars have analyzed how laws struggle to keep pace with evolving family structures.

### **1. In India Several Legal Debates Focus On:**

- Regulation of surrogacy

- Rights of single parents.
- Legal recognition of LGBTQ+ families.
- Citizenship and identity of children born through assisted reproduction.
- The Surrogacy Regulation Act (2021) replaced earlier commercial surrogacy practices with an altruistic model. While intended to prevent exploitation, critics argue that the law restricts reproductive choices and excludes certain groups
- Similarly the Assisted Reproductive Technology Act (2021) aims to regulate clinics and protect patients but raises questions about accessibility and autonomy.

Overall the literature suggests that while alternative motherhood is becoming more visible, legal and social institutions remain rooted in traditional notions of family.

## **2. Research Objectives**

The objectives of this research are:

1. To examine the evolving concept of motherhood from a biological role to a matter of personal choice.
2. To analyse different forms of alternative motherhood including single motherhood, adoption, surrogacy, assisted reproduction and queer parenting.
3. To explore the social and cultural challenges faced by women pursuing alternative pathways to motherhood.
4. To evaluate the legal frameworks regulating alternative motherhood particularly in India.
5. To identify the gaps between evolving family structures and existing legal provisions.
6. To propose a more inclusive understanding of motherhood that reflects contemporary social realities.

## **3. Research Methodology**

This research adopts a qualitative and doctrinal approach.

## **4. Nature of Research**

The study is primarily analytical and descriptive aiming to interpret existing literature, legal frameworks and social debates surrounding alternative motherhood.

## **5. Sources of Data**

The research relies on secondary sources including:

- Academic books and journal articles.
- Legal statutes and government policies.
- Case studies and court judgements.
- Reports from international organizations

- Analytical Approach -The study examines alternative motherhood through interdisciplinary perspectives integrating insights from-
- Sociology,
- Gender Studies
- Law
- Bioethics

The research also compares theoretical perspectives with real -world legal developments to identify inconsistencies and challenges.

#### **IV. FINDING AND DISCUSSION**

##### **1. Single Motherhood by Choice**

One of the most significant shifts in contemporary society is the rise of women choosing motherhood without marriage.

Single mothers by choice often rely on sperm donation or adoption to build families. Their decision reflects growing financial independence and changing social attitudes towards marriage.

However single mothers often encounter social stigma and institutional barriers including difficulties in adoption procedures and lack of supportive workplace policies.

In India adoption allows single women to adopt children but single men face restrictions when adopting female children highlighting gender biases within the legal framework.

##### **2. Adoption as Social Motherhood**

Adoption represents one of the earliest forms of alternative motherhood. It challenges the assumption that motherhood must be biologically rooted.

Adoptive mothers develop parental bonds through care, nurturing and emotional attachment rather than genetic connection.

Despite legal recognition, adoption in many societies still carries stigma, particularly regarding disclosure of a child's adoptive status.

In India adoption is governed by the Juvenile Justice Act and regulated by the Central Adoption Resource Authority (CARA). While the legal framework has improved transparency, bureaucratic delays often discourage prospective parents.

##### **3. Surrogacy and Reproductive Labour**

Surrogacy is perhaps the most controversial form of alternative Motherhood.

In gestational surrogacy, a woman carries a pregnancy for intended parents using embryos created through IVF.

India previously became a global destination for commercial surrogacy due to lower medical costs. However concerns about exploitation of economically vulnerable women led to stricter regulations.

The Surrogacy Regulation Act (2021) permits only altruistic surrogacy and restricts eligibility to married heterosexual couples.

While the law aims to protect surrogate mothers, critics argue that it:

- limits reproductive autonomy
- Excludes single individuals and LGBTQ+ couples.
- May drive surrogacy underground.

#### **4. Assisted Reproductive Technologies**

Assisted Reproductive Technologies have revolutionized reproductive medicine.

Procedures such as IVF, egg freezing and donor insemination enable women to delay motherhood or overcome infertility.

However ART also raises ethical questions about:

- Genetic ownership
- Donor anonymity
- Commercialization of reproduction

The Assisted Reproductive Technology Act (2021) seeks to regulate fertility clinics and ensure ethical practices. Yet access to these technologies remains limited due to high costs.

#### **5. Queer and Transgender Motherhood**

Perhaps the most transformative dimension of alternative motherhood is the emergence of LGBTQ+ parenting.

Queer couples and transgender individuals increasingly pursue parenthood through adoption, surrogacy or ART.

However many legal systems -including India -still lack comprehensive recognition of LGBTQ+ families.

Despite the decriminalization of homosexuality through the Navtej Singh Johar v Union of India (2018) judgement, legal recognition of same-sex marriage and parenting rights remains unresolved.

This legal ambiguity leaves queer parents vulnerable to discrimination and uncertain parental rights.

### **V. CONCLUSION**

The concept of motherhood has undergone profound transformation in recent decades. What was once perceived as a biological destiny is increasingly understood as a matter of choice, identity and social responsibility.

Alternative motherhood challenges deeply rooted assumptions about gender, family and reproduction. Single mothers, adoptive parents, surrogate arrangements and queer families demonstrate that maternal identity is not limited to biological reproduction.

However while social realities have evolved rapidly, legal systems have struggled to keep pace. Laws regulating surrogacy, assisted reproductive technologies and adoption often

reflect traditional notions of family, creating barriers for individuals who do not fit conventional models.

The Indian legal framework illustrates this tension. Recent legislation has attempted to regulate reproductive technologies and prevent exploitation, yet these laws often impose restrictive eligibility criteria that exclude single individuals and LGBTQ + families. A more inclusive legal framework must recognize that parenting is defined not by biological connection but by care, commitment and responsibility.

Moving forward, policymakers must adopt a rights-based approach that balances ethical concerns with reproductive autonomy. Legal recognition of diverse family structures, protection of surrogate mothers and equitable access to reproductive technologies are essential steps towards a more inclusive understanding of motherhood.

Personally I believe alternative motherhood is less about redefining the word 'mother' and more about redefining the word 'family'. Family at its core, is a space of care, stability and belonging. When law and society learn to prioritize these values over rigid structures alternative motherhood will cease to be "alternative " and simply become another legitimate expression of love and responsibility

In conclusion, alternative motherhood reflects the evolution of Indian society itself-negotiating between tradition and modernity,emotion and law, biology and choice.It reminds us that motherhood is not merely a biological event but an enduring commitment and perhaps the true measure of motherhood lies in not how a child is born but in how a child is nurtured

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## **SINGLE MOTHERHOOD BY CHOICE: A SOCIOLOGICAL STUDY**

### **Abstract**

The traditional understanding of family as a unit – historically based on the nuclear paradigm of husband, wife, and biological offspring – is being radically redefined in the 21st century. One of the developmental aspects that stands out prominently is the introduction of Single Mothers by Choice (SMBC). Unlike single motherhood which is forced by divorce, widowhood or unwanted conception, SMBCs are women who willingly choose to adopt mother hood without a partner, often through adoption or Assisted Reproductive Technologies (ART). The present study provides interdisciplinary research to question societal-demographic characteristics, pathways to parenthood, legal provisions, parental care challenges, and child developmental results. Empirical data indicate that SMBCs are typically older, well-educated and financially independent and that their children achieve the same developmental outcomes as children in two-parent homes, provided that high-quality care giving is provided. However, under Indian contexts, that have deep-seated social stigma and limiting statutory regulations, it continues to negatively affect formal acknowledgment and institutional sponsorship of this family structure.

**Keywords:** single motherhood by choice, reproductive autonomy, assisted reproductive technologies, patriarchal regulation, child well-being

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## I. INTRODUCTION

Over the past few decades, family structures have undergone a substantial change therefore, threatening the long-established superiority of the heterosexual, married, two-parent nuclear family (McLanahan & Percheski, 2008)<sup>1</sup>. Single motherhood by choice (SMBC) is one such emerging pattern, as it has acquired increased visibility in societies marked by delayed marriage, greater access to education and paid labour by women, and greater access to Assisted Reproductive Technologies (ART) (Sobotka, 2017<sup>2</sup>; Waldenström, 2016<sup>3</sup>). In contrast to single motherhood that may occur due to divorce or widowhood or unplanned pregnancy, SMBC refers to women who intentionally seek parenthood without a co-resident partner, often by means of donor insemination or adoption (Hertz, 2006<sup>4</sup>; Golombok et al., 2016<sup>5</sup>). Such a way of creating a family poses important sociological, psychological, and legal issues about reproductive autonomy, care, child well-being as well as institutional recognition.

International scholarship increasingly challenges deficit-based assumptions in relation to SMBC families. The European and North American empirical studies suggest that a single mother by choice is usually older, highly educated, and economically stable, and children raised in such families demonstrate psychological and developmental results equal to those of children raised in two-parent families, provided the quality of caregiving is high (Golombok et al., 2016; Chan et al., 1998<sup>6</sup>; Schnor, 2021<sup>7</sup>). However, empirical focus still remains skewed in terms of cultural settings. Even in India, where single mother by choice is a choice, it is still subject to patriarchal values, social stigma, and broken legal frameworks that limit recognition and support (Mandal, 2019<sup>8</sup>; Joshi et al., 2024<sup>9</sup>). The current article is a critical synthesis of interdisciplinary literature to explore the SMBC in the context of global and Indian contexts, thus, pointing to literature to explore the SMBC in the context of global and Indian contexts, thus, pointing to relevant patterns, limitations, and gaps in the research findings.

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<sup>1</sup> McLanahan and Percheski, "Family Structure and Inequality," *Annual Review of Sociology* 34 (2008).

<sup>2</sup> Sobotka, "Childlessness in Europe," *Population Studies* 71 (2017).

<sup>3</sup> Waldenström, "Postponement of Parenthood," *Journal of Population Research* 33 (2016).

<sup>4</sup> Hertz, *Single by Chance, Mothers by Choice* (Oxford University Press, 2006).

<sup>5</sup> Golombok et al., "Single Mothers by Choice," *Journal of Family Psychology* 30 (2016).

<sup>6</sup> Chan, Raboy, and Patterson, "Psychosocial Adjustment," *Child Development* 69 (1998).

<sup>7</sup> Schnor, "Single Motherhood in Europe," *European Journal of Population* 37 (2021).

<sup>8</sup> Mandal, "Legal Recognition of Single Motherhood," *Indian Journal of Law and Society* 10 (2019).

<sup>9</sup> Joshi, Sharma, and Verma, "Navigating Single Motherhood by Choice," *Journal of Family Studies* (2024).

## II. LITERATURE REVIEW

### 1. Global Trends in Single Motherhood

Over the past five decades, single parent families have grown significantly across many parts of the world. In the United States, the rate of children living with a single parent has increased from below 10% in 1960 to about 23% in 2018. According to Pew Research (2019)<sup>10</sup>, nearly one in four American children currently live in a single-parent household, compared to a global average of about 7%. There is significant regional heterogeneity: Gallup (2020)<sup>11</sup> suggests that about 13% of women in the world are single mothers, with high prevalence in Sub Saharan Africa (32%) and Latin America (30%), but comparatively low rates in Western Europe (9%) and East Asia (3%). India is ranked as the least with approximately 5% children staying in a single parent family hence depicting the existing marriage and extended family structures in South Asia. These tendencies are directly linked to the marital dynamics, such as the increase in divorce rates, collapse of cohabitation and growing tolerance towards non-marital childbearing.

### 2. Theoretical frameworks

Feminist scholarship argues that the concept of single motherhood by choice can represent the reproductive autonomy of women, but it is still contextualized within the perpetual patriarchal conventions. This tension is highlighted by the seminal work by Adrienne Rich on maternity in patriarchal society: Rich argues that the power of mothering that she envisions can be abducted by the institutional structure that forces women to curb their natural desires by patriarchal family systems. In line with Rich, Mandal (2019) notes that the tenure of Indian courts has been dominated by paternal intervention, before realizing that a woman can have an intent to raise a child alone.

In a feminist discourse, a group of scholars glorify the act of choice to single motherhood as an agency and opposition to traditional gender roles, whereas others warn that even choice is limited by social and economic factors (Hertz, 2006). For example, Go Lombok et al. note that most women who consider themselves single mothers by choice tell how they found themselves in that situation out of necessity, absence of a partner, whether by age or circumstance, rather than preference.

As a result, feminist theory indicates that single mothers by choice destabilize gendered expectations of motherhood, but they have to act within wider expectations of culture and structure (<sup>12</sup>Rich, 1976; <sup>13</sup>O'Reilly, 2004; Mandal, 2019). Sociological approaches define single motherhood by choice in the framework of a general family transformation and social stratification. The emergence of various family types is a good example of a so-called second demographic transition (Lesthaeghe), which is associated with the postponement of marriage and parenthood, increased female education, and increased individualism. Empirical research

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<sup>10</sup> Pew Research Center, *Rising Share of U.S. Children Living with a Single Parent* (2019).

<sup>11</sup> Gallup, *Worldwide Prevalence of Single-Parent Households* (2020).

<sup>12</sup> Rich, *Of Woman Born* (W. W. Norton, 1976).

<sup>13</sup> O'Reilly, *Mothering Against Motherhood* (Demeter Press, 2004).

records that the proportion of women who do not marry or bear children before pursuing a career continues to rise among highly educated women; sociologists explain such change in gender equality and changing cultural expectations of family (Waldenström, 2016; Sobotka, 2017).

As an example, af Sandeberg et al. (2025)<sup>14</sup> note that the median age of first birth of a mother in Sweden has sharply increased, especially among women with tertiary education. These population changes, coupled with great access to assisted reproductive technologies (ART) in most nations, have made parenthood without a partner an option to an increasing number of women.

Altogether, theoretical approaches to the single motherhood by choice can be considered a combination of feminism and sociology. The feminist theory views such mothers as possessing the freedom to decide on reproduction, but warns that this freedom is created in a patriarchal environment that tends to render non-normative family structures illegitimate. Sociologically, the phenomenon is associated by researchers with more general trends, such as delayed fertility and shifting family values, and with social stratification: the single motherhood by choice group is exclusively concentrated among more educated and more resourceful women, in contrast to most families with single parents. Combined, these views explain why single motherhood by choice has become a central topic once again. It is a confluence of the growing gender egalitarianism and the structural inequalities (McLanahan and Percheski, 2008;<sup>15</sup>Schnor, 2023).

### 3. Review of existing literature

The growing interdisciplinary literature on single motherhood by choice (SMBC) has defined it as a novel and more apparent mode of family formation that occurs at the intersection of demographic transition, reproductive technology, and changed gender norms.

Initial demographic/sociological studies have been especially effective in mapping the rise of this type of family and in separating SMBC and other avenues to single motherhood. Based on the data of the population registers in Belgium, 1991-2020, Schnor (2021) outlines several types of single motherhood, such as women who choose to become parents due to the application of assisted reproductive technologies (ART).

Her examination shows that single motherhood at the point of birth has risen significantly, with about 15% of naturally conceiving mothers and 10% of ART-conceiving mothers unpartnered in 2019 thus indicating greater changes in the patterns of partnership and timing of fertility among the developed societies. Other high-income settings also show similar demographic trends. According to Golombok et al. (2016), in the United Kingdom, SMBC usually are very well-educated professionals who make the transition to motherhood in their late thirties or forties, thus, emphasizing the impact of long-term planning, economic readiness, and age-related fertility factors on the decision. These quantitative researches make SMBC a socially patterned and willful phenomenon, but their use of population-level or

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<sup>14</sup> Af Sandeberg et al., “Economic Vulnerability,” *Journal of Family Studies* 31 (2025).

<sup>15</sup> Schnor, “Reconsidering Pathways,” *Journal of Marriage and Family* 85 (2023).

clinic-based data restricts the understanding of subjective experiences and processes over time in the family.

It is upon these demographic bases that studies have been more and more investigating the motivations behind the choice to have single motherhood via medically assisted reproduction. The Swedish literature is especially educative in the wake of legislative changes in 2016 that allowed single women to access ART in the country. In a pilot survey of Swedish single women undergoing medically assisted reproduction, Volgsten and Schmidt (2021)<sup>16</sup> discover that the respondents are mainly well-educated, well-paid, and financially stable, and motherhood is described as a long-term goal and not an act of desperation after relationship breakdown. Old age and the fear of a lack of children become the key reasons to continue the process without a husband, but a significant number of women are also not closed to new relationships. These results are consistent with previous qualitative research by Kapell (2014)<sup>17</sup>, who, using grounded-theory interviews with Canadian SMBC, illustrates the active construction of a responsible, morally legitimate motherhood by women as a reaction to the prevailing cultural discourses of good and bad mothering.

All these studies focus on intentionality, reflexivity, and agency as characteristic traits of SMBC and also demonstrate the manner in which women bargain on social norms of partnership, sexuality, and maternal legitimacy.

The psychological and developmental studies are at the core of dismantling the deficit-based assumptions about SMBC family, especially in terms of child well-being. In a comparative study of solo-mother and two-parent donor-conceived families, Golombok et al. (2016) indicate no significant differences in the quality of parenting and child psychological adjustment, but the mother-child conflict was lower in solo-mother families. These conclusions are also supported by longitudinal evidence. In a follow-up of children in the middle childhood, Go Lombok et al.

(2020)<sup>18</sup> discover that there is no difference in maternal mental health, relationship quality and child adjustment by family structure, but parenting stress and previous child problems predict across family structures. These results replicate previous studies by Chan, Raboy, and Patterson (1998) who established that children born as a result of donor insemination grow within normal ranges irrespective of the number of parents or sexual orientation, and family processes have stronger impact than family structure. Taken together, this literature discredits the idea that fatherlessness or co-parental relationships are necessarily harmful in nature and shifts the analytical focus to the quality of care, emotional climate, and social support.

These outcome-based results are complemented by qualitative scholarship that preempts the lived experiences of SMBC by mothers. Dor (2021)<sup>19</sup>, in the context of phenomenological interviews with Israeli single mothers by choice, proves that these women face emotional stress, single parenthood, and ambivalent views of society, but also highlights such benefits

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<sup>16</sup> Volgsten and Schmidt, "Reproductive Decision-Making," *Human Reproduction Open* (2021).

<sup>17</sup> Kapell, "Motherhood as Choice," *Journal of Family Issues* 35 (2014).

<sup>18</sup> Go Lombok et al., "Longitudinal Study," *Developmental Psychology* 56 (2020).

<sup>19</sup> Dor, "Single Motherhood by Choice," *Journal of Educational and Developmental Psychology* 11 (2021).

as autonomy in decision-making and a peaceful home atmosphere without inter-partner conflict.

The same themes can be found in the article by Banerjee and Kumar (2023)<sup>20</sup>, whose qualitative analysis of Indian SMBC reveals emotional stress associated with stigma and economic pressure as well as powerful claims to independence and maternal competence. According to these studies, intentionality does not abolish the issues of single parenthood but rather transforms the ways issues of single parenthood are perceived and handled. The difficulty and empowerment juxtaposition makes qualitative research more challenging in terms of overly celebratory accounts and reminds of the simultaneous presence of resilience and vulnerability in SMBC families.

Another theme that is highlighted in the literature is economic conditions and support needs, especially during the post-birth period. Based on a cross-sectional survey of 256 Swedish SMBC who had young children, Af Sandeberg et al. (2025) show that most mothers experienced unexpected challenges after giving birth despite having high education levels and financial security during the time of conception.

These issues were obstetric complications, a decrease in participation in the labour-market, the necessity to be supported practically, and financial pressure caused by unexpected costs and the lack of income. It is worth noting that the results were mostly comparable in publicly and privately funded treatment pathways, which indicates that the provision of ART is not a sure way of post-natal protection. The results are reflected in the qualitative descriptions of the interactions with maternal health services. As demonstrated by Psouni, Berg, and Persson (2022)<sup>21</sup>, Swedish SMBC tend to consider themselves as strong and self-reliant, which could obstruct the identification of vulnerability and prevent the acknowledgment of support needs in healthcare facilities. Collectively, these works turn the analytical emphasis of access and choice to sustainability, which points at discrepancies between pre-treatment tests and post-birth realities even in supportive welfare regimes.

SMBC is also placed in the context of the legal and policy oriented scholarship which frames recognition and protection in institutional frameworks. A doctrinal analysis of Indian jurisprudence by Mandal (2019) shows a gradual broadening of legal support of single mothers; it is becoming possible to have children registered by women without a named father and caregiving labour is becoming recognised as the basis of parenthood. However, he cites the endemic legislative uncertainties that skew against never-married women, which points to the weakness of judicial accommodation in the context of no broad statutory change. Zamora-Martinez et al. (2025)<sup>22</sup> provide comparative information in a systematic review of 26 empirical studies that summarize the evidence on the demographics, motivations and experiences of SMBC in high-income countries. The review establishes the regular trends of high education, financial autonomy, strong maternal wellbeing and adequate mother-child relationships, and at the same time, the lack of information in non-European

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<sup>20</sup> Banerjee and Kumar, "Negotiating Choice and Stigma," *Indian Journal of Gender Studies* 30 (2023).

<sup>21</sup> Psouni, Berg, and Persson, "Strength and Vulnerability," *BMC Pregnancy and Childbirth* 22 (2022).

<sup>22</sup> Zamora-Martínez et al., "Single Motherhood by Choice," *Journal of Family Research* 37 (2025).

environments and the under-representation of later life-course phases.

In general, the literature describes the concept of single motherhood by choice as a diverse and expanding family structure, which is determined by intentionality, reproductive agency and adapting strategies, but is limited by structural, economic and institutional influences. Despite the fact that current literature has significantly contributed to the improvement of knowledge about SMBC, it is still focused on high-income environments and early childhood stages, and there is scant attention to longitudinal patterns, Global South situations and post-birth support networks. The gaps identified need to be addressed to come up with a more holistic and globalized approach to understanding single motherhood by choice.

#### 4. The Indian sociocultural context

The sociocultural context of India limits the phenomenon of single motherhood by normative requirements that support matrimonial union, patriarchal kinship patterns, and shared household patterns (Bhatt & Chauhan, 2024<sup>23</sup>; Mandal, 2019).

Although single motherhood which occurs due to widowhood or divorce is socially recognized, single motherhood by choice is rare and mostly hidden. This scarcity is manifested in the national statistics showing that only about 5% of the Indian children live in single parent families (Pew Research Center, 2019; Gallup, 2020).

Single mothers of all etiologies often use extended kin networks as sources of childcare and economic support, but they and their children are regularly faced with stigma in society, as they are labeled irresponsible or morally suspect (Banerjee & Kumar, 2023; Joshi et al., 2024). Empirical studies prove that this stigma occurs in the form of social exclusion, questions of maternal virtue and adverse attitudes to the community, especially toward never-married mothers (Banerjee & Kumar, 2023). However, single mothers are often praised because of their strength and ability to handle the role of caregivers on their own (Parveen & Yadav, 2016<sup>24</sup>).

In India, legalization of single motherhood has been gradually growing but has not been evenly spread. Historically, Indian law understood single motherhood in a very limited way, mostly concerning children who were born out of wedlock. This conception has been extended recently through judicial developments that recognized the parental rights of single adoptive mothers and women who conceive through assisted reproductive technologies (Mandal, 2019; Supreme Court of India, 2015<sup>25</sup>). Courts are also allowing mothers to have children without a father, and this is highlighting a caregiving duty rather than marital status. However, the legal system in place is still conservative. The Surrogacy (Regulation) Act, 2021 only legalizes surrogacy in married couples and specific groups of single women, specifically excluding never-married women, and as a result, restricts reproductive choice

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<sup>23</sup> Bhatt and Chauhan, "Rethinking the Concept of Families," *Research Review International Journal of Multidisciplinary* 9 (2024)

<sup>24</sup> Parveen and Yadav, "Challenges Faced by Single Working Mothers," *International Journal of Home Science* 2 (2016)

<sup>25</sup> Supreme Court of India, *ABC v. State (NCT of Delhi)* (2015).

(Mandal, 2019). Even though donor insemination is not banned directly, the institutional arrangements like childcare services and parental benefits are not high (Joshi et al., 2024). The studies of children of single mothers in India present a contradictory yet largely strong image. Although most children take up additional roles in the home, a robust maternal role modeling and family support is associated with good educational performance and psychological stability (Banerjee & Kumar, 2023; Bhatt & Chauhan, 2024). The processes of urbanization and high level of education seem to be gradually transforming the attitude of society, which is a slow process of the transition to more tolerance towards different ways of forming a family.

### **III. OBJECTIVES**

The study aims to:

1. Examine the demographic and socio-economic profile of single mothers by choice.
2. Analyse legal and institutional frameworks governing single motherhood in India.
3. Compare global and Indian contexts in terms of recognition and support.
4. Evaluate psychological and developmental outcomes of children in SMBC families.
5. Explore sociocultural challenges faced by SMBCs in India, including stigma and caregiving responsibilities.

### **IV. METHODOLOGY**

The proposed study is based on a qualitative secondary literature review that utilizes interpretive and thematic analysis to explore the issue of single motherhood by choice in both global and Indian contexts. Since the subject of the study is exploratory and there is a paucity of extensive empirical data in India in large scale, the study is based on a deep examination of secondary sources instead of the actual field work. The qualitative method is considered suitable in depicting the conceptual, legal and sociocultural aspects of single motherhood by choice which cannot be exhaustively covered using quantitative techniques.

The data corpus includes peer-reviewed journal articles, scholarly monographs, doctoral dissertations, judicial decisions, and policy reports and international demographic surveys. The sources were selected based on the interdisciplinary approach, such as sociology, gender studies, psychology, demography, and socio-legal studies, to guarantee the depth of the analysis. It has analyzed international law scholarship, mainly European, North American, and Israeli, with Indian literature on the law of family, reproductive rights, and social stigma.

The selection of sources was done using purposive sampling based on scholarly relevance, methodological rigor and suitability to the objectives of the study. Thematic analysis was used to determine major analytical themes and these themes were; reproductive autonomy, patriarchal regulation, legal recognition, caregiving labour, social stigma and child well-being. The interpretation was informed by feminist and sociological approaches which

connected the personal reproductive decisions with the wider system of gender, power and social inequality.

## **V. FINDINGS**

The findings of the present study are based on the systematic synthesis of the available demographic, psychological, legal, and socio-economic studies about single motherhood by choice (SMBC). Instead of introducing new empirical data, this section summarizes the repeated patterns, regularities, and variations, found in the literature reviewed, with the specific reference to global trends and the Indian situation.

### **1. Demographics and Socio-Economic Profiles of SMBCs**

In the international studies, single mothers by choice form a highly differentiated group of demographic cohort compared to other groups of single mothers. The literature also shows that SMBCs are mainly older females, usually in their late thirties or forties, that seek motherhood after long educational and professional paths (Golombok et al., 2016; Schnor, 2021). They demonstrate a greater propensity to achieve higher educational levels and secure good professional jobs, and thus they surpass national levels in the socio-economic status. This trend can be observed in the European settings (e.g., Belgium and Sweden) where SMBCs are disproportionately represented in the highly educated, middle-to-upper-income population. However, the results also show that pre-birth financial security does not always protect SMBCs against post-natal economic precarity; most of them have lower labour-force participation, unforeseen health care costs, and higher caregiving costs (af Sandeberg et al., 2025).

### **2. Legal Framework: Surrogacy, Adoption and Guardianship Laws in India.**

The Indian legal environment on single motherhood by choice is still disjointed and unbalanced. Judicial interpretations have increasingly extended the appreciation of the parental rights of single mothers, particularly in matters of guardianship, birth registration and documentation where courts have allowed mothers to register children without mentioning a father (Mandal, 2019). But, the legislative systems are not at par with the judicial developments. The Surrogacy (Regulation) Act, 2021 only allows access to surrogacy to married heterosexual couples and only certain categories of single women, but not never-married women. Single women are formally allowed to adopt under the law, but the time-consuming nature of the procedure and social disapproval often serve as discouraging factors. In general, the results show that the legal environment, though not fully, recognises caregiving labour and still favours marital and patriarchal values.

### **3. Pathways to Parenthood (ART vs. Adoption)**

In high-income nations, assisted reproductive technologies become the leading way to parenthood among SMBCs, which is supported by liberal ART laws and well-developed medical facilities. Donor insemination and IVF allow women to have biological parenting and still have control over the formation of the family. In India, the access to ART amongst single women is not expressly forbidden, but access is usually limited by clinic-level discretion and social conservatism. Although legal, adoption is still a socially and bureaucratically

complicated process, especially in case of never-married women. According to the literature, SMBCs choose ART because it provides more control, predictability, and less institutional surveillance than adoption processes in situations where adoption systems are slow and stigmatized.

#### **4. Developmental and Psychological Data points.**

One of the key conclusions made is that there is no significant developmental disadvantage in children raised in SMBCs. It is seen that there are no significant differences in the emotional adjustment, behavioural outcomes, or parenting quality between children of SMBCs compared to those in two-parent families, when socio-economic variables are controlled (Golombok et al., 2016). In other instances, there are lesser parent-child conflict levels reported in single mother families.

According to Indian studies, children of single mothers tend to be more responsible in their households but strong maternal role modelling or family support correlates with resilience, academic competence, and psychological stability. These results refute the belief that the negative child outcomes are solely due to father absence.

#### **5. Interpretation of Findings**

The findings collectively contribute to the overall refutation of deficit-based discourses of single motherhood by choice and instead place SMBC in a deliberate and responsive family arrangement. The demographic data show that SMBCs do not passively wait to have a child but actively plan their parenthood with the help of educational, financial, and social resources, which makes them agency-based and not circumstance-based parents (Schnor 2021; Go Lombok et al. 2016). At the same time, the economic indicators show that caregiving labour still creates postnatal vulnerabilities, highlighting the constraint of personal resources without the institutional assistance (af Sandeberg et al. 2025). The study of law shows that despite the growing recognition of maternal intent and caregiving labour by the justice system, the legal frameworks still control the process of motherhood using marital norms (Mandal 2019). Notably, psychological outcomes show that the quality and stability of caregiving and support systems have a stronger influence on child well-being than the family structure (Dor 2021; Golombok et al. 2016).

#### **6. India vs. Global West Comparative Analysis**

Comparative studies show that there are significant dissimilarities between the institutional treatment of SMBCs in India and the West. The SMBCs in Europe and North America have more legal recognition, increased access to ART, and more welfare-state support, which makes it easier to socialize solo motherhood (Schnor 2021; af Sandeberg et al. 2025). Indian SMBCs, on the contrary, are placed in a socio-legal setting that is ambiguous, stigmatised, and also depends on informal family networks (Mandal 2019; Joshi et al. 2024). Regardless of these variations, the similarities in the child developmental outcomes in diverse settings imply that the structural support and not the cultural setting as such are the major determinants of family well-being (Golombok et al. 2016). These results highlight the necessity of comprehensive changes in the law and social policy that acknowledges the existence of various types of families and the separation of motherhood and marital status.

## VI. CONCLUSION

This paper defines single motherhood by choice as a voluntary and new form of the family that is influenced by reproductive agency of women, socio-economic resources, and the changing legal frameworks. According to existing studies, these mothers tend to be older, well-educated and financially stable yet they still face post-natal issues like care-giving stress and lack of institutional support. Psychological studies have always shown that children brought up in such families develop and emotionally perform as well as those brought up in two parent families, which underscores the fact that the quality and stability of caregiving is more determinant than the family structure. In India, however, the acceptance and recognition of this form of family is still limited by the continued existence of patriarchal norms, social stigma, and restrictive provisions of the law. The future studies can focus on longitudinal and comparative research especially in the Indian context to explain the long-term child outcomes, maternal experiences, and the impact of legal and policy environment.

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# EXPLORING THE DIMENSIONS OF SINGLE MOTHERHOOD IN INDIA: SOCIAL, BIOLOGICAL AND LEGAL

## Abstract

This paper seeks to identify what it means to be a single mother in India. The concept of traditional family norms has been shaped by Patriarchial conventions and very idea of women led families being the only parents is faced with multiple social scrutiny and stigma from her peers and on lookers. However, in recent times, with the advent of assisted reproductive techniques and some landmark judgements by the Supreme Court of India, the State has started to conceive the notion of a family led by the mother as the sole guardian and caregiver. This paper highlights the social stigma attached to Women who deviate out of the traditional family model, how medical advancements has helped women to conceive out of a marital framework, and the legal ramifications through judicial interpretations and policy changes, social attitudes and bureaucratic structures continue to reflect traditional assumptions about family and parenthood. The paper concludes that greater social acceptance and progressive legal reforms are necessary to ensure dignity, equality, and autonomy for single mothers in India

**Keywords:** Single motherhood, reproductive autonomy, family law, gender roles, assisted reproductive technologies, India.

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## I. INTRODUCTION

When we imagine the picture of a conventional Indian family, it is typically characterized by some common features-

Presence of a Male member typically the father who is the bread earner and the mother being the primary caregiver of the family

The couple bound by a wedlock and last but not the least the child conceived through conventional biological childbirth without any medical intervention as such. This model of the family, often referred to as the patriarchal nuclear family, has historically been considered the social norm in India (Uberoi, 2006).

The centrality of the male figure in defining the structure, legitimacy, and authority of the family reflects the deeply embedded patriarchal nature of Indian society. Patriarchy, as defined by feminist scholars, refers to a system of social organization in which men hold primary power and dominate roles of leadership, authority, and decision-making within both the public and private spheres (Menon, 2012). This very norm of a 'male-led' family is fundamentally challenged when Women (either by choice or circumstances) birth and even raise their children on their own without association of any 'father' as such.

As aforesaid, Single Motherhood in India could be the result of circumstances (Widowhood or Divorce) or even a Choice (adoption or through assisted medical technologies) While widowhood has historically been socially recognized, voluntary single motherhood and motherhood outside marriage represent relatively new and contested social realities in India. These developments reflect broader social transformations driven by urbanization, increased female education, economic independence, and legal reforms recognizing women's rights (National Family Health Survey [NFHS-5], 2021).

In this paper, we seek to identify and evaluate the various dimensions of Single Motherhood in India viz-

1. Social Dimension- Stigma, Patriarchal norms and Social Exclusion as a consequence of the same
2. Biological Dimension- Reproductive and bodily autonomy
3. Legal Dimension- Guardianship rights and custody.

## II. OBJECTIVES OF THE STUDY

1. To explain the concept of single motherhood in the context of Indian society.
2. To analyze various kinds of social challenges and stigma faced by single mothers in India.
3. To explore the biological and reproductive aspects of motherhood, including reproductive autonomy and assisted reproductive technologies.
4. To analyze the legal framework governing guardianship, adoption, and reproductive rights of single mothers in India.

### **III. RESEARCH METHODOLOGY**

This study adopts a qualitative and doctrinal research methodology to examine the concept of single motherhood in India. The research is primarily based on secondary sources of data, including academic literature, legal judgments, government reports, and sociological studies.

The study relies on a review of scholarly articles, books, and research papers addressing family structures, reproductive rights, and gender roles in Indian society. Legal analysis is conducted through the examination of landmark judicial decisions such as *ABC v. State (NCT of Delhi)* and *Suchita Srivastava v. Chandigarh Administration*, which significantly contribute to the legal recognition of women's reproductive autonomy and guardianship rights.

Additionally, I have considered Government reports and statistics reports (National Family Health Survey and Publications from the Ministry of Women and Child Development are used to understand the socio-economic realities of single mothers in India.

### **IV. LITERATURE REVIEW**

Feminist theorists have also pointed out the impact of patriarchy on women's reproductive rights and social identity. Nivedita Menon, in her study published in 2012, pointed out that control over women's bodies and their reproductive rights was one of the important tools that patriarchal societies employed to sustain their gender hierarchy.

Flavia Agnes, in her study published in 2011, pointed out that many aspects of Indian family laws, particularly with regard to guardianship and inheritance, had shown a bias towards paternal authority. However, over time, these laws have been interpreted in a way that provides more rights to women, particularly with regard to their role as mothers.

According to Mandal, who published his study in 2019, motherhood cannot be explained by biological reproduction alone; instead, it should be explained by a combination of biological, intentional, and labor-related components.

### **V. FINDINGS AND STUDY**

#### **1. The Social Dimensions of Single Motherhood in India**

The social dimension of single motherhood in India cannot be understood without understanding the primary structure of a conventional family in India viz., Patriarchal and Patrilineal. A few tribes and communities in India which traced their lineage and inheritance through mother like Khasi, Garo tribe in Meghalaya, Rabha tribe in Assam and Nair community in Kerela were treated as an exceptional case (Bansi, 2022)

This patriarchal arrangement is dependent on the idea that a "happy" family must include both a father and a mother, each performing socially prescribed gender roles notwithstanding even many unforeseen circumstances whatsoever. These families traditionally marks the male as the authority where the father is recognized as the head of the household and primary

decision-maker. Within this framework, women are expected to perform caregiving roles, including childcare, household management, and emotional support (Uberoi, 2006).

Single Motherhood whether by choice or by circumstance disrupts the structure built on hierarchy and gender roles. It places women in positions traditionally reserved for men, such as the economic provider and head of the household.

Another significant aspect of the social experience of being a single mother is economic vulnerability. In India, women's capacity to support their families financially is severely impacted by gender disparities in employment opportunities and pay. Women continue to have lower labor force participation rates than men, and they are more likely to work in low-paying, unstable informal sectors (World Bank, 2022).

The dual responsibilities of being the primary caregiver and the primary provider can be extremely taxing on the physical and mental health of single mothers. Their capacity to pursue steady work or career advancement may be hampered by this dual responsibility, particularly in the absence of dependable childcare assistance.

The "feminization of poverty" phenomenon, which is frequently linked to Amartya Sen (1990) demonstrates how women are disproportionately impacted by structural injustices. Women's capacity to provide for themselves and their children is limited when they are denied access to financial resources, property rights, and employment opportunities.

Economic vulnerability is more common in households headed by women than in households headed by men, according to data from the National Family Health Survey (NFHS-5, 2021). This is especially noticeable for widowed or deserted women who might not have access to family assets or financial assistance.

## **2. Biological Dimensions of Single Motherhood**

Now coming to the aforementioned situation of a woman who happened to be a single mother without being involved in any marital relation whatsoever i.e. without divorce or widowhood which already is quite a taboo subject for society but in entirety not impossible biologically.

The concept of reproductive autonomy highlights the fact that women have the right to autonomous decisions about bearing and begetting children. Feminist theorists (Menon, 2012) have also highlighted the fact that reproductive autonomy is a vital part of the overall concept of the autonomy of the female body and gender equality. According to feminist politics, "the body is a place of intense feminist politics, and feminist politics has placed a lot of emphasis on the right of women to their own bodies, their own sexuality, and their own reproduction and non-reproduction."

In the Indian context, reproductive autonomy has come to be recognized in the context of constitutional rights. In fact, the Supreme Court has held that reproductive autonomy is an essential part of the right to liberty, which is enshrined in Article 21 of the Constitution. In the case of *Suchita Srivastava v. Chandigarh Administration* (2009), the Supreme Court observed that "the right of a woman to reproductive choice is an aspect of personal liberty and the right to the integrity of the person." In this context, the concept of single motherhood gains significance, as it highlights the fact that a woman has the right to become a mother irrespective of marital status.

The development of medical technology has greatly impacted the biological aspects of motherhood. Assisted reproductive technologies, such as in vitro fertilization, sperm donation, and artificial insemination, allow women to procreate in the absence of a male partner. Assisted reproductive technologies offer women a chance to procreate and become mothers outside of a marital relationship with a male partner.

The Assisted Reproductive Technology (Regulation) Act, 2021 is a legislation dealing with fertility clinics and assisted reproductive technologies in India. Though the Assisted Reproductive Technology (Regulation) Act, 2021 is mainly focused on medical interventions, it indirectly recognizes the need for assisted reproductive technologies among single women and other diverse groups in Indian society.

### **3. Legal Dimensions of Single Motherhood in India**

A major turning point in the legal acceptance of single motherhood was marked in the judgement of the Supreme Court in the ABC v. State (NCT of Delhi).

In this particular case, the unwed mother had sought to be recognized as the sole legal guardian of the child without disclosing the identity of the father of the child. Traditionally, under the law of guardianship, the father had to be notified before the guardianship rights of the child were granted to the mother. However, the petitioner had cited that this was against the right to privacy of the woman.

This judgement recognized the legal legitimacy of single motherhood in Indian society. This judgement was a landmark in the law of family in Indian society because it recognized the legitimacy of single parents especially women.

The legal adoption of children is conducted through the Central Adoption Resource Authority (CARA). This authority allows both married couples and single women/men to adopt children legally. Nevertheless, there are limitations associated with the adoption rights of single women/men. For instance, single men are not allowed to adopt girl children, while single women have the right to adopt children of any gender.

The legal recognition of the adoption rights of women is a progressive aspect of the Indian legal system, while the restriction imposed on single men is a protective measure of the Indian government to avoid the potential abuses that could arise from the adoption of children by men.

## **VI. CONCLUSION**

Many Scholars have stated that motherhood cannot be understood just by biological reproduction but must also take into consideration intention and caregiving labour (Saptarshi Mandal, 2019). In a household headed by a mother as the sole guardian she is both the financial provider and the caregiver of the family. Traditional legal frameworks often assumed that a child must necessarily have both a mother and a father. Such assumptions created structural barriers for single mothers seeking legal recognition of their parental rights. India has been gradually shifting towards recognizing the rights of single mothers, both legally and practically. Single mothers have been gaining recognition, and their legal status has been acknowledged by the courts and government. In fact, judgments such as ABC v.

State (NCT of Delhi) and *Suchita Srivastava v. Chandigarh Administration* have been clear indicators that single mothers should be free to choose guardianship and reproduction without any interference from males.

There have been certain obstacles that have been faced by single mothers, and it is important that there is an increase in awareness, policies, and legal changes to completely recognize single mothers in society. The key stakeholders here can be independent counselling, NGOs, one stop centers, government projects, raising family planning awareness among the few. In fact, the growing phenomenon of single mothers is an indication that there is a shift in Indian society, which is challenging patriarchal norms, family structures, and recognizing the independence and dignity of single mothers.

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# PARENTAL RIGHTS AND CHILD CUSTODY IN INDIA: BALANCING WELFARE, AUTONOMY AND CONSTITUTIONAL VALUES

## Abstract

Every relationship may reach a stage where two individuals no longer align in their thoughts and perspectives, ultimately leading to divorce. In recent times, this has become increasingly common. In such situations, the child often stands at the centre of the dispute, raising the crucial question of what truly constitutes their best interest. In this regard, Article 3 of the United Nations Convention on the Rights of the Child (UNCRC) provides that “in all actions concerning children, the best interests of the child shall be a primary consideration.” This is reflected in Indian custody law, especially in the Guardians and Wards Act, 1890, and the Hindu Minority and Guardianship Act, 1956. Although the welfare principle gives paramount importance to the interests of the child in the face of rival claims by parents, the judicial treatment of the principle is circumscribed by very broad discretionary powers. In *Githa Hariharan v. Reserve Bank of India* (1999), the Court brought the rules of guardianship in line with the constitutional principles of equality and dignity. Even so, the lack of defined evaluative criteria might result in a lack of consistency in the award of custody, especially in the context of the changing roles of gender and non-traditional families. The methodology of the current research was developed based on secondary data from statutory interpretation, judicial precedents, policy documents, and academic discourse. It argues for a more transparent and principled approach that reconciles judicial flexibility with constitutional consistency on Articles 14 and 21.

**Keywords:** Child custody, welfare of the child, guardianship, parental rights, articles 14 and 21.

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## I. INTRODUCTION

Marriage has traditionally been perceived as a secure environment of love, commitment, and shared responsibility. But when a marriage breaks down, the conflict rarely remains limited to the two adults involved; the children become the casualties of the conflict. In contemporary India, with an increasing incidence of marital separations and divorces, the issue of child custody has never been more contentious.<sup>1</sup> The courts have a difficult balancing act to perform, balancing the claims of both parents with the child's best interests as a paramount consideration.

The principle of the child's best interests as the overarching consideration in every decision regarding the child is not merely a sentiment but a legal requirement as well. Article 3 of the United Nations Convention on the Rights of the Child recognizes the child's best interests as a primary consideration in all actions concerning the child.<sup>2</sup> Similarly, the child custody laws in India have evolved to incorporate the principles of the Guardians and Wards Act, 1890, and the Hindu Minority and Guardianship Act, 1956.<sup>3</sup> This has entrusted the courts with the responsibility of determining the child's custody, considering the welfare of the child, which must be a primary consideration.

Over the years, the courts have attempted to incorporate the principles of personal laws with the constitutional provisions of equality, dignity, and more as enshrined in Articles 14, 15, and 21 of the Constitution of India. The Supreme Court decision in *Githa Hariharan v. Reserve Bank of India*, 1999, which recognized the mother's position as the natural guardian of the child, was a step in the right direction towards the development of a more gender-sensitive approach to child custody laws.<sup>4</sup> Nevertheless, the child custody laws continue to be governed by broad, flexible standards, which have a huge impact on the child's welfare doctrine, which, though child-centric, lacks definite criteria to determine the child's best interests.<sup>5</sup>

This flexibility of the child custody laws, though beneficial in the sense that it allows the courts to tailor the decision to the facts of the case,<sup>6</sup> has a dark side as well, as the child custody laws have to keep pace with the changing family structures, gender roles, etc., which have led to the emergence of new forms of parenting, requiring the child custody laws to keep pace with the constitutional requirements of Articles 14 and 21 of the Constitution of India.

This chapter is a critical analysis of the conceptual basis and judicial evolution of parental rights and child custody in India.<sup>7</sup> The relationship between parental autonomy, child welfare, and constitutionalism is also explored in this chapter. The extent to which the existing system provides a transparent approach for the determination of custody is also evaluated. This study

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<sup>1</sup>National Crime Records Bureau. (2022). *Crime in India 2022: Statistics on divorce and family disputes*. Ministry of Home Affairs, Government of India.

<sup>2</sup>United Nations. (1989). *Convention on the Rights of the Child*, Article 3.

<sup>3</sup>*Guardians and Wards Act, 1890; Hindu Minority and Guardianship Act, 1956*.

<sup>4</sup>*Githa Hariharan v. Reserve Bank of India*, (1999) 2 SCC 228 (Supreme Court of India).

<sup>5</sup>Diwan, P. (2020). *Modern Hindu Law* (pp. relevant section on custody). LexisNexis.

<sup>6</sup>Mulla, D. F. (2018). *Principles of Hindu Law* (23rd ed.). LexisNexis.

<sup>7</sup>Agnes, F. (2011). *Family Law and Constitutional Claims*. Oxford University Press.

is an attempt towards a more coherent approach to custody jurisprudence in contemporary India. This transformation reflects a shift toward relational continuity as a component of welfare. As illustrated in Figure 1, visitation operates within a relational structure centred upon the child's best interests rather than parental entitlement.<sup>8</sup>



**Figure 1:** Child-Centred Structure of Post-Separation Parenting

## II. LITERATURE REVIEW

The Indian child custody and visitation process is part of a broader change in the way families are organized in society. Even though India's divorce rate remains low in comparison to Western cultures, there has been a very real increase in the number of divorces. According to successive surveys conducted by the National Family Health Survey, the percentage of women between the ages of 15 and 49 years old who have been divorced or separated has risen from less than 1% to 1.5 to 2% in recent years.<sup>9</sup> Urban areas have higher percentages than rural ones. According to the National Crime Records Bureau, there has been an increase in matrimonial cases in courts in urban cities.<sup>10</sup>

Though this does not indicate that families in India have begun to disintegrate, there has been a major change in the way families in India are organized. According to experts in the field, even a small change in divorce rates can have a major impact on child custody and visitation cases because all cases that involve children require the court to decide for the future. Today, there are two incomes in most families, women in the workforce outside the home, migration from state to state, and the world-wide trend in employment. In essence, this has made the traditional concept of child care much more complicated. There are now many cases in court that require judges to make decisions about relocation cases, shared parenting cases, as well as international access cases. In essence, child custody and visitation cases are being decided in a very dynamic society.

In the dynamic world of Indian law, welfare is the pivot on which the formulation of custody

<sup>8</sup>Yashita Sahu v. State of Rajasthan, (2020) 3 SCC 67 (Supreme Court of India).

<sup>9</sup>International Institute for Population Sciences (IIPS) & Ministry of Health and Family Welfare. (2021). *National Family Health Survey (NFHS-5), 2019–21: India Fact Sheet*. Government of India.

<sup>10</sup>National Crime Records Bureau. (2022). *Crime in India 2022: Statistics on matrimonial disputes and family offences*. Ministry of Home Affairs, Government of India.

decisions turns. Paras Diwan commends the robustness of welfare doctrine precisely for its willingness to bend and adapt, arguing that any attempt to force welfare doctrine into rigid statutory guidelines would deprive the court of its capacity to address the distinct emotional and familial circumstances of each child.<sup>11</sup> Similarly, Mulla's magisterial survey of Hindu law positions discretion as the key advantage of court decisions on custody, noting that "no formula, however elaborate, can accurately reflect the intricate web of relationships which constitute family life."<sup>12</sup>

However, feminist scholars intervene to complicate the apparent endorsement of discretion and flexibility. Flavia Agnes disputes the concept of welfare as an objective measure. She points to a discernible trend in the expression of underlying gender ideologies in the discussion of welfare in courtrooms.<sup>13</sup> She argues that self-sacrifice for the child can be seen as evidence of good parenting for women, whereas economic security and authority can be associated with men. Archana Parashar takes the debate to the next level by demonstrating how guardianship and personal laws subtly promote gender stereotypes in the concept of motherhood and authority.<sup>14</sup> According to Parashar, welfare as a principle does not simply exist in a vacuum. Its application is mediated by the values of society in its determination of good parenting.

There is also the question of the constitutional perspective. Family law has traditionally been regarded as being outside the realm of constitutional law. However, there are theorists like Upendra Baxi who have argued that no form of adjudication can be outside the transformative effects of constitutionalism.<sup>15</sup> Indeed, the broader critique of discretionary judgment, especially in the context of Article 14 equality guarantees and Article 21 dignity and personal liberty provisions, offers an interesting perspective on the issue of consistency and normative values in custody disputes. While constitutionalism is certainly at play, there is limited explicit use of constitutionalism in custody disputes.

Werner Menski's approach of analyzing Indian family laws from a comparative and pluralistic approach positions family laws as part of a complex structure of laws that also comprise statutes, personal laws, constitutional provisions, and practical lived experiences.<sup>16</sup> The context of custody battles is one in which tradition and modernity intersect and in which tradition and modernity are forced to coexist with contemporary notions of equality and justice. Visitation rights are part of this complex and dynamic landscape of laws and rights.

However, as discussed in the literature review, there are two areas of omission that are evident in the existing body of knowledge on family laws and rights in India.<sup>17</sup> First is the fact that though the breadth and width of the welfare principle are recognized and understood,

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<sup>11</sup>Diwan, P. (2020). *Modern Hindu Law* (latest ed.). LexisNexis.

<sup>12</sup>Mulla, D. F. (2018). *Principles of Hindu Law* (23rd ed.). LexisNexis.

<sup>13</sup>Agnes, F. (1999). Gender equality and personal laws in India. *Economic and Political Weekly*, 34(44), 3129–3134.

<sup>14</sup>Parashar, A. (1992). *Women and Family Law Reform in India*. Sage Publications.

<sup>15</sup>Baxi, U. (2002). *The Future of Human Rights*. Oxford University Press.

<sup>16</sup>Menski, W. (2003). *Hindu Law: Beyond Tradition and Modernity*. Oxford University Press.

<sup>17</sup>Parashar, A. (2007). Gender, religion and family law reform in India. *International Journal of Law, Policy and the Family*, 21(3), 349–368.

there is a lack of deeper exploration of whether it is a concrete constitutional principle or simply a moral compass that is subject to interpretation and application by individual judges and jurists. The second is the fact that visitation rights as a legal construct have not yet found adequate analytical attention and are often discussed as part of a secondary role in relation to custody rights.

The rising number of divorce and separation petitions have heightened the importance of developing visitation rights as a legal construct.<sup>18</sup> However, what is not known is how the abstract considerations of welfare are converted into concrete and practical visitation rights and schedules and how conflicts between parental interests and child-centered considerations are managed by the court and how issues of enforcement are impacting visitation rights and schedules.

This study is located precisely at this crossroads of demography, flexible laws and rights, gender issues, constitutional changes, and enforcement in the real world. This chapter explores the visitation rights construct as a site of exploration of how the welfare principle is constructed and implemented and whether discretion is exercised within a framework of constitutional norms or as part of a broader evaluative framework of social change and reality.

### III. OBJECTIVES

This chapter is informed by a primary objective of critically evaluating the normative and jurisprudential underpinnings of the “welfare of the child” principle in Indian custody law. Although the welfare principle is invariably treated as paramount as a governing doctrine, its conceptual and operational clarity is an issue for academic evaluation.<sup>19</sup> In this context, the study seeks to evaluate the evolution of this doctrine as a judicially interpreted principle of law and its operational application as a coherent legal principle or a flexible moral code.

The second objective of the study is to evaluate the extent of judicial discretion in custody determination. Through a close evaluation of leading cases on custody determination, this chapter seeks to evaluate whether the judicial approach is informed by a set of evaluative criteria or is primarily guided by subjective determinations informed by social context and reasoning.<sup>20</sup>

Another object of this study is to evaluate the relationship between custody determination as a legal doctrine and constitutional values such as equality, dignity, and liberty. In this context, the study seeks to evaluate whether the welfare principle is informed by a constitutionalist approach or is an independent doctrine not requiring constitutional evaluation.<sup>21</sup>

Lastly, this chapter seeks to evaluate the conceptual and structural gaps in the existing custody determination framework and contribute an academically informed evaluation of the

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<sup>18</sup>Law Commission of India. (2015). *Reforms in Guardianship and Custody Laws in India* (257th Report). Government of India.

<sup>19</sup>Diwan, P. (2020). *Modern Hindu Law* (latest ed.). LexisNexis.

<sup>20</sup>Mulla, D. F. (2018). *Principles of Hindu Law* (23rd ed.). LexisNexis.

<sup>21</sup>Baxi, U. (2002). *The Future of Human Rights*. Oxford University Press.

potential for refining the welfare doctrine for greater consistency, accountability, and child-centred outcomes.<sup>22</sup>

#### IV. RESEARCH METHODOLOGY

The methodology of the current research was developed based on secondary data, including statutory interpretation, judicial precedents, policy documents, and academic discourse. The research study is based on the doctrinal method, which includes the analysis of relevant statutory provisions concerning the concept of custody.

Decisions and rulings of the Supreme Court and various High Courts across the country would also be referred to highlight the application and relevance of the welfare principle in diverse factual scenarios. Policy documents and academic discourse would also be referred to highlight the relevance and application of the welfare principle in the broader constitutional and legal discourse.

The methodology adopted for the research study is essentially interpretative and analytical in nature and does not include empirical research. The objective of the research study is to critically evaluate the coherence and consistency of the welfare principle in the existing legal regime.

#### V. FINDINGS

The present research indicates that the concept of visitation rights in India exists within a structurally indeterminate, yet formally recognized, legal regime. Although the Guardians and Wards Act, 1890, and the Hindu Minority and Guardianship Act, 1956, unequivocally establish the paramountcy of the child's welfare.<sup>23</sup> No defined normative structure exists to conceptualize, structure, and enforce the concept of visitation rights.

One of the significant developments that the present research indicates in the law on child custody and visitation rights relates to the judicial extension of the concept of the child's welfare. Traditionally, the concept of the child's welfare was restricted to physical custody and economic well-being. However, the present research indicates that the concept of the child's welfare has been extended to include emotional stability and identity. In the case of *Gaurav Nagpal v. Sumedha Nagpal*, the Supreme Court held that the concept of the child's welfare must be construed to include the widest amplitude, such as the child's moral and psychological well-being.<sup>24</sup> Although the case was not related to the concept of visitation rights, the judgement was significant to the development of the concept of child access rights, as the court recognized the importance of emotional association to the child's well-being. This development indicates that the concept of visitation rights has gradually been integrated into the concept of the child's welfare.

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<sup>22</sup>Law Commission of India. (2015). *Reforms in Guardianship and Custody Laws in India* (257th Report). Government of India.

<sup>23</sup>Guardians and Wards Act, 1890; Hindu Minority and Guardianship Act, 1956.

<sup>24</sup>*Gaurav Nagpal v. Sumedha Nagpal*, (2009) 1 SCC 42 (India).

Moreover, the study finds evidence of a conceptual shift in the understanding of the concept of visitation. Traditionally, the concept of visitation was seen as subsidiary and was often viewed with some reluctance by the non-custodial parent. However, contemporary judicial reasoning indicates a clear shift towards a child-centred approach. In the case of *Roxann Sharma v. Arun Sharma*, the Supreme Court noted that a child normally benefits from the love and company of both parents.<sup>25</sup> This statement represents a subtle but clear shift in the understanding of the concept of visitation, moving beyond a focus on the rights of the parent to a focus on the child's welfare. However, at the same time, the courts have been clear in their assertion that the concept of visitation remains dependent on the absence of harm to the child.

However, the research also reveals an inherent structural conflict within the welfare-based approach. It is submitted that there is no standardized evaluative matrix for the judiciary to follow in the exercise of reconciling competing considerations such as the need for continuity in education, alienation of the other parent, relocation, employment considerations, or the desires of the child. As a result, similar factual scenarios may produce disparate visitation orders. This is a consequence of the dualistic nature of the welfare approach: promoting contextual justice at the expense of doctrinal predictability.<sup>26</sup>

Significant advances in the socio-legal landscape have also contributed to the intricate nature of visitation disputes. For example, increased rates of divorce, interstate and international migration, international employment patterns, and the advent of video communication technologies have all impacted the reality of post-separation parenting. The judiciary has responded with novel solutions such as the establishment of a structured holiday schedule and supervised access visits through video conferencing. Such judicial responses clearly reflect a reactive approach to the evolving nature of the family. Nevertheless, such responses remain largely ad hoc rather than policy driven.

One of the more interesting findings is the issue of enforcement. It is submitted that the ultimate success of a visitation order is heavily dependent on the cooperation of the other party. In cases where conflict is heightened, delay, obstructionism, and manipulation may be employed to frustrate the order. What is revealed is a disconnect between the doctrinal approach and its ultimate enforcement. While the legal approach acknowledges the need for relational continuity, the enforcement tools at the judiciary's disposal remain relatively underdeveloped.

The study also makes an observation that, while the values of the constitution, such as equality, dignity, and individual liberty enshrined in Articles 14 and 21 of the Constitution, are a part of the larger normative framework of family law, visitation adjudication does not explicitly rely on these provisions.<sup>27</sup> Similarly, the provisions of the United Nations Convention on the Rights of the Child, which are relevant to the best interest's principle enshrined in Article 3 of the Convention, are more implicit in the normative framework of

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<sup>25</sup>*Roxann Sharma v. Arun Sharma*, (2015) 8 SCC 318 (India).

<sup>26</sup>Mulla, D. F. (2018). *Principles of Hindu Law* (23rd ed.). LexisNexis.

<sup>27</sup>Constitution of India, 1950, arts. 14, 21.

visitation adjudication.<sup>28</sup> Instead, visitation adjudication is largely doctrinal in character, rather than explicitly constitutional in character.

Overall, the findings of this study suggest that the law of child visitation in India is best characterized as a system of functional flexibility. This is because the welfare principle provides the judiciary with the functional capacity to respond to changing family forms and societal realities. This is, however, subject to an unstructured evaluative context that prioritizes contextual fairness at the cost of doctrinal coherence and predictability. Indeed, visitation adjudication is an evolving child-centric model of family law, rooted in the welfare principle, but which is subject to the articulation of normative parameters that prioritize institutional consistency.

## VI. CONCLUSION

The present research argues that the concept of visitation rights in India has developed through judicial construction rather than legislative clarity. While the law articulates the concept of welfare in aspirational rather than definitive language, it is the courts that have given it substantive meaning. Over time, the courts have moved from a custodial model to one that acknowledges that the welfare of the child extends to emotional continuity and relationship stability. Visitation rights are now not seen as a secondary aspect but rather a core part of child welfare.<sup>29</sup>

The research suggests that the strength of the welfare principle in India lies in a feature that is both enabling and limiting in its application: its elasticity. While this absence of clear evaluative standards allows the courts to respond to the unique circumstances of each case, it simultaneously creates ambiguity in application. The courts' discretion is bounded by general normative standards that often operate without a clear hierarchy of importance.<sup>30</sup>

The difficulties in enforcement also suggest that the law has not gone far enough in articulating the welfare principle. A visitation order becomes relevant only to the extent that it translates into real relationship continuity. Without clear monitoring standards or procedural clarity, the welfare principle may remain aspirational rather than operational.

Therefore, the development of future jurisprudence in visitation rights will not be based on codification and rigidity but rather on the development of clear principles that balance judicial discretion with constitutional principles of dignity, equality, and child justice.<sup>31</sup>

The law must continue to evolve, not by expanding discretion, but by refining how that discretion is exercised.

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<sup>28</sup>United Nations. (1989). *Convention on the Rights of the Child*, art. 3.

<sup>29</sup>*Gaurav Nagpal v. Sumedha Nagpal*, (2009) 1 SCC 42 (India); *Roxann Sharma v. Arun Sharma*, (2015) 8 SCC 318 (India).

<sup>30</sup>Mulla, D. F. (2018). *Principles of Hindu Law* (23rd ed.). LexisNexis; Diwan, P. (2020). *Modern Hindu Law*. LexisNexis.

<sup>31</sup>Constitution of India, 1950, arts. 14 & 21; United Nations. (1989). *Convention on the Rights of the Child*, art.

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# BEYOND THE LABORATORY: A SOCIOLOGICAL STUDY OF PCOS, INFERTILITY STIGMA, AND THE ASSISTED REPRODUCTIVE LANDSCAPE IN INDIA

## Abstract

As perspectives on motherhood evolve in India, Assisted Reproductive Technology (ART), particularly In Vitro Fertilization (IVF), has become a significant resource for many couples. For women diagnosed with Polycystic Ovary Syndrome (PCOS), however, the journey toward parenthood involves unique social and emotional considerations. While IVF provides a technical solution to hormonal challenges, it often occurs within a cultural framework that places a high value on biological conception, sometimes creating additional pressure for the patient. Through a review of sociological and medical literature, this chapter explores the experiences of women with PCOS navigating the Indian fertility landscape. It examines how cultural preferences for genetic lineage - often termed the "Yashoda Paradox" and the practical complexities of the adoption process can make IVF feel like the most viable path. The study also discusses the financial and emotional investments required for treatment and how these factors impact a woman's well-being. The chapter concludes by arguing for a proactive, multidisciplinary care model that integrates psychological support from the moment of diagnosis, shifting the focus from purely technical success to holistic patient well-being.

**Keywords:** Polycystic Ovary Syndrome (PCOS), Assisted Reproductive Technology (ART), In Vitro Fertility (IVF), Stigma, Infertility, Motherhood.

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## I. INTRODUCTION

Polycystic Ovary Syndrome (PCOS) is a complex endocrine disorder that has rapidly escalated into a global public health crisis, affecting an estimated 10% to 13% of women of reproductive age worldwide.<sup>12</sup> Characterized by hormonal imbalances and metabolic dysfunction, the condition manifests through Hyperandrogenism, leading to significant physical changes—such as hirsutism, thinning hair, acne, and involuntary weight gain. For many women, these symptoms are not merely medical concerns; they represent a direct assault on traditional standards of femininity, deeply impacting self-esteem and body image.<sup>34</sup> Beyond the aesthetic toll, PCOS stands as one of the leading causes of female infertility, carrying increased risks of miscarriage and pregnancy complications. In a global culture that still frequently measures a woman’s “completeness” by her ability to conceive, PCOS becomes a “tabooed” disease. The fear of potential infertility creates a profound psychological burden, even among unmarried women, often resulting in a significantly lower Quality of Life.<sup>5678</sup>

In the modern era, the definition of motherhood is theoretically expanding. With the advancement of Assisted Reproductive Technology (ART)—specifically In Vitro Fertilization (IVF)—science offers a new “ray of hope” that seeks to decouple motherhood from biological unpredictability. However, this technology exists within a complex socio-economic landscape. Especially in traditional contexts, the transition from “natural” to “assisted” conception is fraught with unique stigmas, high financial stakes, and an emotional toll, turning into a “double-edged sword” for a woman suffering from PCOS.

## II. THE CHILDLESS WOMAN PARADOX

India, being a pronatalist country, places a high value on Motherhood.<sup>9</sup> A Woman without children is often deemed a failure, creating a loss of status and increased stigma.<sup>10</sup> Women having difficulty conceiving have spoken about facing sarcasm, humiliation, and offensive

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<sup>1</sup>Shukla, A., Rasquin, L. I., & Anastasopoulou, C. (2025). Polycystic ovarian syndrome. In *StatPearls [Internet]*. StatPearls Publishing.

<sup>2</sup><https://www.who.int/news-room/fact-sheets/detail/polycystic-ovary-syndrome>

<sup>3</sup>Yang, J., & Chen, C. (2024). Hormonal changes in PCOS. *The Journal of endocrinology*, 261(1), e230342. <https://doi.org/10.1530/JOE-23-0342>

<sup>4</sup>Al Sumri, H., Al Kindi, R., Al Sumry, S., Al Hadhrami, R., & Al Salmani, A. (2025). The Stolen Femininity of Patients with Polycystic Ovarian Syndrome (PCOS). *OMAN MEDICAL JOURNAL*.

<sup>5</sup>Cunha, A., & Póvoa, A. M. (2021). Infertility management in women with polycystic ovary syndrome: a review. *Porto biomedical journal*, 6(1), e116. <https://doi.org/10.1097/j.pbj.000000000000116>

<sup>6</sup>Sharma, S., & Mishra, A. J. (2018). Tabooed disease in alienated bodies: A study of women suffering from polycystic ovary syndrome (PCOS). *Clinical Epidemiology and Global Health*, 6(3), 130-136.

<sup>7</sup>Lahiri, V. (2025). Lived experiences of college students with PCOS: A qualitative study. In M. Dasgupta (Ed.), *Understanding gender: Meaning, concepts & key theories* (pp. 299–313). Versewave Publishing.

<sup>8</sup>Li, G., Zhao, D., Wang, Q., Zhou, M., Kong, L., Fang, M., & Li, P. (2022). Infertility-related stress and quality of life among infertile women with polycystic ovary syndrome: does body mass index matter?. *Journal of Psychosomatic Research*, 158, 110908.

<sup>9</sup>Babu, M. S. (2024). ‘Are you a real woman?’: Stigma and the childfree Indian woman. *Indian Journal of Gender Studies*, 31(3), 287-307.

<sup>10</sup>Chaki, C. S., & De Sousa, A. (2024). Infertility and Mental Health: a complex connection. *Indian Journal of Mental Health*, 11(3).

terms. A common and deeply hurtful term used to belittle infertile women is ‘Baanjh’, which carries a weight of social exclusion and shame.

Research has shown that marital instability is powerfully associated with both primary and secondary infertility. Married infertile women are significantly more likely to experience marital dissolution.<sup>11</sup> For a woman with PCOS, the physical symptoms are not just a medical concern—they are seen as a threat to her marriage and her standing in the community.

PCOS, associated with risk of infertility and fear of judgment, has a profound impact on women's mental health. Physical, emotional, Sexual, spiritual, and financial aspects of one's life are affected by this disease of the reproductive system. With most complaining about anxiety and depression.<sup>10</sup> These emotional tolls are often made worse by misguided beliefs and common misconceptions surrounding the disorder.<sup>12</sup>

### III. THE GEOGRAPHIC DIVIDE: URBAN VS. RURAL PRESSURES

The stigma of infertility and the resulting societal pressure look very different depending on whether a woman lives in an urban or rural area.

In urban settings, women often face a “dual burden.” They are expected to excel in their careers while simultaneously fulfilling traditional expectations of motherhood.<sup>13</sup> Despite professional success, a common cultural notion persists: a woman is only considered “complete” once she becomes a mother.<sup>14</sup> However, globalization and better access to media in cities provide urban women with more diverse perspectives and support systems. They are more likely to seek help from specialized fertility clinics or join digital support groups to cope with the emotional toll of PCOS.

In contrast, rural communities are often defined by more traditional beliefs and limited healthcare options. In these areas, there is a much stronger adherence to cultural norms that place childbearing at the very center of a marriage. Research has shown that even younger women in rural areas face more extreme challenges than their urban counterparts. This is due to deeply entrenched beliefs and a lack of resources, leaving them with fewer options to manage both the medical symptoms of PCOS and the social fallout of infertility.<sup>13</sup>

### IV. THE YASHODA PARADOX: DEVOTION VS. GENETIC OBSESSION

In a country where the foster relationship between Lord Krishna and Mata Yashoda is celebrated as the pinnacle of maternal love, it is a profound irony that adoption still carries a heavy stigma. Despite these spiritual ideals, there remains an ingrained belief in India that “blood” matters more than “bonding.” Historically, priorities like caste purity, family lineage, and biological inheritance have often been placed above emotional connection. Even today,

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<sup>11</sup>[Ipc2025.popconf.org](https://ipc2025.popconf.org)

<sup>12</sup>Dewani, D., Karwade, P., & Mahajan, K. S. (2023). The invisible struggle: The psychosocial aspects of polycystic ovary syndrome. *Cureus*,

<sup>13</sup>Baghel, J., Kamath, A., Prakash, A., & Yadav, A. (2024). Stigma and support: Infertility's varied face across urban and rural India. *Global Reproductive Health*, 9(4), e0098.

<sup>14</sup> <https://indianexpress.com/article/opinion/columns/ivf-debt-insecurity-and-judgment-the-one-sided-costs-that-women-bear-for-fertility-10079803/>

many families hesitate to adopt due to deep-seated anxieties about a child's "unknown" background, fearing it might "stain" the family's future.<sup>15</sup>

These hesitations are often fueled by the belief that genetics is stronger than upbringing. Phrases like "A thief's child will always be a thief" reflect a common fear that a child's "nature" or their biological parents' "karma" cannot be changed by a loving home. This was starkly visible in 2025, following a tragic incident where an adoptive mother was murdered by her daughter. Social media reactions largely blamed the victim for choosing adoption, with the phrase "Apnakhon, apna hi hotahai" (One's own blood is truly one's own) appearing frequently in public comments.<sup>16</sup> Such beliefs are often reinforced by popular media and movies, which consistently link a woman's value to her ability to reproduce, further fueling the obsession with biological fertility.

## V. THE LEGAL FATIGUE

Even when the cultural 'Yashoda Paradox' is overcome and a couple chooses adoption, they often hit a secondary wall: the exhaustion of the legal system.

Historically, adoption laws in India were slow and filled with red tape, which often disheartened even the most committed parents. While recent reforms (like the 2022 Adoption Regulations) were meant to simplify things, the reality remains difficult.<sup>17</sup>

As of 2026, a significant gap persists between prospective adoptive parents and legally adoptable children, with a staggering ratio of 13:1. Furthermore, concerns over illegal or informal adoptions have led to increased scrutiny, stretching the average waiting period from one year in 2017 to over 3.5 years in 2025.<sup>18</sup> This long, uncertain 'wait' becomes an unbearable emotional burden for women with PCOS, who have often already spent years in medical treatment. Consequently, many are pushed back toward IVF, not necessarily as a first choice, but as a final, desperate attempt to achieve motherhood in a society that leaves them few other viable options.

## VI. IVF: A BOON OR A COMMERCIALIZED CURSE?

### 1. IVF as a Ray of Hope

When lifestyle changes and basic fertility medications fail, and the doors to adoption seem closed, In Vitro Fertilization (IVF) emerges as a significant 'ray of hope.' For the woman with PCOS, IVF represents more than just a medical procedure; it is a restoration of agency. After years of feeling betrayed by her own biology, the laboratory offers a controlled environment where 'success' feels attainable.

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<sup>15</sup><https://girlpowertalk.com/adoption-a-hidden-stigma-in-indian-society/>

<sup>16</sup><https://www.thehindu.com/news/national/odisha/teen-girl-two-friends-arrested-for-killing-woman-who-raised-her-in-odisha/article69586636.ece>

<sup>17</sup><https://ohrh.law.ox.ac.uk/adoption-process-in-india-a-tedious-exercise-hampering-child-rights/>

<sup>18</sup><https://www.drishtiias.com/daily-updates/daily-news-analysis/child-adoption-in-india-1>

As one of the most successful evidence-based methods for managing PCOS-related infertility, IVF bypasses the body's hormonal unpredictability. Instead of relying on spontaneous ovulation, the process involves controlled ovarian stimulation to produce multiple eggs, followed by direct retrieval and laboratory fertilization. By creating embryos in a stable environment and transferring a healthy embryo back into the uterus, IVF offers a level of precision that natural conception cannot provide.<sup>19</sup>

## 2. Commercialization of Motherhood

With the reducing fertility rate in India, the IVF market size is estimated to grow from 1.06 billion USD in 2023 at a rate of 7.8% from 2024 to 2030.<sup>20</sup> And with the rapid advancement of this industry, the risk of unethical practices lurks in the darkness. As the market expands at an annual rate of 7.8%, the boundary between 'patient care' and 'profit maximization' often becomes blurred.

In the shadows of this billion-dollar boom, the risk of unethical practices has become a documented concern. Reports have highlighted the emergence of small, under-regulated centers that exploit the desperation of couples by offering scientifically inaccurate promises, such as '100% guaranteed success.' These practices often involve bypassing essential diagnostic testing and pushing repeated, expensive cycles without clear medical justification.<sup>21</sup> In some extreme cases, the lack of oversight in the fertility sector has been linked to illegal surrogacy, trafficking rackets, and malpractices (utilizing eggs and sperm of other couples without consent), transforming a medical journey into a site of systemic exploitation.<sup>22,23,24</sup>

## 3. The Reproductive Debt

While marketed as a definitive solution, In Vitro Fertilization (IVF) is a complex, multi-step medical journey. It involves ovarian stimulation, surgical egg retrieval, laboratory fertilization, embryo transfer, and intensive hormonal monitoring for pregnancy. Despite its promise, success is never a guarantee. Depending on a woman's age, metabolic health, and the underlying complexities of PCOS, the success rate for a single cycle often hovers at 40% or less.

Fertility experts consistently maintain that there is no 'fixed' number of cycles to guarantee a live birth, as outcomes vary drastically from person to person. Because of this unpredictability, couples are rarely 'one and done.' In India, the financial toll of this uncertainty is crushing. Recent data shows that the median out-of-pocket expenditure per cycle is approximately ₹1.1 lakhs in public hospitals and can exceed ₹2.3 lakhs in private clinics, pushing 9 out of 10 couples into debt. Furthermore, even for those with insurance,

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<sup>19</sup><https://www.rainbowivf.in/pcos-ivf-treatment-india/>

<sup>20</sup><https://www.grandviewresearch.com/industry-analysis/india-in-vitro-fertilization-market-report>

<sup>21</sup><https://totalivfsolutions.com/ivf-scams-in-india-a-complete-safety-guide-for-ethiopian-patients/>

<sup>22</sup><https://www.thehindu.com/news/national/telangana/illegal-surrogacy-and-baby-selling-racket-busted-in-hyderabad-fertility-clinic-head-among-10-arrested/article69861694.ece>

<sup>23</sup><https://www.bmj.com/content/390/bmj.r1769>

<sup>24</sup><https://www.medtalks.in/articles/what-are-the-unethical-acts-in-ivf>

waiting periods of up to 3 years often render the coverage useless for those racing against the biological clock.<sup>25,26,27</sup>

This burden is compounded by geographic centralization. Most reputable ART centers are concentrated in Tier-1 cities, leaving rural and small-town couples to navigate the “hidden costs” of travel, temporary housing, and lost wages. When lower-cost public options are overwhelmed by waiting lists, desperate patients are driven toward private centers—and the higher price tags that follow.<sup>27</sup>

#### **4. The Secretive Burden: Stigma Toward Assisted Conception**

Despite the multi-billion-dollar growth of the ART industry, a deep-seated cultural stigma remains attached to the process of In Vitro Fertilization. For many in India, the concept of a “test-tube baby” is still viewed as “unnatural”. This leads to a profound culture of secrecy; fertility experts report that only 10% to 20% of couples are completely transparent with their families about undergoing ART. Doctors believe that the stigma is largely because infertility is still looked down upon as a personal shortcoming rather than a medical issue.<sup>28</sup>

For the woman with PCOS, this secrecy adds a “secondary layer” of psychological trauma. She is already battling the internal “betrayal” of her own body; now, she must also navigate the humiliation of a treatment that society deems “unnatural.” Instead of receiving the emotional and communal support necessary for such a gruelling medical journey, couples often feel shy or ashamed, hiding clinic visits and hormonal side effects from even their closest relatives.

This “Medical Hiding” turns a shared family experience into a lonely, undercover operation. The fear of being judged as “biologically inadequate” or “technologically dependent” forces women into a cycle of silence.

#### **5. The Psychological Toll: The Cost of the Silent Struggle**

While the clinical focus of IVF is often on the physical success of fertilization, the psychological vacuum created by the process is a significant contributor to long-term trauma. For the woman with PCOS—already navigating a heightened baseline of emotional vulnerability—the journey is often defined by a profound lack of social and emotional support. Because the treatment is frequently hidden to avoid the “Baanjh” or “unnatural” stigma, the woman is forced to process the gruelling medical protocol in a state of forced isolation.

This lack of an empathetic infrastructure often leads to a toxic cycle of frustration and resentment. As studies have shown, women experience significantly higher levels of

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<sup>25</sup><https://www.thehindu.com/sci-tech/health/high-cost-of-infertility-treatments-puts-financial-strain-on-couples-icmr-nirrhstudy/article70358007.ece>

<sup>26</sup><https://www.indiatoday.in/health/story/ivf-pushes-9-in-10-indian-couples-into-debt-govt-report-warns-calls-for-cover-2830072-2025-12-03>

<sup>27</sup><https://etedge-insights.com/industry/healthcare/when-57-of-indian-couples-say-cost-is-the-biggest-barrier-in-ivf-what-can-fix-indias-infertility-crisis/>

<sup>28</sup><https://timesofindia.indiatimes.com/life-style/health-fitness/health-news/time-to-end-the-social-stigma-attached-to-test-tube-babies/articleshow/59644698.cms>

psychological distress than their male partners at nearly every stage of the IVF journey. When this gendered disparity in “biological labor” is not acknowledged by the family or the clinic, it can foster a deep sense of bitterness—not only toward the medical system but also toward a society that demands a child while offering no grace for the trauma required to produce one.<sup>29,30</sup>

Furthermore, for the PCOS patient, this emotional weight is compounded by physical risk. The constant threat of Ovarian Hyperstimulation Syndrome (OHSS)—with its symptoms of nausea and abdominal swelling—acts as a physical manifestation of her internal distress. Without a strong support system to validate these fears, the woman’s “hope” is replaced by a sense of relational abandonment, making the invasive nature of IVF a catalyst for deeper mental health crises rather than a solution for them.<sup>31</sup>

## VII. RISING CAUTION OF COUNSELLING IN FERTILITY CLINICS

Fertility clinics in India began incorporating formal counselors in the **early 2000s**, with a notable shift in focus towards psychosocial support around **2003-2005**, driven by increasing awareness of the emotional and psychological burdens of In-Vitro Fertilization (IVF). The first infertility counselling centre opened at the Melbourne IVF centre in Gujarat in 2003, hitting a necessary milestone.<sup>32</sup>

Today, modern IVF specialists are leading the way by advocating for a multidisciplinary team approach. This model moves beyond the laboratory to offer a “safety net” for couples, where professionals provide essential guidance on the emotional, psychological, and practical hurdles of treatment. By helping couples manage stress and navigate the complexities of ART, these teams are actively working to mitigate the “Silent Struggle” and restore the patient’s sense of agency.<sup>33</sup>

For a woman diagnosed with PCOS, starting counseling only after deciding to pursue IVF is a missed opportunity. Because PCOS has a proven psychological impact, and because chronic stress can further complicate hormonal health and pregnancy outcomes, mental health support should not be treated as “preparation for a procedure.” Instead, therapy and robust social support must be recognized as foundational treatments for the syndrome itself, integrated from the moment of diagnosis to address the syndrome’s lifelong nature.

## VIII. REDUCING STIGMA AND INCREASING SUPPORT: A MULTI-DIMENSIONAL APPROACH

The first step in dismantling the “Silent Struggle” is a massive shift in public health communication. In many parts of India, infertility and PCOS are still viewed through a

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<sup>29</sup>Grammenou, M., Michou, V., Itziou, A., Tsiotsias, A., & Eskitzis, P. (2026). The Psychological Impact of In Vitro Fertilization (IVF): A Gender Systematic Review. *Healthcare (Basel, Switzerland)*, 14(3), 375.

<https://doi.org/10.3390/healthcare14030375>

<sup>30</sup>[https://www.indiaivf.in/blog/emotional-rollercoaster-ivf-unsupportive-husband?srsItd=AfmBOopwwBuP9cXBAOaio7b4eTIxRI0SG6lNhcSB4shlAfCOovqJD\\_Q8](https://www.indiaivf.in/blog/emotional-rollercoaster-ivf-unsupportive-husband?srsItd=AfmBOopwwBuP9cXBAOaio7b4eTIxRI0SG6lNhcSB4shlAfCOovqJD_Q8)

<sup>31</sup><https://www.pristyncare.com/consult/ivf-with-pcos-managing-risks-of-overstimulation-and-medication-side-effects/#:~:text=Women%20with%20PCOS%20are%20at,levels%20closely%20with%20frequent%20scans.>

<sup>32</sup><https://timesofindia.indiatimes.com/city/ahmedabad/stress-counselling-at-ivf-centre/articleshow/326599.cms>

<sup>33</sup><https://www.indiraivf.com/blog/fertility-counselling>

“moral” lens, often dismissed as a personal shortcoming or a stroke of “bad karma.” Because the biological burden of reproduction is culturally placed on the woman, she becomes the primary target of this moral judgment. To counter this, there must be a concerted effort to re-medicalize the conversation, shifting the focus from “fate” to “physiology” and removing misconceptions.

Awareness is the strongest antidote to stigma. Fortunately, the landscape in India is evolving with the rise of dedicated support groups and professional organizations that offer resources, awareness, and, most importantly, community connection.

1. **The PCOS Society of India:** By bringing together medical professionals from various disciplines - endocrinologists, gynecologists, and psychologists- this organization is standardizing the “Multidisciplinary Approach.” Their work is vital in ensuring that a PCOS diagnosis is treated as a manageable health condition rather than a hidden shame.
2. **TheMindClan:** Online platforms like TheMindClan are revolutionizing support by offering an online, weekly group therapy space focusing on personal experiences, providing a safe, supportive community.

The Government of India, through the Ministry of Health and Family Welfare (MoHFW) and affiliated bodies like the Indian Council of Medical Research (ICMR), has launched several initiatives aimed at addressing the growing prevalence of Polycystic Ovarian Syndrome (PCOS) and infertility, including In Vitro Fertilization (IVF). These efforts focus on awareness, early diagnosis, and regulated, affordable treatment.

## **IX. IVF LAWS AND REGULATIONS IN INDIA**

The ethical and legal framework surrounding Assisted Reproductive Technology (ART) in India has undergone a transformative shift, moving from an unregulated “medical frontier” to a strictly governed sector aimed at protecting vulnerable couples. Central to this evolution is the Assisted Reproductive Technology (Regulation) Act, 2021, which serves as a critical shield against the “commercialized curse” by mandating that all IVF clinics maintain high standards of transparency, safety, and informed consent. This law, working in tandem with the Surrogacy (Regulation) Act, has effectively banned commercial surrogacy in favor of an altruistic model, addressing deep-seated concerns regarding the exploitation of women and the potential commodification of motherhood.

By establishing clear protocols for the selection of embryos, strictly prohibiting non-medical traits like gender under the PCPNDT Act, and defining the legal parental rights for those using donor gametes, the Indian government has created a robust legal architecture. For a woman with PCOS, these regulations ensure that her journey toward motherhood is not just a high-tech gamble, but a legally protected process where clinical accountability and patient ethics are prioritized over profit maximization.<sup>34353637</sup>

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<sup>34</sup> <https://www.icmr.gov.in/the-assisted-reproductive-technology-regulation-act-2021-and-the-surrogacy-regulation-act-2021>

<sup>35</sup> [https://www.indiacode.nic.in/handle/123456789/17046?view\\_type=browse](https://www.indiacode.nic.in/handle/123456789/17046?view_type=browse)

<sup>36</sup> <https://nhmmeghalaya.nic.in/programmes/pcpndt/pcpndt.html>

## X. CONCLUSION

The journey of an Indian woman with PCOS is a complex negotiation between her biological reality and a society that largely defines her worth through motherhood. This chapter has illustrated that while Assisted Reproductive Technology (ART) is marketed as a definitive boon, it often functions as a double-edged sword. The “ray of hope” offered by IVF is frequently dulled by the weight of Reproductive Debt and the culture of Medical Hiding, where couples undergo gruelling treatments in total secrecy to avoid social judgment. Central to this struggle is the Yashoda Paradox: the profound cultural irony where a society that spiritually celebrates foster-motherhood remains stubbornly obsessed with “blood” lineage, often viewing adoption in negative light. This obsession pushes many married women toward repeated, expensive IVF cycles, not necessarily out of personal desire, but as a desperate attempt to maintain marital stability and social standing.

However, as this research highlights, there is a significant “Silent Gap” in our academic understanding of these women’s lives. Current studies in India are heavily skewed toward clinical success rates, unmarried women, and urban, affluent populations, leaving a massive void regarding the emotional and relational toll on married women, especially those in rural or lower-income settings. We lack longitudinal data on how a PCOS diagnosis and the subsequent “IVF marathon” affect long-term mental health and marital dynamics.

Moving forward, the Indian fertility industry must look beyond “technical success” in the laboratory. While the ART (Regulation) Act of 2021 and the integration of counselling since 2003 are vital milestones, they must be supported by a shift toward Proactive, Multidisciplinary Care. By filling these research gaps and fostering a culture that values empathy over “genetic perfection,” we can ensure that motherhood becomes a journey of supported choice rather than a secret struggle fuelled by debt and shame.

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# GENDERED CITIZENSHIP AND THE NATIONALITY OF THE CHILD: MOTHERHOOD AND DOCUMENTATION IN BENGAL'S POSTCOLONIAL STRUGGLES

## Abstract

Gendered citizenship established the pre-existing patriarchy of the nation of India under the umbrella of its colonial history and post-colonial existence. Motherhood has been an important parameter to bridge the nationality of the child and the concept of citizenship of India. This paper examines how motherhood mediates the nationality of the child and women's citizenship rights in Bengal. Basing on Yuval-Davis's feminist citizenship theory, the women are the biological and cultural reproducers of the nation. Using Pateman's theory of Sexual Contract, The CAA, NRC and SIR has been analysed from the perspective of West Bengal's women, their plight in establishing their own citizenship on which is based their children's citizenship as well. In the present scenario, women not only play caregiving role but also bureaucratic role in providing documentation required to prove their citizenship. Through qualitative analysis of secondary data, the major setbacks Bengal's women went and still go through in providing documents to support their citizenship which in turn is required for establishing the nationality of the child, has been analysed.

**Keywords:** Gendered citizenship, patriarchy, motherhood, reproducers, CAA, SIR.

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## I. INTRODUCTION

The concept of citizenship in India has always been a debated space amidst the colonial history and postcolonial concerns in the social, political, economic and cultural realm. More so, because throughout the ages, the concept of citizenship has been aligned with masculinity (Bennett-Kinne 2022) To understand, the legacy of citizenship as a concept needs to be traced. To elaborate, citizenship as a concept has historically developed holding the hands of Latin *civis* and Greek *politest* to mean a member of polis or city. Emerging from the Greek city-states, mainly Athens, citizenship specifically and exclusively included only male members of the city-states. A. Roy classified the historical evolution of citizenship into the Classical Graeco-Roman period, spanning over 6<sup>th</sup> to 4<sup>th</sup> centuries, the late medieval and early modern period which covered the French and American Revolutions, the liberalist and capitalist democratic phase of the 19<sup>th</sup> century and finally the late 20<sup>th</sup> century which focussed on the different dimensions of citizenship against the backdrop of community rights and multiculturalism (Roy 2005).

With the advent of imperialism, sociologist, T.H. Marshall's notion of citizenship traced the evolution and development of citizenship which obviously studied Europe's line of development. His work, 'Citizenship and the Social Class' (1950), included civil rights that evolved in the 18<sup>th</sup> century England, political rights in the 19<sup>th</sup> century and social rights in the 20<sup>th</sup> century. However, Marshall's concept of 'universal' citizenship was rather male centric and thereby questioned its universality itself. It failed to investigate the racial, gendered and even the colonial dynamics of the society. His focus was mainly on the recovery and reform measures of the British government which was struggling with the post-World War II distress. As the Beveridge report<sup>1</sup>, a government report published in 1942 highlighted, 'want..disease, ignorance, squalor, idleness' were the giant evils of the government thereby requiring reform measures keeping these in mind. Marshall's essay was rather an indirect justification of the welfare programmes of the government (King 1988).

By asserting the civil, political and social rights of the citizens, Marshall placed the citizens at the centre of the stage rather than the government. Moreover, his concept of citizenship helped to glue all the citizens together while boosting their morale in the face of the decline of the British empire and the trajectory of the war. Marshall's idea of citizenship was rather 'unified' as M. Lister (2005) asserts, where the civil, political and social rights have to be understood in relation to one another and not in isolation. However, his unified notion of citizenship seemed rather restricted to the male working class and the principle of equality of status; gender and ethnic differences has been largely ignored.

## II. OBJECTIVES

1. To analyse how motherhood had been a pivotal biological factor in establishing the nationality of the child in colonial India.
2. To examine the existence of gendered citizenship in postcolonial Bengal with respect to the role of documentation.

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<sup>1</sup> Drafted by liberal economist William Beveridge, this report served as the basis of a welfare state. Originally titled 'Social Insurance and Allied Services', this report paved way for a series of reforms in Britain amidst World War II.

### III. METHODOLOGY

The analysis is based on secondary data wherein legal documents, scholarly commentaries, news articles on CAA, SIR and NRC has been analysed. Various scholarly literatures on gendered citizenship and works on feminist citizenship theory has been studied to arrive at conclusions.

In the colonial era, 'colonial citizenship' meant the rights of Indians in the colonial India. The struggle to assert citizenship got intertwined with struggles for nationhood and national self-determination (Jayal 2013). Hence, citizenship was expressed in its three aspects, as legal status, as a bundle of rights and entitlements and as an identity and belonging. In the colonial phase, the concept of citizenship was largely hybrid; Indians were subjects of the British Empire and hence were to accept the rights, political and otherwise, that was being accorded to them. Yet at the same time, race became a determinant enough. Possession of property, wealth and modern education became a criterion based on which citizenship of the subjects were decided.

However, the public-private divide and the notion of citizenship exposed exclusion of women within the state. Herein the notion of gendered citizenship emerged where citizenship was assumed to be exclusively masculine, a matter of the public sphere, and relegating women to the domestic space, politically, economically and socially dependent on the men. Thus, colonialism nurtured the indigenous patriarchal mindset of the Indian population but with the cloak of modernity. Colonialism, along with the efforts of influential Indian men like Vidyasagar, Raja Ram Mohun Roy and others, by improvising legal measures like abolition of the practice of Sati, or provision for remarriage of widows and raising the legal age of marriage of girls, certainly seemed to give effort towards the assertion of citizenship and its associated rights among the female population. As G. Spivak notes, colonialism asserted that the colonizers worked as saviours and liberators of colonized women whom they assumed are in need of rescue, while muting the voices of the women of colour (Chakravorty Spivak 1988). It is the intersection of masculism and imperialism that operate together to silence the subaltern colonial women.

Citizenship can be understood as custom, usage, practices and a sense of belonging to the political community (Barthélémy 2016), both as a possessor of rights and as an implementor of responsibilities and duties. Nira Yuval-Davis (Yuval-Davis 1999) expanded the notion of citizenship and went beyond the formal rights, to examine and understand the transformations in citizenship. Citizenship is a contextualised concept which is determined by the experiences and circumstances of the people, their political, cultural and historical context. It is also a contested concept wherein it is contested at its every step, be its meaning or political application or implication (Lister 1997).

Under the garb of the gender neutral and emancipatory concept of citizenship, lurks female subordination and exclusion (Lister 1997) (Yuval-Davis 1999). Women who are considered as citizens are, by their self-choice or under influences, prefer to be aloof from democratic participation (Bishnupriya Dutt 2017). Patriarchal institutions and unspoken barriers between state policies for inclusiveness of women and its actualisation have raised concerns on citizenship (Suarez 2010). For that matter, women who are supposed to be equal participant of the political dynamics of the nation along with men, face gender power imbalances. They are

greater deprived than the males in their deprivation of citizenship. Herein, gendered citizenship can be understood as not a universal status but posits the influence of patriarchal structures, formal institutions and cultural norms in ensuring differential access to rights, participation and recognition in political and social realm by virtue of difference in gender. In a way, differential and unequal relationship between the state and its citizens based on gender, can be referred as gendered citizenship.

Interestingly, be it from a global perspective, or at the grassroots level in India, women are assumed and assigned with the role of mothers who produce the next generation of citizens of the nation. However, their own rights as citizens remain insufficient due to the gender discrimination that stays at the heart of the society.

The paper adheres to Carole Pateman's sexual contract theory which asserts that the social contract theory of the society is based on the implicit sexual contract theory which formalises male authority and consequently subordinates women to the private sphere. Hence also focussing on the public-private debate of Pateman, it attempts to create the analytical framework through which citizenship, motherhood and nationality of the child is to be studied. Focussing on a theory based and qualitative research methodology, it is based on feminist political theory. Through interpretative analysis of significant feminist theoretical works on citizenship and motherhood, the paper attempts to identify the latent power dynamics and the normative gender bias that exists within the specified framework.

## VI. GENDERED CITIZENSHIP AND MOTHERHOOD IN COLONIAL INDIA

Motherhood has a paradoxical dimension with regards to citizenship. On one hand, it is specifically a part of the private sphere which itself confines women to their private duty. On the other hand, it is an indispensable contributor to the public sphere wherein it reproduces and nurtures the future citizens of the nation. Motherhood itself leads to a gendered dimension of citizenship wherein the women end up playing a significant role in the private sphere through care work, child rearing and emotional labour which makes them end up sacrificing a major part of their involvement in the public sphere, unlike their male counterpart. In the helm of Bengal Renaissance, women were expected to uphold the image of ideal wives and mothers despite receiving the modernism that colonialism attempted to cater. Thereby, colonialism reinforced gendered citizenship by reimposing the public/private divide. Thus, we can draw again Pateman's work *Sexual Contract (1988)* which asserts that the society is built on an unspoken sexual contract wherein the male dominance is institutionalised and relegation of women to the private sphere is normalised.

If we trace historically, India has always associated motherhood with the nation thereby valorising it. For example, the famous movie, *Mother India (1957)* produced and released in India accentuated the resilience and sacrifices of womanhood and the journey and capability of women in overcoming poverty and oppression. Motherhood is used as a cultural symbol to showcase the ability to sacrifice her personal needs and desires and endure the dismal and struggling situation of the nation, thereby reflecting the decade old independent India's circumstance. The movie constructs the notion of citizenship through 'maternalism', the ideal female citizen who upholds the nation's patriarchal ideologies and sacrifices her individual identity to serve and guard the morality and honour of the nation. This suppression of the voice of the women is best explained as to why we only have the 'father' of the nation and

not the 'mother'! There is another instance of idealising the nation in the form of mother, Bharat Mata or Mother India, which is the personification of India as a goddess representing the national and cultural identity and unity of the nation. Initially assigned as Banga Mata, the painting by Abanindranath Tagore in 1905 was made public during the Partition of Bengal to invoke the patriarchal fervour and masculine responsibility among the 'sons' of the soil who needed to rescue the 'mother' symbolised as the nation. The image shows the four handed woman dressed as a *Sadhvi* or ascetic is seen representing *vastra*(clothes), *anna*(food), *shiksha*(education) and *diksha*(spiritual strength). What is significant is the use of motherhood to imply the notion of a provider and nurturer who remains passive in the domestic space whereas their 'sons' become active agents of redresser of *Banga Mata* later assigned as *Bharat Mata* on the request of Sister Nivedita. Already in delirium about the existence of a home which they call their own during the Bengal Partition, the Bengali women or *bhadramahilas* were anxious about parting ways with their own Motherland and consequently drew analogies between themselves as procreator and preserver of lives and that of India, their Motherland. The women thus, were identified as the biological and cultural reproducers of the nation and is to be analysed on the basis of Yuval-Davis's feminist theory of citizenship.

## V. CHILDREN AND CITIZENSHIP

The United Nation's Population Fund's State of World Population 2024, 24% of India's population is aged 0-14 years and 17% is aged 10-19. T.H Marshall, one of the elementary theorists on citizenship, described children and young people as 'the citizens in the making', in his work (Marshall 1992). The children form an important dimension in the concerns of citizenship since their access to state protection, education, and healthcare is vital for their assertion as citizens. With growing concerns of rampant illegal immigration, efforts are being made to ensure that the benefits are meant only for the child-citizen of India. The child has always been depicted as the fore bearer of nationalistic ideals of the nation, a product of the private sphere but meant to serve the public! Contemporary gatekeeping of citizenship for children is built on the same patriarchal logic that once barred women: the claim that they are too 'irrational' or 'dependent' to participate in the state.

Children's identities and rights are largely framed by their maternal citizenship. Hence, the problems that a maternal citizenship encounter, automatically affects the 'citizens in the making'. Like for instance, India has been a product of partition wherein the nation had witnessed several instances where questions on the parent's citizenship have automatically questioned the citizenship concerns of the child. The NRC (National Register of Citizens)/CAA (Citizenship Act) is one of the many instances where maternal citizenship was questioned thereby leading to further questioning of the child's citizenship. Whereas the NRC demands demonstrable proof of lineage and the CAA establishes religion-based routes to citizenship, the SIR functions primarily as a state-level identify verification.

## VI. GENDERED CITIZENSHIP IN POST-COLONIAL INDIA

Gendered citizenship and child's nationality have a contested relationship in feminist political theory. It showcases how neutrality lacks in the citizenship laws and are determined by the patriarchal presumptions on hereditary lineage, reproduction and family. That this is embedded in our conscience and practice, is evident from the various mechanisms

implemented by the Central government of India to assert the belongingness towards the nation. And the assertion of the belongingness, the establishment of the proof of citizenship falls greatly on women which has been established later in the chapter.

Historically it can be traced that with India's independence with the passage of the Indian Independence Act, 1947, the India's Constitution, effective from January 26, 1950, attempted to provide equality, as per its article 14, to both men and women and prevent discrimination based on sex. This was followed by the Citizenship Act, 1955 which established the nationality of the child base on birth, or lineage, registration or naturalisation or territorial inclusion. What is significant is that the citizenship of the child was determined on the basis of the father's citizenship, contradicting the equality of sexes established by the Constitution a couple of years back. (Srinivas 2019).

The Citizenship Act was amended in 2003 to grant equal status of both or either of the parents to establish the citizenship of the child. The Citizenship Amendment Act had been passed by Prime Minister Narendra Modi under the governance of the Bharatiya Janata Party led NDA government in December 2019 and came into force from January 2020. With the objective of amending the Citizenship Act, 1955, for the sixth time, CAA attempts to grant citizenship to migrants of six communities (Parsi, Sikh, Jain, Christian, Buddhist, Hindu) from three specific countries namely Afghanistan, Bangladesh and Pakistan who migrated to India before December 31, 2014. What led to the widespread protest was the exclusion of Muslims in specific. NRC namely the National Register of Citizens is a record of the citizens of India whereby it attempts to deport immigrants without valid documents.

It attempts to register all the legal Indian citizens and had been implemented in the state of Assam, since the Border States have long history of illegal migration from neighbouring nations like Bangladesh and Pakistan especially. January 2020, right after CAA came into force, Delhi's Shaheen Bagh witnessed as it-in demonstration mainly by hundreds of cross-generational women to fight for their citizenship rights. It has been the longest sit-in peaceful protest of women. The anti - CAA and anti - NRC protest got manifested in Park Circus Maidan, a Muslim majority area in the heart of Kolkata in 2020 reproducing the female majoritarian strength of the Shaheen Bagh movement.

What is striking is that the anti - NRC protest witnessed a large scale dissent from the female population and there are reasons for the same. All over India, women tend to be financially weaker than men and are in low possession of legal documents. They are often not involved in official administration, nor they have their name on their property records or have birth records (Ellis-Petersen 2020). This explains why the loudest voices of dissent has mainly been of women in the backdrop of political awakening.

Bengal witnessed the major scale of documentation of identity and citizenship of the citizens through the Special Intensive Revision which may not have a direct impact but definitely an indirect one in establishing the nationality and citizenship of the child in the long run. As per the Tamil Nadu government website, the Election Commission of India prepares and revises the electoral roll before every election of that State to ensure that no eligible voter is left out, and no ineligible voter is allowed to vote. Considering issues like frequent migration and permanent settlement of electors in other states, non-removal of dead electors, need of inclusion of eligible voters who have just turned 18 or their name is still not enrolled in the

voters list and consequently proper precision in the voters list, SIR became essential (SIR voter list West Bengal 2026). SIR as a process is aiding in establishing the citizenship at the state level. It ensures that the gradual nationality of the children is not automatically assumed but needs to be proved through parental documentation and inclusion in the electoral roll. In a way it can be stated that citizenship is thus not inherited but documented.

In a way it can also be stated that in the pursuit of reproducing the nation, it is not only *biological* but also *bureaucratic*. In colonial Bengal, in the 19<sup>th</sup> and 20<sup>th</sup> century, children were the product of inheritance and lineage. Birth based on caste and religion had been a significant determinant of the citizenship of the child which was irrespective of any form of documentation. However, the 21<sup>st</sup> century witnessed, after the independence of India in 1947, revision of electoral rolls since 1951, which has happened for over 8 times till 2004 (Election Commission of India n.d.). The relation of SIR with the determination of citizenship of the children is a crooked path.

First, be it in case of CAA, NRC or SIR, the major setback and difficulty had been faced by women. The SIR exercise operational in West Bengal requires documents like educational certificates, passports, pension related documents, government issued identity cards, land documents to prove one's citizenship and the consequent enrolment in the electoral list (Biswas 2025). Absence of essential documents and existence of insufficient documents is peculiar to our women. Not because of any deficiency in mental capability, but due to many societal factors. First, many of the women do not own a birth certificate as many of them are not even born in the hospitals or any health centres.

Second, many of them women have failed completion of their Madhyamik or class 10 examinations or may have not been sent to school in the first place, due to child marriages or poverty mainly, hence there is a lack of record to establish the identity of the parents as in the former instance as well (Mitra 2025).

Third, many of the women have eloped or married against the wishes of their families and hence their families have disowned them hence they lack access to many of their resources and documents (Mitra 2025) (Das 2019).

Fourth, change of surname and sometimes a name as well after marriage is another complexity which hinders the proper tracing of lineage of these women.

Fifth, added to this is the cases of migration of these women after marriage to different districts, states and so on. The prevalence of child marriage in West Bengal, the highest nationally, has led to widespread early marriage migration and hindered access to education; both of which prevents women from holding documents essential for proving their citizenship (Biswas 2025).

Sixth, the norm of excluding women from inheritance, property deeds and land documents due to the prevailing gender discrimination and societal bias, have been an important parameter for excluding women as landowners. Plus, the element of poverty is an added factor which prevents women, especially the marginalised women, from owning property.

Seventh, many of these documents get lost due to the wrath of nature like cyclones, floods, fire or damaged due to rats and termites. However, the way it is easier for a physically fit male to do the rounds of government offices for arrangement and retrieval of their documents, due to various psychological, familial or social limitations, similarly physically fit women may not be in a position to do so (Biswas 2025). The paradox lies in the fact that men readily obtain duplicate copies for their own use, yet hesitate to extend this effort to the women in their families (Mitra 2025).

Eighth, taking into account the CAA specifically, the Muslim women had been doubly oppressed, due to their religion and due to their gender. Hence it can be stated that ultimately it is the women who receive the brunt of the entire process of providing documentation for such enumeration drives. If they can establish their bureaucratic duty along with their caregiving task, then they shall be consequently able to establish the nationality and citizenship of the child.

Herein the feminist citizenship theory of Nira Yuval-Davis comes into play where women are envisioned as merely the biological and cultural producers of the nation. In colonial Bengal, patrilineal laws on nationality determined the nationality and citizenship of the children. Women were assumed to be only the caregivers, a mother representing 'Mother' India, where they birth and nurture the child, the product of the nation so that it can mature to render service to the Mother India. After all, reiterating the theory of Yuval-Davis, the cultural and biological producers of the nation are assumed to be the women. In the post-colonial nation, women continued, under the influence of patriarchy, to be the cultural and biological reproducers of the nation but while documenting their existence as citizens of the nation, their cultural, biological, educational and social limitations.

## VII. CONCLUSION

To conclude, motherhood has always been the connecting bar between the child and the nation. Without the capacity of the mother to produce a child, the nation is bound to remain barren. States must depend on the parameters of citizenship to control their borders, regularise immigration and manage and maintain domestic security. Citizenship is a multi-faceted concept which ensures democratic participation, security of the citizens, economic and social benefits along with a sense of belongingness.

However, ages of neglect and subordination, wrapped in the patriarchal conscience and mindset, in this context, of us Indians, have questioned the belongingness of our women. Motherhood merely had been a symbol of the bearer of the nation; the epitome of sacrifice and justified negligence. It used to be biological in the colonial period, but in post-colonial India, it is bureaucratic as well. It remained and continues to remain a bridge connecting the nation with the child. Motherhood was so long symbolic, largely mediated by men and protected in the private sphere in the pre-independent India. However, post-independence, it emerged as a legal parameter in transmission of nationality to the child along with its public involvement as formal citizens.

Though women emerged with a legal armour, yet it was painted in the colour of patriarchy. So, patriarchy did not disappear with the modernisation and the stepping of women into the public realm; rather, it adapted itself in a subtle way. Despite the plethora of laws on

protection of the rights of women or ensuring egalitarianism between men and women, the fact that the implementation of CAA, NRC or SIR have not worked on any measure to aid the women in their plight, especially through documentation, proves that patriarchy is deeply entrenched in our social, legal and political dimensions.

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