

Assisted Reproductive Technology (ART) Bill

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Source: *The Hindu*

Manifest pedagogy: ART bill makes critical changes in the surrogacy bill and makes it more accommodative for the present needs. The changing circumstances are clearly addressed however, ensuing proper implementation of the said act is a need of the hour.

In news: Cabinet recently cleared ART bill

Placing it in syllabus: Women and health

Dimensions:

- Provisions of the bill
- Relation with surrogacy bill
- Why was it needed?
- Criticisms

Content: ART bill, 2020 along with the **Surrogacy Regulation Bill, 2020** and the **Medical Termination of Pregnancy Amendment Bill, 2020** are the three proposed legislations which create an environment of safeguard for women's reproductive rights, addressing changing social contexts and technological advances.

Provisions of the bill:

- On the commencement of the Act, a **National Board** will be constituted, which shall lay down **code of conduct to be observed** by persons working at clinics, to set the minimum standards of physical infrastructure, laboratory and diagnostic equipment and expert manpower to be employed by clinics and banks.

- The States and Union Territories shall constitute the **State Boards and State Authorities** within three months of the notification by the Central Government.
- A **National Registry and Registration Authority** to maintain a Central database and **assist the National Board** in its functioning will be set up.
- It intends to **make Pre-Genetic Implantation Testing mandatory** for the benefit of the child born through assisted reproductive technology.
- This **test allows doctors to test embryos for any possible abnormal chromosomes** before they are transferred to the uterus, hence avoid any genetic diseases in the infants born through these technologies.
- **Egg donor needs to be supported by insurance cover** and protected from multiple embryo implantation.
- Children born through ART should be **provided all the rights equivalent to biological children.**
- It proposes a **stringent punishment** for those practising sex selection, sale of human embryos or gametes, running agencies/ rackets/organisations for such unlawful practices.
- A fine of Rs 10 lakh at first instance is proposed for **those involved in trafficking and sale of embryos** and in second instance the person could be imprisoned for up to 12 years.

Relation with surrogacy bill:

- **ART services include** gamete donation, intrauterine insemination (IUI), IVF, ICSI, PGD and gestational surrogacy.
- The **Surrogacy (Regulation) Bill, 2020 proposes to regulate surrogacy in India** by establishing National Board at the central level and State Boards and Appropriate Authorities in the States and Union Territories.
- The **Surrogacy Bill bans commercial surrogacy** and similar

to the ART Bill, only an infertile Indian couple who have been married for at least five years and having no surviving child (with some exceptions) are **eligible to altruistic surrogacy**.

- The bill has been examined by the Select Committee and the report has been tabled in the Rajya Sabha on the 5th of February 2020.
- As both the bills deal with unethical practices of reproductive technologies, they have to be worked out in tandem to protect the women's reproductive rights.

Why was it needed?

- **Social stigma** of being childless and lengthy adoption processes have **increased the demand for ART** in India but no legislation currently regulates it.
- There is yet **no standardisation of protocols** and reporting is still very inadequate.
- A lack of regulation and the consequent laxity in operations has led to the mushrooming of ART clinics across the country.
- **Among Asian countries, India's ART market is pegged at third position** and a market projection by Fortune Business Insights has said that the **size of the ART market is expected to reach \$45 billion by 2026**.
- Hence the ART Bill, which seeks to regulate and monitor ART procedures is the need of the hour.
- Now with the passage of the bill, **infertile couples will be more ensured/confident of the ethical practices in ARTs**.
- The bill safeguards the patients who fall prey to illegal ART centers and **protects the affected women and the children from exploitation**.

Criticisms:

Only an 'infertile couple' is eligible to avail of ART under the ART Bill with the **term 'couple' being narrowly defined** to

mean only a heterosexual relationship of a marriage or a live-in relationship. A **man above 50 years and a woman above 45 years are not eligible for ART**, thus preventing older persons from accessing it.

ICMR Guidelines permitted single women to benefit from ART and also provided for 'minimum physical requirement for ART clinics', 'essential qualifications of ART teams', and 'ART procedures'. But these are missing from both the ART Bill as well as the Surrogacy Bill.

In **Devika Biswas vs Union of India case (2016)**, the Supreme Court recognised the **right to reproduction as an important component of the 'right to life' under Article 21**.

Thus, **restricting ART and surrogacy** only to heterosexual relationships within a certain age group and denying reproductive choices to LGBT, single persons and older couples, **would be a violation of Article 21**.

These restrictions also agitate **against the concept of right to equality under Article 14**.