



## ASSISTED REPRODUCTIVE TECHNOLOGY ACT, 2021 – GOVERNANCE - GS III MAINS

**Q.** Critically analyse the key provisions of the Assisted Reproductive Technology Act, 2021 and bring out the measures needed to make it a successful legislature in India. (10 marks, 150 words)

**News:** *Health Ministry seeks data on single women taking the Assisted Reproductive Technology route*

### What's in the news?

- The Union Health Ministry has sought data from all States and Union Territories on the total number of single women (divorcees/widows) and unmarried women who have successfully used Assisted Reproductive Technology (ART) in order to assess the functioning of the ART Act, 2021.
- Fertility experts have welcomed the move, along with the inclusion of single women/unmarried women as a category.

### Key takeaways:

- The Ministry had also sought category-wise figures on couples and single women who opted for surrogacy successfully following the implementation of the Surrogacy Act, 2021.

### Assisted Reproductive Technology:

- ART procedures involve surgically removing eggs from a woman's ovaries, combining them with sperm in the laboratory, and returning them to the woman's body or donating them to another woman.
- ART services include gamete (sperm or oocyte) donation, in-vitro-fertilization (fertilizing an egg in the lab), and gestational surrogacy (the child is not biologically related to the surrogate mother).

### ART Services:

ART services will be provided through

- ART clinics, which offer ART related treatments and procedures.
- ART banks, which store and supply gametes.

### Need for ART Act:

#### 1. Standardized Protocols:

- Many ART clinics have been running without regulation and it may affect the health of those who undertake the procedure. If there is no regulation, unethical practices will increase.



## 2. Protection of Women and Children:

- The oocyte (a cell in an ovary) donor needs to be supported by an insurance cover. Multiple embryo implantations need to be regulated and children born through ART need to be protected.

## Key Features of Assisted Reproductive Technology Act, 2021

### 1. Definition and Techniques of ART:

- ART encompasses various procedures, including sperm donation, in-vitro fertilization (IVF), and gestational surrogacy.
- It involves handling sperm and egg cells in a laboratory setting to facilitate fertilization and embryo development.

### 2. Types of ART Procedures permitted:

**A. In Vitro Fertilization (IVF):** Eggs and sperm are fertilized in a laboratory dish, and resulting embryos are transferred to the uterus.

**B. Intracytoplasmic Sperm Injection (ICSI):** A single sperm is directly injected into an egg.

**C. Intrauterine Insemination (IUI):** Sperm is placed directly into the uterus during ovulation.

**D. Surrogacy:** A surrogate mother carries and delivers a baby for another individual or couple.

### 3. Regulation of ART Clinics and Banks:

- The act provides that every ART clinic and the bank must be registered under ICMR's National Registry of Banks and Clinics of India.
- The National Registry will be established under the act and will act as a central database with details of all ART clinics and banks in the country.
- The State governments will appoint registration authorities for facilitating the registration process. The Clinics and banks will be registered only if they adhere to certain standards (specialized manpower, physical infrastructure, and diagnostic facilities).
- The registration will be valid for five years and can be renewed for a further five years. Registration may be cancelled or suspended if the entity contravenes the provisions of the act.

### 4. Conditions for gamete donation and supply:

- Screening of gamete donors, collection and storage of semen, and provision of oocyte donors can only be done by a registered ART bank.
- A bank can obtain semen from males between 21 and 55 years of age, and oocytes from females between 23 and 35 years of age.
- An oocyte donor should be a married woman having at least one alive child of her own (minimum three years of age).
- The woman can donate oocytes only once in her life and not more than seven oocytes can be retrieved from her.
- A bank cannot supply the gamete of a single donor to more than one couple seeking services.

### 5. Conditions for offering ART services:

- ART procedures can only be carried out with the written informed consent of both the party seeking ART services as well as the donor.
- The party seeking ART services will be required to provide insurance coverage in the favour of the oocyte donor (for any loss, damage, or death of the donor).
- A clinic is prohibited from offering to provide a child of pre-determined sex.



- The act also requires checking for genetic diseases before embryo implantation.

## 6. Rights of a child born through ART:

- A child born through ART will be deemed to be a biological child of the couple (commission couple) and will be entitled to the rights and privileges available to a natural child of the commissioning couple.
- A donor will not have any parental rights over the child.

## 7. National and State Boards:

- The Act provides that the National and State Boards for Surrogacy constituted under the Surrogacy (Regulation) Act, 2021 will act as the National and State Board respectively for the regulation of ART services.

## 8. Key powers and Functions of the National Board:

- Advising the central government on ART related policy matters.
- Reviewing and monitoring the implementation of the Act.
- Formulating code of conduct and standards for ART clinics and banks.
- Overseeing various bodies to be constituted under the Act.

## Concerns of the Act:

- The act allows for married heterosexual couples and a woman above the age of marriage to use ART and **excludes single men, cohabiting heterosexual couples, and LGBTQ+ individuals and couples from accessing ARTs.**
- Both surrogacy and ART act will set up **multiple bodies for registration which will result in duplication or worse, lack of regulation.** For example, a surrogacy clinic is not required to report surrogacy to the National Registry.
- The Act **violates Article 14** of India's constitution and is also silent on the rights of children.