

7. Reproductive Autonomy - Polity

1. Why in News

1. Supreme Court of India allowed termination of 30-week pregnancy of minor rape survivor
2. Reaffirmed reproductive autonomy as fundamental right
3. Placed woman's autonomy at center of decision-making
4. Rejected medical paternalism overriding informed choice
5. Called for urgent legal reforms in Medical Termination of Pregnancy Act, 1971
6. Highlights gaps between legal framework and constitutional rights

2. Key Highlights of the Case

Reproductive Autonomy as Fundamental Right

1. Court emphasized forcing unwanted pregnancy violates constitutional rights
2. Rights violated - Dignity (Article 21), bodily integrity, decisional autonomy
3. Reproductive choice intrinsic to fundamental rights
4. Woman's autonomy paramount in pregnancy termination decisions
5. Minor rape survivor's trauma and consent prioritized

Rejection of Medical Paternalism

1. Court dismissed objections from All India Institute of Medical Sciences (AIIMS)
2. Clarified medical opinion cannot override woman's informed decision
3. Doctors provide medical advice, not impose decisions
4. Woman (or guardian in case of minor) makes final choice
5. Shift from paternalistic to rights-based approach

Call for Legal Reform

1. Court urged Parliament to revisit MTP Act, 1971
2. Specific recommendations -
 1. Relax gestational limits for minor rape survivors
 2. Prioritize dignity and autonomy in law
 3. Remove procedural barriers in emergency cases
 4. Align law with constitutional values

3. Medical Termination of Pregnancy (MTP) Act

Origin and Objective

1. Enacted 1971 to legalize abortion under specific conditions
2. Primary objective - Safeguard women's health
3. Does NOT permit - Abortion solely as family planning method or unrestricted personal choice

Grounds for Termination

1. Pregnancy risks woman's life
2. Causes grave physical or mental injury
3. Fetus has severe abnormalities
4. Pregnancy resulting from rape or contraceptive failure

4. Key Provisions of MTP Amendment Act, 2021

Up to 20 Weeks Gestation

1. Allowed for married and unmarried women
2. Contraceptive failure cases included
3. Approval required - One registered medical practitioner (RMP)
4. Simplified procedure for early termination

Between 20 to 24 Weeks

1. Approval required - Two registered medical practitioners
2. Special categories eligible -

1. Sexual assault, rape, or incest survivors
2. Minors (under 18 years)
3. Women facing marital status changes (widowhood/divorce during pregnancy)
4. Women with physical disabilities
5. Women with mental illnesses
6. Fatal malformation cases (severe physical/mental abnormalities expected)

Beyond 24 Weeks

1. Allowed only – Substantial fatal abnormality cases
2. Approval required – State government-constituted Medical Board
3. Doctors assess risks to woman's life, physical/mental health
4. Evaluate severity of fatal abnormalities
5. Most restrictive category

Confidentiality Clause

1. Woman's name and details protected
2. Disclosure only to authorized legal entities
3. Privacy protection enshrined

5. Concerns Raised Against Provisions

Limited Private Hospital Access

1. MTP Rules lack category for terminations beyond 24 weeks in private hospitals
2. Only government-approved facilities authorized
3. Restricts women's healthcare choices
4. Creates geographical and financial barriers
5. Forces women to seek government facilities even with resources

Medical Board Approval Delays

1. Women with severe fatal abnormalities must seek Medical Board approval
2. Bureaucratic process causes delays in time-sensitive cases
3. Emotional trauma prolonged during waiting period
4. Risk of health complications increases with delay
5. Board may not always be immediately available

Private Healthcare Regulation Gaps

1. Lack of clear guidelines for private hospitals
2. Legal ambiguity leads to denial of services
3. Doctors fear legal liability
4. Women denied timely medical care
5. Creates two-tier system – public vs private access

6. Global Practices on Termination of Pregnancy

France

1. Legal up to 14 weeks of pregnancy
2. Beyond 14 weeks – Medical reasons only with board approval
3. Liberal framework within gestational limits

United States (State-Dependent)

1. Roe v. Wade (1973) – Initially guaranteed federal abortion right
2. Dobbs v. Jackson (2022) – Overturned federal protections
3. Now varies significantly by state
4. Some states – Allow up to viability (~24 weeks)
5. Other states – Strict bans or severe gestational limits (6-15 weeks)
6. Highly fragmented legal landscape

United Kingdom

1. Abortion Act 1967 – Legal up to 24 weeks
2. Beyond 24 weeks – Permitted only if –
 1. Risk to woman's life
 2. Severe fatal abnormalities
 3. Grave physical/mental harm to woman
3. Well-established regulatory framework

7. Way Forward

Legislative Reforms

1. Amend MTP Act to reflect constitutional values
2. Remove gestational limits for rape survivors, especially minors
3. Simplify approval processes
4. Extend beyond-24-week provisions to private hospitals

Procedural Improvements

1. Fast-track Medical Board approvals
2. Establish emergency protocols
3. 24/7 availability of approval mechanisms
4. Telemedicine consultations for remote areas

Healthcare Infrastructure

1. Authorize more facilities for late-term terminations
2. Train medical practitioners on legal frameworks
3. Establish clear guidelines for private hospitals
4. Remove legal ambiguity causing service denial

Rights-Based Framework

1. Center women's autonomy in all decisions
2. Minimize state and medical paternalism
3. Prioritize dignity, privacy, bodily integrity
4. Ensure informed consent without coercion

8. Conclusion

Supreme Court judgment marks shift toward rights-based abortion framework, prioritizing women's autonomy and dignity over medical paternalism. Urgent legal reforms needed to remove gestational barriers, simplify procedures, and ensure timely access to safe termination services while balancing ethical considerations.

Source – <https://www.livelaw.in/top-stories/supreme-court-cji-surya-kant-15-year-old-girl-rape-case-abortion-unwanted-pregnancy-burden-nari-niketan-rape-case-stay-532642>