

1. Abortion Right- Polity

Supreme Court allows abortion of 30-week pregnancy of a minor, upholds right to reproductive autonomy

The Supreme Court reaffirmed reproductive autonomy under Article 21 by allowing a minor's 30-week pregnancy termination, prioritizing mental health and dignity over rigid statutory timelines. This jurisprudence complements the MTP (Amendment) Act, 2021, which expanded access to unmarried women and recognized marital rape, moving beyond procedural rigidity to constitutional morality.

Recent Supreme Court Ruling- Key Highlights

The Supreme Court recently allowed the termination of a 30-week pregnancy for a minor, reinforcing the primacy of reproductive autonomy even beyond standard statutory limits.

Rejection of Compelled Motherhood- The Court firmly held that no woman, and particularly no minor, should be forced to continue a pregnancy that is unwanted.

Autonomy Over Rigid Timelines- The judgment prioritized the petitioner's mental health and reproductive autonomy over the rigid gestational timelines set by the MTP Act.

Prevention of Unsafe Practices- The Court flagged a critical public health concern- denying access to legal abortion beyond 24 weeks often drives women towards unsafe, illegal abortions, risking their lives and health.

Reproductive Autonomy- Definition and Scope

Reproductive autonomy is defined as the fundamental right of a woman to make free, informed, and voluntary decisions regarding her own body, fertility, and motherhood.

Constitutional Basis- It is legally recognized as an integral part of Article 21 of the Constitution of India, which guarantees the Right to Life and Personal Liberty.

Right to Choose- This autonomy explicitly includes the right to either continue a pregnancy or terminate it.

Holistic Protection- It encompasses broad protections for bodily integrity, personal dignity, and mental health, moving beyond just physical health.

Key Issues Affecting Reproductive Autonomy in India

Despite legal provisions, several systemic barriers hinder the full realization of reproductive rights.

Patriarchal Control- Deep-seated social norms and institutional practices often strip women of decision-making power regarding their own pregnancies.

Barriers to Consent- Although the law requires only the woman's consent, hospitals and medical practitioners frequently insist on spousal or parental consent (for adults), creating extra-legal hurdles.

Adolescent Vulnerability- There is a significant lack of comprehensive sex education, coupled with intense stigma surrounding adolescent sexuality, leaving minors vulnerable.

Healthcare Infrastructure Gaps- There is a critical shortage of specialist doctors and a stark urban-rural divide, resulting in uneven access to safe abortion services in rural areas.

Gender Inequality Statistics- Data from NFHS-5 highlights that only approximately 10% of women are able to take independent decisions regarding their own healthcare.

India's Abortion Policy Framework

India's approach regulates abortion through a statutory framework that balances women's rights with medical oversight, rather than granting an unfettered fundamental right to abortion.

Historical Origin (IPC 1860)- Under Section 312 of the Indian Penal Code (IPC), causing a miscarriage was criminalized, with the sole exception being cases where it was necessary to save the woman's life.

MTP Act, 1971- The Medical Termination of Pregnancy Act was enacted to liberalize access and reduce maternal mortality from unsafe abortions. Its primary legal function was to protect medical practitioners from criminal liability under the IPC.

MTP (Amendment) Act, 2021– This amendment further expanded access, recognizing changing social realities and medical advancements.

Provisions of the MTP (Amendment) Act, 2021

The 2021 Amendment categorizes termination permissions based on gestational age and specific circumstances.

Up to 20 Weeks– Termination is permitted based on the medical opinion of one registered medical practitioner.

20 to 24 Weeks– Termination requires the medical opinion of two doctors. This category is restricted to specific vulnerable groups, including rape survivors, minors, and widows/divorcees.

Beyond 24 Weeks– Termination is permitted only if approved by a Medical Board, and specifically for cases involving substantial fetal abnormalities.

Inclusivity Reform– The Act replaced the term "husband" with "partner", thereby legally expanding access to unmarried women and acknowledging relationships outside of marriage.

Landmark Supreme Court Judgments on Termination

The Judiciary has played a pivotal role in interpreting and expanding reproductive rights.

X v. Principal Secretary, Govt. of NCT Delhi (2022)– Ruled that unmarried women have the same right to access abortion up to 24 weeks as married women. Clarified that the definition of "rape" under the MTP Act must include marital rape for the purpose of abortion access.

XYZ v. State of Gujarat (2023)– Permitted the termination of a pregnancy at 25–26 weeks. Explicitly recognized that forcing a woman to continue an unwanted pregnancy causes severe mental anguish, which is a valid ground for termination.

SC Orders on Reversal of Termination (2024)– Reiterated that the consent of the pregnant woman (or guardian for a minor) is paramount. Clarified that consent can be withdrawn at any stage before the procedure is carried out.

Justice K.S. Puttaswamy v. Union of India (2017)– The foundational privacy judgment which established that reproductive choices are constitutionally protected under the rights to privacy, dignity, and bodily autonomy (Article 21).

Global Practices on Abortion- A Comparison

The following table contrasts abortion laws and trends across different regions.

Country / Region	Legal Status & Key Features
France	Constitutional Right – Abortion is explicitly protected in the Constitution. It is legal on request up to 14 weeks, affirming it as a fundamental right.
United States	State-wise Divergence – Following the <i>Dobbs v. Jackson (2022)</i> ruling, abortion is no longer a federal constitutional right. This has led to a fractured landscape with near-total bans in some states and expanded access in others.
Latin America	The "Green Wave" – A trend of progressive liberalization is sweeping the region. Argentina, Colombia, and Mexico have expanded rights (e.g., Argentina allows abortion on request up to 14 weeks). Conversely, El Salvador and Honduras maintain strict, absolute bans.
China	Legal but Discouraged – Abortion remains broadly legal and accessible. However, recent policy shifts discourage "non-medical" abortions as a measure to counter declining fertility rates.
Poland	Highly Restrictive – Represents one of Europe's strictest regimes. Abortion is permitted only in cases of rape, incest, or threat to the woman's life.

Conclusion

The Supreme Court's evolving jurisprudence is steadily shifting the discourse from procedural rigidity to constitutional morality. By placing women's dignity, autonomy, and mental health at the core of its rulings, the Court is reinforcing the principle that reproductive rights are inalienable human rights.

Source- https://www.thehindu.com/news/national/supreme-court-allows-abortion-of-30-week-pregnancy-of-a-minor-upholds-right-to-reproductive-autonomy/article70600629.ece#google_vignette

