

# **INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]**

ISSN: 2584-1513 (Online)

Volume 3 | Issue 4 [2025] | Page 926 - 928

© 2025 International Journal of Legal Studies and Social Sciences

Follow this and additional works at: <https://www.ijlsss.com/>

In case of any queries or suggestions, kindly contact [editor@ijlsss.com](mailto:editor@ijlsss.com)

# REPRODUCTIVE RIGHTS AND JUDICIAL INTERPRETATIONS: THE LEGAL DIMENSIONS OF ABORTION LAWS

-Dhruv Shah<sup>1</sup>

## INTRODUCTION

Abortion is the medical termination of a pregnancy before the fetus becomes viable. Reproductive rights refer to the legal rights and freedoms relating to reproduction and reproductive health, including the right to make decisions concerning abortion without coercion or discrimination. The debate of Abortion on a global level is framed by two ideologies, Pro Life v. Pro Choice. Pro Life emphasizes on the Right to Life of the unborn while Pro Choice advocates for a Women's autonomy over her body. This conflict was at peak during the landmark case of *Roe v/s Wade*<sup>2</sup>, in which the US Supreme Court recognized the constitutional right of abortion which was later overturned in *Dobbs v/s Jackson Women's Health Organization*<sup>3</sup>, which emphasized the Right to Life of an unborn child, disregarding the women's choice.

Earlier times in India, Abortion was criminalized under Indian Penal Code, 1860, which changed after the implementation of Medical Termination of Pregnancy (MTP) Act, 1971. The MTP Act, 1971 permits abortion up to 12 weeks which was later extended up to 24 weeks under specified condition. However, there remains no uniform judicial or legislative standard addressing termination beyond 24 weeks for rape survivors or minor girls, leaving a critical gap in reproductive justice.

## LEGAL FRAMEWORK

Abortion in India is governed by the Medical Termination of Pregnancy (MTP) Act, 1971, amended in 2021. The Act permits abortion up to 20 weeks with the opinion of one registered medical practitioner. For specific categories such as minors, rape/incest survivors, and differently-

---

<sup>1</sup> B.A. LL.B. (Hons.) – 5th Year, Faculty of Law, The Maharaja Sayajirao University of Baroda.

<sup>2</sup> *Roe v. Wade*, 410 US 113 (1973)

<sup>3</sup> *Dobbs v. Jackson Women's Health Organization*, 597 US \_\_ (2022)

abled women, abortion is allowed up to 24 weeks with approval from two doctors. Beyond 24 weeks, termination is permitted only in cases of severe fetal abnormalities, and requires certification by a Medical Board.

However, the law remains silent on permitting abortion beyond 24 weeks for rape survivors or minor girls, especially when delay results from trauma or procedural hurdles. This creates a legal vacuum that neglects their medical and psychological needs. Article 21 of the Constitution, encompassing the Right to Life and Bodily Autonomy, is central to this debate, highlighting a tension between the rights of the woman and the rights of the unborn child.

## JUDICIAL FRAMEWORK

Indian courts have played a crucial role in shaping the discourse on reproductive rights, especially in the absence of clear legislative standards for abortion beyond 24 weeks. In *Suchita Srivastava v. Chandigarh Administration* (2009)<sup>4</sup>, the Supreme Court recognized a woman's right to make reproductive choices as a part of her personal liberty under Article 21 of the Constitution. In *A (Mother of X) v. State of Maharashtra & Anr.*, (2024)<sup>5</sup>, the Court allowed a 14-year-old rape survivor to terminate her nearly 30-week pregnancy, invoking Article 142, relying on medical advice. However, the order was later recalled after the family opted to carry the pregnancy. The judiciary has acknowledged that compelling a woman, particularly a minor or rape survivor, to continue an unwanted pregnancy can amount to cruel, inhuman, and degrading treatment. These cases reflect a compassionate trend, but the absence of uniform statutory guidelines results in inconsistent relief and underlines the need for a consistent, rights-based approach to reproductive justice.

## CRITICISMS

While the 2021 amendment to the Medical Termination of Pregnancy (MTP) Act was a welcome step, it still fails to reflect the lived realities of women, especially minors and survivors of sexual violence, who face painful decisions around abortion.

---

<sup>4</sup> Suchita Srivastava and Another v. Chandigarh Administration, AIR 2010 SUPREME COURT 235

<sup>5</sup> A (Mother of X) v. State of Maharashtra & Anr., (2024) 6 SCC 327 (SC)

A major gap is that abortions beyond 24 weeks are allowed only in cases of fetal abnormalities, excluding pregnancies from rape or incest. Forcing a survivor, particularly a child, to carry a pregnancy caused by violence strips them of autonomy and deepens trauma.

Another critical issue is the delay in court proceedings and medical board approvals, which often push pregnancies past legal limits. A time-bound, survivor-centric process is urgently needed to ensure access to abortion and prevent further harm.

## CONCLUSION

In conclusion, although the Supreme Court in *K.S. Puttaswamy v. Union of India* (2017)<sup>6</sup> affirmed the right to privacy and decisional autonomy as fundamental rights, these values are still not reflected in India's abortion framework. The current law continues to place medical boards and gestational limits above the survivor's autonomy. In contrast, countries like Canada have adopted a more compassionate, autonomy-focused approach without rigid restrictions. The Indian legal system, unfortunately, fails to account for the severe psychological, educational, and social consequences faced by minors and rape survivors. Forcing them to carry an unwanted pregnancy often results in long-term trauma and social marginalization, while children born from such circumstances face high risks of abandonment. When the law disregards these realities, it ceases to protect and instead perpetuates a form of institutional violence.

---

<sup>6</sup> K.S. Puttaswamy v. Union of India (2017) AIR 2017 SUPREME COURT 4161