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FROM RESTRICTION TO RECOGNITION: THE LEGAL JOURNEY OF ABORTION RIGHTS IN INDIA

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Abstract

The issue of abortion has long been part of wider discussions about women's rights, bodily autonomy, and the extent to which the state may regulate personal reproductive decisions. In India, abortion is primarily governed by the Medical Termination of Pregnancy Act, 1971, which was enacted to allow the termination of pregnancy under certain specified conditions while ensuring the safety of women. Over time, changing social realities, developments in medical science, and evolving constitutional interpretations have gradually influenced the way reproductive rights are understood within the legal system. As a result, the idea of reproductive autonomy has gained increasing attention in legal and academic discussions relating to women's rights and personal liberty.

Reproductive autonomy broadly refers to a woman's ability to make informed and independent choices about matters concerning her reproductive health, including whether to continue or terminate a pregnancy. This concept is closely linked with values such as dignity, privacy, and personal freedom, which are central to constitutional protections. Although the law provides a framework that permits abortion in specific circumstances, many women in India still encounter practical, social, and institutional challenges when seeking safe and legal abortion services. Judicial interpretation and legislative amendments in recent years have attempted to respond to some of these concerns by expanding the scope of protection and acknowledging the diverse situations faced by women.

This paper seeks to examine the development and changing scope of abortion rights in India by analysing the legal framework established under the Medical Termination of Pregnancy Act, 1971 and its subsequent amendments. It also considers how courts have interpreted reproductive autonomy in light of constitutional principles and fundamental rights. While the law has gradually moved toward recognising women's reproductive choices, the study argues that several barriers continue to affect the effective realization of these rights in practice. By examining statutory provisions, judicial decisions, and existing challenges, the paper highlights the need for a more accessible and rights-oriented approach to reproductive healthcare in India.

Introduction

In recent decades, questions relating to reproductive rights have become an important part of legal and social discussions around the world. In this context, the idea of reproductive autonomy has gained increasing recognition, particularly in relation to women's health, dignity, and bodily integrity. Reproductive autonomy generally refers to a woman's ability to make independent and informed choices about matters affecting her reproductive life. These choices may include deciding whether and when to have children, access to

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contraception, and the decision to continue or terminate a pregnancy. At its heart, the concept reflects the belief that decisions concerning one's body and personal life should primarily belong to the individual concerned.

Abortion rights form a crucial aspect of this broader discussion on women's rights. The ability to access safe and legal abortion services often determines whether women are able to exercise meaningful control over their lives and future opportunities. When women are denied such access, they may face serious health risks, social stigma, and economic hardship. Historically, strict legal restrictions on abortion have often placed women in vulnerable situations, forcing them to seek unsafe alternatives. As a result, debates surrounding abortion are not only about medical procedures but also about equality, personal freedom, and the recognition of women's agency in making decisions about their own lives.

In India, the legal recognition of reproductive autonomy is closely tied to the constitutional values of personal liberty, dignity, and privacy. The Constitution of India guarantees the right to life and personal liberty, and over time the judiciary has interpreted these guarantees in a broader manner to include an individual's right to make certain personal decisions without undue interference. This constitutional approach has influenced how courts understand issues relating to reproductive health and has played a significant role in shaping the interpretation of laws governing abortion.

Against this background, the present paper examines the evolving scope of abortion rights in India and their relationship with the concept of reproductive autonomy. The study focuses on the legal framework regulating abortion, particularly the provisions of the Medical Termination of Pregnancy Act and the changes that have taken place over time. It also considers how judicial interpretation and constitutional principles have contributed to expanding the understanding of reproductive rights in the country. By looking at statutory provisions, important judicial decisions, and the challenges women often face in accessing safe abortion services, the paper attempts to assess whether the existing legal framework adequately supports women's reproductive choices. The discussion therefore remains centred on the legal and constitutional dimensions of abortion rights in India while highlighting the need for continued reforms to ensure that women can exercise their reproductive autonomy in a meaningful way.

Historical Development of Abortion Laws in India

The law relating to abortion in India has developed gradually over time, largely in response to social realities and growing concerns about women's health. In the early years, abortion was not regulated by a separate or specialised statute. Instead, it was governed by the provisions of the Indian Penal Code, 1860. Sections 312 to 316 of the Code made the act of causing a miscarriage a criminal offence, except in situations where it was done in good faith to save the life of the pregnant woman[2339]. In effect, this meant that abortion was largely illegal in most circumstances. A person performing the procedure could face punishment, and the law also treated the act of voluntarily seeking an abortion as an offence.

The strict nature of these provisions created serious difficulties for many women. In situations involving unwanted pregnancies, health complications, or cases of sexual violence, the law provided very limited relief. As a result, many women were compelled to seek abortions through unsafe and illegal means. These procedures were often carried out in unregulated environments without proper medical supervision. Over time, this became a major public health concern, as unsafe abortions contributed significantly to maternal

[2339] The Indian Penal Code, No. 45 of 1860, §§ 312–316, Acts of Parliament, 1860 (India).

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illness and deaths in the country[2340]. Medical professionals and public health experts began to point out that the existing legal framework was not preventing abortions but was instead forcing women into unsafe conditions.

Recognising these growing concerns, the Government of India constituted the Shantilal Shah Committee in 1964 to study the issue in detail[2341]. The committee was asked to examine the medical, legal, and social aspects of abortion and to suggest whether reforms in the law were necessary. After reviewing available data and consulting medical experts, the committee concluded that permitting abortion under certain regulated circumstances would be beneficial. It observed that legalising abortion within a controlled framework would help reduce the number of unsafe procedures and protect women's health. The recommendations made by this committee played a key role in shaping the changes that followed.

On the basis of these recommendations, Parliament enacted the Medical Termination of Pregnancy Act in 1971[2342]. The introduction of this law marked an important turning point in India's approach to abortion. Instead of treating abortion purely as a criminal act, the law created a framework under which pregnancy could be medically terminated under specific conditions. The Act permitted termination where continuing the pregnancy posed a risk to the life of the woman or could cause serious injury to her physical or mental health. It also allowed abortion in cases where there was a significant risk that the child, if born, would suffer from severe physical or mental abnormalities[2343]. In addition, pregnancies resulting from rape and cases involving contraceptive failure within marriage were recognised as situations that could cause serious mental distress to the woman, thereby justifying medical termination.

The enactment of this law was influenced by several factors. One of the most important reasons was the need to reduce maternal deaths caused by unsafe abortions. By allowing abortions to be carried out by qualified medical practitioners in recognised medical facilities, the law aimed to ensure safer conditions for women seeking such procedures[2344]. At the same time, broader concerns relating to family planning and population control during that period also influenced the development of abortion policy in India.

Judicial decisions over the years have also helped shape the understanding of abortion rights in the country. Courts have sometimes been required to interpret the provisions of the Medical Termination of Pregnancy Act in difficult or exceptional situations. In Suchita Srivastava v. Chandigarh Administration (2009), the Supreme Court observed that a woman's right to make reproductive choices forms an important part of her personal liberty under Article 21 of the Constitution[2345]. The Court emphasised that reproductive decisions are closely connected to a woman's dignity, privacy, and bodily integrity.

The development of abortion law in India therefore reflects a gradual shift in legal thinking. What was once treated almost entirely as a criminal issue slowly began to be viewed through the lens of women's health and rights. The Medical Termination of Pregnancy Act, 1971 created the basic legal framework for abortion in India, and over time both legislative changes and judicial interpretation have continued to influence how reproductive rights are understood within the country's legal system.

Legal Framework Governing Abortion in India

The regulation of abortion in India is primarily governed by the Medical Termination of Pregnancy Act, 1971[2346]. The enactment of this

[2340] World Health Organization, Preventing Unsafe Abortion (2012).
[2341] Ministry of Health and Family Planning, Government of India, Report of the Shantilal Shah Committee on Medical Termination of Pregnancy (1966).
[2342] The Medical Termination of Pregnancy Act, No. 34 of 1971, Acts of Parliament, 1971 (India).
[2343] Id. § 3.
[2344] R. K. Nayak & B. N. Rao, Medical Termination of Pregnancy Act and Maternal Health in India, Indian Journal of Medical Ethics (2013).
[2345] Suchita Srivastava v. Chandigarh Admin., (2009) 9 S.C.C. 1 (India); INDIA CONST. art. 21.
[2346] The Medical Termination of Pregnancy Act, No. 34 of 1971, Acts of Parliament, 1971 (India).

legislation marked a significant shift in the country's legal approach towards abortion. Before the introduction of this Act, abortion was largely treated as a criminal offence under the Indian Penal Code, 1860, particularly under Sections 312 to 316, which criminalised causing miscarriage except in limited circumstances where it was necessary to save the life of the pregnant woman[2347]. As a result, many women resorted to unsafe and illegal procedures, posing serious risks to their health and lives. Public health experts and policymakers increasingly recognised that the criminal law approach was not preventing abortions but was instead pushing women towards unsafe medical practices.

Recognising these concerns, the government enacted the MTP Act to provide a safe and regulated framework under which certain pregnancies could be legally terminated by qualified medical professionals. The primary objective of the Act was to reduce maternal mortality caused by unsafe abortions while ensuring that the procedure is carried out in a medically supervised and legally regulated environment[2348].

Under the Act, the termination of pregnancy is permitted under specific circumstances. A pregnancy may be legally terminated if continuing it poses a risk to the life of the woman or is likely to cause grave injury to her physical or mental health[2349]. The law also allows termination if there is a substantial risk that the child, if born, would suffer from serious physical or mental abnormalities[2350]. To ensure safety and accountability, the Act requires that the procedure be carried out only by a registered medical practitioner in a government hospital or in a medical facility approved for this purpose[2351].

The law further recognises situations where pregnancy may cause severe psychological distress to the woman. For instance, pregnancies resulting from rape are legally presumed to cause grave mental trauma to the survivor[2352]. This presumption allows medical practitioners to approve termination without requiring the woman to prove mental distress separately. Another important ground recognised by the law is the failure of contraceptive methods. Initially, this ground was limited to married women and their husbands, reflecting the social attitudes prevalent at the time when the law was enacted. However, the provision acknowledged that an unintended pregnancy could have significant social, emotional, and economic consequences for a woman and her family[2353].

An important aspect of the legal framework relates to the gestational limits within which abortion may be performed. Under the original provisions of the MTP Act, termination was allowed up to twenty weeks of pregnancy[2354]. If the pregnancy was within twelve weeks, the opinion of one registered medical practitioner was considered sufficient. However, if the pregnancy had progressed beyond twelve weeks but was still within twenty weeks, the opinion of two registered medical practitioners was required. These safeguards were intended to ensure that medical professionals carefully evaluated the circumstances before carrying out the procedure.

Over time, the courts in India have played a crucial role in interpreting the provisions of the MTP Act, particularly in cases where women sought permission to terminate pregnancies beyond the statutory limit. In Suchita Srivastava v. Chandigarh Administration, the Supreme Court recognised that a woman's right to make reproductive choices is an integral part of her personal liberty under Article 21 of the Constitution of India[2355]. The Court emphasised

[2347] The Indian Penal Code, No. 45 of 1860, §§ 312–316, Acts of Parliament, 1860 (India).
[2348] Ministry of Health & Family Welfare, Government of India, Handbook on Medical Termination of Pregnancy (2014).
[2349] Medical Termination of Pregnancy Act, 1971, § 3(2)(i).
[2350] Id. § 3(2)(ii).
[2351] Id. §§ 2(d), 4.
[2352] Id. Explanation 1 to § 3(2).
[2353] Id. Explanation 2 to § 3(2) (prior to amendment).
[2354] Id. § 3(2)(b) (prior to the 2021 amendment).
[2355] Suchita Srivastava v. Chandigarh Admin., (2009) 9 S.C.C. 1 (India).

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that reproductive autonomy includes both the right to carry a pregnancy to its full term and the right to terminate it. This judgment was significant because it framed reproductive choice as part of the broader constitutional protection of dignity and personal freedom.

Similarly, in Mrs. X v. Union of India, the Supreme Court allowed the termination of a pregnancy beyond the statutory limit after a medical board confirmed that the foetus suffered from severe abnormalities[2356]. The Court recognised that forcing a woman to continue such a pregnancy could cause immense physical and emotional suffering. In another notable case, Murugan Nayakkar v. Union of India, the Court permitted the termination of a twenty-seven-week pregnancy involving a minor rape survivor[2357]. The decision acknowledged the severe psychological trauma experienced by the victim and demonstrated the judiciary's willingness to adopt a compassionate and rights-based approach in exceptional circumstances.

Recognising the limitations of the original law and the need to adapt to evolving medical practices and social realities, Parliament introduced important reforms through the Medical Termination of Pregnancy (Amendment) Act, 2021[2358]. One of the most significant changes brought by the amendment was the extension of the gestational limit for abortion from twenty weeks to twenty-four weeks for certain categories of women. These include survivors of rape, victims of incest, minors, and other vulnerable groups notified by the government. This reform was widely viewed as an attempt to provide greater flexibility in cases where women face exceptional circumstances.

Another notable change introduced by the amendment was the expansion of the contraceptive failure clause to include unmarried women. Previously, the law only recognised contraceptive failure in the context of married couples, which effectively excluded unmarried women from accessing abortion services on this ground[2359]. By removing this restriction, the amendment acknowledged changing social realities and aimed to promote greater equality in access to reproductive healthcare.

The amended law also provides for the constitution of a Medical Board in cases where termination of pregnancy is sought beyond twenty-four weeks due to substantial fetal abnormalities. The board typically consists of specialist doctors who examine the medical condition and determine whether termination should be permitted. In addition, the law places strong emphasis on protecting the privacy of women seeking abortion services by prohibiting the disclosure of their identity except in circumstances authorised by law[2360].

Overall, the legal framework governing abortion in India reflects an ongoing effort to balance medical safety, legal regulation, and the protection of women's health and dignity. While the MTP Act and its subsequent amendment have significantly expanded access to safe abortion services, debates continue regarding whether the law should move further towards recognising reproductive autonomy as a matter of individual choice rather than treating abortion primarily as a decision to be determined by medical professionals.

Constitutional Basis of Reproductive Autonomy

The constitutional foundation for reproductive autonomy in India is largely derived from the interpretation of the right to life and personal liberty under Article 21 of the Constitution of India[2361]. Over the years, the Supreme Court has consistently interpreted this provision in a broad and evolving manner. Rather than limiting the right to life to mere survival, the Court has recognised that it also includes the right to live

[2356] Mrs. X v. Union of India, (2017) 3 S.C.C. 458 (India).
[2357] Murugan Nayakkar v. Union of India, (2017) 5 S.C.C. 452 (India).
[2358] The Medical Termination of Pregnancy (Amendment) Act, No. 8 of 2021, Acts of Parliament, 2021 (India).
[2359] Id. § 3(2) (as amended in 2021).
[2360] Id. § 5A.
[2361] INDIA CONST. art. 21.

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with dignity, autonomy, and freedom to make personal choices[2362]. Within this broader understanding, decisions relating to reproduction have gradually come to be recognised as an important aspect of individual liberty.

Reproductive autonomy essentially refers to the ability of a person, particularly a woman, to make decisions about her own body and reproductive life. Questions such as whether to have a child, when to have one, or whether to continue a pregnancy involve deeply personal considerations. These decisions often affect a woman's health, education, career, and social life. For this reason, the idea of bodily autonomy has become central to discussions about reproductive rights. It reflects the principle that individuals should have control over their own bodies and that such decisions should not be dictated by the State or society.

The Supreme Court acknowledged this principle in the important case of Suchita Srivastava v. Chandigarh Administration[2363]. In this case, the Court recognised that a woman's right to make reproductive choices forms an essential part of her personal liberty. It clarified that reproductive choice includes both the decision to carry a pregnancy to term and the decision to terminate it. By recognising this, the Court highlighted that reproductive decisions are closely connected with a woman's dignity, privacy, and personal freedom.

The constitutional discussion surrounding reproductive autonomy gained further strength with the landmark judgment in Justice K.S. Puttaswamy v. Union of India[2364]. In this case, the Supreme Court unanimously held that the right to privacy is a fundamental right protected under the Constitution. The Court explained that privacy includes an individual's ability to make personal decisions relating to their body, family life, and relationships without unnecessary interference from the State.

The reasoning in Puttaswamy had important implications for reproductive rights. If privacy protects personal choices relating to family and bodily integrity, then decisions concerning pregnancy and abortion naturally fall within that protected sphere. In other words, reproductive choices cannot be treated merely as matters of medical regulation; they are also closely linked to an individual's autonomy and dignity[2365]. The judgment therefore strengthened the constitutional basis for recognising reproductive decision-making as part of a person's fundamental rights.

In this way, the interpretation of Article 21 by the judiciary has gradually created a stronger constitutional framework for reproductive autonomy in India. Through decisions such as Suchita Srivastava and Puttaswamy, the courts have emphasised that choices relating to reproduction are deeply personal and deserve protection within the broader framework of privacy, dignity, and personal liberty.

Judicial Expansion of Abortion Rights in India

Although the legal framework governing abortion in India is primarily laid down by the Medical Termination of Pregnancy Act[2366], the role of the judiciary has been crucial in shaping how these provisions are understood and applied. In many instances, courts have been approached by women seeking permission to terminate pregnancies in situations that fall outside the strict limits set by the law. These cases have required judges to balance statutory restrictions with the constitutional rights and well-being of the women involved[2367].

Over time, courts have demonstrated a willingness to adopt a more compassionate and realistic approach when dealing with such situations. In several cases involving serious fetal abnormalities or extreme personal hardship, the judiciary has permitted termination of pregnancy even beyond the

[2362] Maneka Gandhi v. Union of India, (1978) 1 S.C.C. 248 (India).
[2363] Suchita Srivastava v. Chandigarh Admin., (2009) 9 S.C.C. 1 (India).
[2364] Justice K.S. Puttaswamy v. Union of India, (2017) 10 S.C.C. 1 (India).
[2365] Id. at 497–98 (Chandrachud, J.) (recognising privacy as including bodily integrity and decisional autonomy).
[2366] The Medical Termination of Pregnancy Act, No. 34 of 1971, Acts of Parliament, 1971 (India).
[2367] INDIA CONST. art. 21.

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statutory gestational limits after carefully considering medical opinions[2368].

One such instance can be seen in Mrs. X v. Union of India, where the Supreme Court allowed the termination of a pregnancy that had progressed beyond the legally prescribed limit. Medical experts had confirmed that the foetus suffered from severe abnormalities, and continuing the pregnancy could cause serious mental and physical distress to the woman. The Court recognised that forcing a woman to carry such a pregnancy to term would not only cause suffering but could also undermine her dignity and well-being[2369].

A particularly significant development in the expansion of abortion rights occurred in the case of X v. Principal Secretary, Health and Family Welfare Department, Govt. of NCT of Delhi. The case involved an unmarried woman who sought termination of pregnancy after her relationship with her partner ended. Under a narrow interpretation of the law, the provision relating to contraceptive failure was earlier understood to apply mainly to married women.

The Supreme Court rejected this restrictive interpretation. It held that limiting the benefit of the law only to married women would be discriminatory and inconsistent with constitutional principles of equality and personal liberty. The Court emphasised that reproductive autonomy belongs to all women, regardless of their marital status[2370]. By recognising this, the judgment acknowledged the changing social realities of contemporary society, where relationships and family structures are more diverse than before.

The Court also addressed the social stigma that unmarried women often face when dealing with unintended pregnancies. It observed that such stigma should not become a barrier preventing women from accessing safe medical services. The law, according to the Court, must be interpreted in a way that protects the dignity and autonomy of women rather than reinforcing outdated social attitudes[2371].

Through decisions such as these, the judiciary has played an important role in gradually expanding the understanding of abortion rights in India. By interpreting statutory provisions in light of constitutional principles such as dignity, privacy, and personal liberty, courts have ensured that the law evolves alongside changing social realities[2372]. These judicial developments highlight how constitutional values can guide the application of reproductive health laws in a manner that is both humane and rights-oriented.

Challenges in Accessing Safe Abortion Services

Even though abortion is legally permitted in India under certain circumstances, accessing safe abortion services is not always easy for many women. In practice, several barriers continue to exist that prevent women from exercising their reproductive rights fully. These challenges are not only legal or procedural in nature but are also deeply rooted in social attitudes, cultural norms, and limitations within the healthcare system[2373].

One of the most significant obstacles is social stigma. In many parts of India, abortion is still considered a sensitive or even taboo subject. Women who seek to terminate a pregnancy often fear judgment from family members, healthcare providers, or the wider community. This stigma tends to be even stronger in cases involving unmarried women, as pregnancies outside marriage are still viewed negatively in many social settings. Because of this fear of social criticism, some women delay seeking medical help or try to hide their situation for as long as possible. Unfortunately, such delays can make the procedure more complicated and, in

[2368] Medical Termination of Pregnancy Act, 1971, § 3.
[2369] Mrs. X v. Union of India, (2017) 3 S.C.C. 458 (India).
[2370] X v. Principal Sec'y, Health & Family Welfare Dep't, Govt. of NCT of Delhi, (2022) 10 S.C.C. 1 (India).
[2371] Id.
[2372] Suchita Srivastava v. Chandigarh Admin., (2009) 9 S.C.C. 1 (India).
[2373] World Health Organization, Safe Abortion: Technical and Policy Guidance for Health Systems (2d ed. 2012).

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some cases, lead women to unsafe or unregulated alternatives[2374].

Cultural expectations can also influence a woman's ability to make independent reproductive decisions. In many families, decisions about pregnancy are not made by the woman alone but are shaped by the views of spouses, parents, or other relatives. As a result, women may face pressure to continue pregnancies even when they are not prepared physically, emotionally, or financially. These social dynamics often make it difficult for women to openly discuss abortion or seek professional medical advice[2375].

Another major challenge is the uneven availability of healthcare facilities across the country. While abortion services are legally allowed in approved medical institutions, such facilities are often concentrated in urban areas. Women living in rural or remote regions may have limited access to hospitals or clinics that are authorised to perform the procedure. Travelling long distances to reach a suitable healthcare facility can be both costly and time-consuming, particularly for women from economically weaker backgrounds[2376].

In addition to the shortage of facilities, there is also a shortage of trained healthcare providers willing or authorised to perform abortion procedures. Some doctors may hesitate due to concerns about legal complications, lack of proper infrastructure, or personal beliefs. As a result, even when the law permits the procedure, women may still struggle to find a medical professional who can provide the service within the legally prescribed time limits[2377].

Procedural requirements can also contribute to delays in certain cases. For example, under the Medical Termination of Pregnancy (Amendment) Act, 2021, termination of pregnancy beyond twenty-four weeks in cases involving substantial fetal abnormalities requires the approval of a medical board. Although this requirement is meant to ensure careful medical assessment, the process can sometimes take time, especially in areas where such boards are not readily available[2378]. In situations where pregnancy has already advanced significantly, even small delays can create serious difficulties for the woman involved.

In some cases, women have had to approach the courts for permission to terminate pregnancies that exceed the legal time limit. For instance, in A v. Union of India, the Supreme Court allowed the termination of a pregnancy after considering the medical condition of the foetus and the distress faced by the woman[2379]. While such judicial decisions provide relief in individual situations, they also highlight the practical challenges women encounter when seeking timely medical assistance.

Taken together, these issues show that the existence of a legal right alone does not automatically guarantee access in practice. Addressing social stigma, improving healthcare infrastructure, and simplifying procedural requirements are all essential steps toward ensuring that women can safely and confidently access abortion services when needed.

Comparative Perspective on Abortion Rights

Abortion laws differ widely across the world, and these differences often reflect the social values, cultural beliefs, and political debates within each country[2380]. Some nations have adopted relatively liberal approaches that treat abortion largely as a matter of personal choice and reproductive healthcare. Others continue to regulate the procedure more strictly, often requiring specific conditions to be met before an abortion can be legally performed. Looking

[2374] Gilda Sedgh et al., Induced Abortion: Incidence and Trends Worldwide, 370 Lancet 1338 (2007).
[2375] Population Council, Unintended Pregnancy and Abortion in India (2017).
[2376] Ministry of Health & Family Welfare, Government of India, National Health Policy 2017.
[2377] Ipas Development Foundation, Access to Safe Abortion Services in India: A Review (2018).
[2378] The Medical Termination of Pregnancy (Amendment) Act, No. 8 of 2021, § 3B, Acts of Parliament, 2021 (India).
[2379] A v. Union of India, (2018) 4 S.C.C. 75 (India).
[2380] World Health Organization, Abortion Care Guideline (2022).

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at these global developments helps provide a broader perspective on how abortion rights are understood and regulated in different legal systems.

India's legal framework, primarily governed by the Medical Termination of Pregnancy Act, 1971[2381], represents a moderate and regulated approach. The law allows abortion under certain circumstances, such as risk to the life or health of the woman, pregnancies resulting from rape, contraceptive failure, or serious fetal abnormalities. However, the procedure usually requires the opinion of one or more registered medical practitioners and must be carried out within the gestational limits specified by the law[2382]. In this sense, abortion in India is generally treated as a medically supervised decision rather than a completely unrestricted personal choice.

In several European countries, however, the legal approach is somewhat different. Many of these jurisdictions allow abortion on request during the early stages of pregnancy, meaning that a woman can choose to terminate a pregnancy within a certain time frame without needing to provide specific reasons. Countries such as France, Germany, and Canada have frameworks that focus more strongly on reproductive autonomy while still maintaining medical regulations and time limits to ensure safety[2383].

At the same time, global debates surrounding abortion rights have also seen significant shifts in recent years. A particularly notable development occurred in the United States with the Supreme Court's decision in Dobbs v. Jackson Women's Health Organization[2384]. In this case, the Court overturned the earlier landmark ruling in Roe v. Wade, which had recognised a constitutional right to abortion for nearly five decades[2385]. The Dobbs judgment held that the U.S. Constitution does not explicitly guarantee a right to abortion and that the authority to regulate abortion should be returned to individual states.

The consequences of this decision were immediate and significant. Following the ruling, several states introduced strict laws restricting or banning abortion, while others passed legislation aimed at protecting access to reproductive healthcare. As a result, abortion laws in the United States now vary widely depending on the state, creating a patchwork system where access to abortion services differs greatly from one region to another[2386].

From a comparative perspective, developments like the Dobbs decision illustrate that abortion rights remain a deeply contested issue in many parts of the world. Legal protections that exist at one point in time may later be reconsidered or reshaped due to political, social, or judicial changes. In contrast, the Indian judiciary has generally taken a more gradual approach, expanding reproductive rights through constitutional interpretation, particularly by linking them with the principles of dignity, privacy, and personal liberty[2387].

Looking at these international developments highlights that the discussion surrounding abortion rights continues to evolve globally. While India has made important progress in improving access to safe abortion services through legislative reforms and judicial interpretation, the broader global debate demonstrates that the balance between legal regulation and reproductive autonomy remains an ongoing and complex issue.

Need for Legal and Policy Reforms

Although India has taken important steps in regulating abortion through the Medical Termination of Pregnancy Act, 1971 and the amendments that followed, the law still leaves

[2381] The Medical Termination of Pregnancy Act, No. 34 of 1971, Acts of Parliament, 1971 (India).
[2382] Id. § 3.
[2383] Rachel Rebouché, Abortion Law in Comparative Perspective, 40 Health & Hum. Rts. J. 27 (2018).
[2384] Dobbs v. Jackson Women's Health Org., 597 U.S. ___, 142 S. Ct. 2228 (2022).
[2385] Roe v. Wade, 410 U.S. 113 (1973).
[2386] Caitlin Knowles Myers, The Aftermath of Dobbs: State Abortion Policy and Access, 376 Science 1137 (2022).
[2387] Justice K.S. Puttaswamy v. Union of India, (2017) 10 S.C.C. 1 (India).

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room for improvement[2388]. Over time, courts, medical professionals, and scholars have pointed out that the legal framework does not always reflect the realities faced by women seeking abortion services[2389]. As a result, there is a growing discussion about the need for reforms that make the system more practical, accessible, and respectful of women's choices.

One issue that continues to be debated is the gestational limit for abortion. At present, the law generally permits termination of pregnancy up to twenty weeks, and up to twenty-four weeks for certain categories of women under the Medical Termination of Pregnancy (Amendment) Act, 2021[2390]. While the 2021 amendment was widely seen as a progressive step, medical realities sometimes make these limits difficult to follow in practice. Certain fetal abnormalities, for instance, may only become detectable at a later stage of pregnancy. In such cases, women often realise the seriousness of the condition only after the legal time limit has already passed.

This has led to a number of cases where women have approached courts seeking permission to terminate their pregnancies beyond the prescribed limit. In Mrs. X v. Union of India, the Supreme Court permitted termination after medical experts confirmed that the foetus suffered from severe abnormalities[2391]. Situations like this show that strict legal limits may not always accommodate complex medical circumstances. Because of this, many experts have suggested that the law should allow greater flexibility in exceptional cases where continuing the pregnancy could cause serious hardship to the woman[2392].

Another area that requires attention is access to safe abortion services. Even though the law permits abortion in approved medical facilities, access to these facilities is not uniform across the country. Many authorised hospitals and clinics are located in urban areas, while rural regions often lack adequate medical infrastructure. Women living in smaller towns or villages may have to travel long distances to access safe services, which can be both expensive and time-consuming. Improving healthcare infrastructure and ensuring the availability of trained professionals in all regions would make a significant difference in addressing this problem[2393].

There is also a need to review certain procedural requirements that sometimes create delays. For instance, termination beyond twenty-four weeks due to substantial fetal abnormalities requires the approval of a medical board[2394]. Although this provision is intended to ensure careful medical evaluation, the process can sometimes take time, especially in places where such boards are not easily available. When pregnancy has already advanced significantly, even small delays can have serious consequences for the woman involved. Streamlining these procedures could help ensure that women receive timely medical care without unnecessary complications.

Perhaps the most important aspect of future reform is the need to strengthen women's autonomy in reproductive decisions. Traditionally, abortion laws in India have focused heavily on the opinion of medical practitioners rather than the independent choice of the woman. However, constitutional jurisprudence has gradually begun to recognise that reproductive decisions are closely linked to personal liberty and dignity. In Suchita Srivastava v. Chandigarh Administration, the Supreme Court affirmed that a woman's right to make reproductive choices forms part of her personal liberty[2395].

[2388] The Medical Termination of Pregnancy Act, No. 34 of 1971, Acts of Parliament, 1971 (India).
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More recently, the Court reinforced this principle in X v. Principal Secretary, Health and Family Welfare Department, Govt. of NCT of Delhi, where it clarified that abortion rights should not be limited on the basis of marital status[2396]. The judgment recognised that reproductive autonomy belongs to all women, regardless of their personal circumstances. These developments indicate a gradual shift in legal thinking, where the focus is increasingly placed on respecting the individual choices of women.

Taken together, these concerns highlight the importance of continuing legal and policy reforms in this area. Expanding access to healthcare, introducing greater flexibility in the law, and strengthening recognition of women's autonomy would help create a more responsive and humane legal framework.

Conclusion

The regulation of abortion in India has evolved significantly over time. In the earlier period, abortion was largely treated as a criminal offence under the Indian Penal Code, 1860, with very limited exceptions. The introduction of the Medical Termination of Pregnancy Act, 1971 marked a major shift by creating a legal framework that allowed pregnancy to be terminated under specific circumstances in a medically supervised environment. Over the years, amendments to the Act and judicial interpretation have gradually expanded the scope of these protections.

Judicial decisions have played an important role in shaping the understanding of reproductive rights in India. In cases such as Suchita Srivastava v. Chandigarh Administration, the Supreme Court recognised that reproductive choice is closely connected to personal liberty. Later, in Justice K.S. Puttaswamy v. Union of India, the Court affirmed that the right to privacy is a fundamental right, which includes the freedom to make personal decisions relating to one's body and family life. These judgments helped establish a strong constitutional foundation for recognising reproductive autonomy.

More recent developments have continued to expand this understanding. In X v. Principal Secretary, Health and Family Welfare Department, Govt. of NCT of Delhi, the Supreme Court clarified that the protections provided under abortion law should apply equally to unmarried women. By doing so, the Court acknowledged the changing social realities of modern society and emphasised that reproductive rights cannot be limited by outdated assumptions about family structures.

At the same time, the discussion throughout this paper shows that several practical challenges still remain. Social stigma, limited access to healthcare facilities, and procedural delays can make it difficult for women to obtain safe abortion services in a timely manner. Addressing these issues requires more than just legal recognition; it also requires improvements in healthcare infrastructure and greater awareness about reproductive rights.

Looking ahead, the future of abortion law in India will likely depend on how effectively the legal system balances medical regulation with individual autonomy. Strengthening access to safe healthcare services, refining legal procedures, and continuing to recognise reproductive autonomy as a fundamental right will be essential steps in this process. Ultimately, protecting a woman's ability to make decisions about her own body is not only a matter of legal policy but also a reflection of a society's commitment to dignity, equality, and personal freedom.

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