

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

THE RIGHT TO CHOOSE: A CONSTITUTIONAL INQUIRY INTO WOMEN'S REPRODUCTIVE AUTONOMY IN INDIA

AUTHORED BY - ASTHA SINGH

ABSTRACT

The reproductive autonomy of women is closely connected with personal liberty, dignity and equality but its protection in India has several limitations. This paper examines the reproductive rights of women by doing the broad interpretation of Article 21¹ and through various important precedents like *Suchita Srivastava*² and *Justice K.S. Puttaswamy*.³ This paper also analyzes the Medical Termination of Pregnancy Act, 1971 (MTP Act, 1971)⁴ and Amendment of 2021 to the MTP Act expand the scope of access to abortion but it still has early depend upon the opinions of doctors. This paper also analyse is the relationship of MTP Act to the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 (PCPNDT Act)⁵, Surrogacy (Regulation) Act, 2021,⁶ and and the continuing issue of exception of marital rape. It further analyses the judicial development including landmark judgements like *X v. Union of India (2023)*,⁷ and compare India's approach with various international practices like the USA and France. Further paper concluded with giving the suggestions to spend on the reproductive rights of women.

1. INTRODUCTION

The question of who will decide whether or when a woman bears a child is not merely a health care question but also a matter of constitutional right. Reproductive autonomy means the women have freedom to make informed decisions about her own body, pregnancy and family life. In India this freedom is closely connected with the constitutional values of personal liberty, dignity and equality. However, the situation of women in the Indian legal system is more complicated. Abortion is remain subject to legal and medical requirements, sex selection is prohibited, surrogacy is regulated and certain old criminal law provisions continue to limit women's control over their reproductive lives and the law still shield the husband from prosecution for non-consensual sex within the marriage.

This paper analyzes how the Indian constitution protected the women's right to choose in India.

It first examined the constitutional foundation of reproductive rights and then looked into the development of abortion law which evolved from criminalisation to conditional legalisation. The paper critically examines the Medical Termination of Pregnancy Act, 1971⁸ (hereinafter referred as MTP Act, 1971), especially the 2021 Amendment ⁹ and also analyses the significance of judicial precedents that expands the scope of reproductive autonomy and also places certain restrictions in other cases. The paper highlights the challenges faced by women in exercising their reproductive choices. The paper concludes with the comparative analysis of the other legal systems and provides some suggestions for strengthening reproductive rights in India.

2. THE CONSTITUTIONAL FOUNDATION OF REPRODUCTIVE RIGHTS IN INDIA

In the Indian constitution the term “reproductive rights” is not explicitly used in any article. The court expanded the scope of Article 21¹¹ including reproductive rights in it and Article 14¹⁰ and 15¹³ also ensured reproductive rights by guaranteeing equality and non discrimination.

2.1 Article 21: Life, Liberty and Dignity

The right to reproductive choice is upheld by the court by the broad interpretation of Article 21.¹¹ Article 21 protects life, personal liberty and dignity of a human being but the Apex Court made clear that this protection is not limited to physical existence. In *Maneka Gandhi v. Union of India*,¹² the supreme court held that “life” under Article 21 is more than animal existence.¹³ “Life” under Article 21 includes the right to live with dignity and enjoy the basic freedom necessary for a meaningful life.

This broad interpretation of article 21 allows the code to recognise all those rights that are not explicitly mentioned in the Indian constitution including the right to bodily autonomy and reproductive choices.

2.2 Privacy as a Constitutional Anchor

The right to privacy is a significant right emerged by the interpretation of article 21 to strengthen reproductive autonomy. In the landmark case of *K.S. Puttaswamy (Retd.) v. Union of India*,¹⁴ The 9 judge bench unanimously held that the right to privacy is a fundamental right under Article 21. The court connects privacy with decisional autonomy where a person must have freedom to make decisions regarding their own body and family life. It also includes

decisions regarding contraception marriage and Pro creation. Therefore, reproductive choices are closely connected with the right to privacy.

2.3 Equality, Directive Principles and International Law

Beyond Article 21¹⁵ reproductive rights were also supported by the principle of equality. Article 14¹⁶ and 15¹⁷ issues equality and not discrimination and Article 15(3)²¹ empowers the state to make special provision for women and children. The Directive Principles of State policy also directs state to improve the public health and nutrition under Article 47.²² Article 51(c)¹⁸ and Article 253¹⁹ requires India to honour international treaties which strengthen this framework further. Article 8 of Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)²⁰ to which India is a party required to prevent discrimination against women in healthcare including family planning. Therefore, reproductive rights and choice are protected by the Indian constitution and India's commitment to international instruments.²¹

3. FROM REGULATION TO AUTONOMY: EVOLUTION OF ABORTION LAW IN INDIA

Before 1971, abortion in India was mainly governed by Indian Penal Code, 1860 which criminalised abortion except when it was necessary to save the life of women.²² This means that women seeking termination of pregnancy and the person performing it mainly face criminal consequences. Consequently, many women are forced to see abortion secretly or through unsafe methods which cause mental problems and deaths.²³ To address this issue in 1964, the government formed the **Shantilal Shah Committee**. This committee examined the abortion from a medical legal and social perspective and suggested some changes in the existing laws. The committee's recommendation eventually became the basis for the enactment of the Medical Termination of Pregnancy Act, 1971. This act shifted India's criminal approach to regulated medical approach by allowing abortion in certain circumstances.²⁴ However, the MTP Act still imposed some restrictions on women and did not provide complete reproductive freedom. The original act requires the opinion of one or two Registered Medical Practitioners, depending on the stage of pregnancy and restricts abortion only up to 20 weeks. They said they did not recognise the contraceptive failure of unmarried women as a ground for the abortion. Over the years the court and law makers demand for great reproductive freedom. This limitation eventually led to the reforms introduced by the 2021 amendment to the MTP Act 1971.

4. THE MEDICAL TERMINATION OF PREGNANCY ACT, 1971: RIGHTS AND RESTRICTIONS

The 2021 Amendment to the MTP Act 1971 made abortion more accessible to women in many ways. It allows the termination of pregnancy up to 20 weeks in the opinion of one Registered Medical Practitioner (RMP). For pregnancy is between 20 to 24 weeks opinion of two Registered Medical Practitioner required for specific categories of women including minors, survivor of sexual assault and women whose marital status has changed during pregnancy.³⁰ The 2021 Amendment added Section 3(2B) which allowed the termination of pregnancy beyond the prescribed gestational limit where the Medical Board diagnoses substantial foetal abnormalities.²⁵ The 2021 Amendment also made a change where earlier loss requires only a 'married woman' could rely on contraceptive failure as a ground for the termination of pregnancy but now this ground is extended to 'any woman or her partner'.

Thereby, allowing unmarried women to rely on this ground as well.

Despite these reforms the MTP Act still gives doctors significant control over a woman's reproductive choice.²⁶ A woman is not completely independent to decide her termination of pregnancy because her decision always depends on the opinion of a registered medical practiceness so practically a woman has no real reproductive autonomy. A doctor may refuse to provide the medical services because of personal beliefs, fear of legal consequences or lack of availability.²⁷ The statute is also not imposing a time limit within which the medical board must render its opinion which may cause delay and especially when pregnancy is already at an advanced stage. Women in rural areas are even facing bigger problems because they may not have access to qualified medical practitioners or proper medical facilities. Therefore, it can be stated that a legal right of reproductive autonomy may exist on paper but remain difficult to access in reality.

5. JUDICIAL RECOGNITION OF THE RIGHT TO CHOOSE

5.1 Early Foundations: Suchita Srivastava and Allied Cases

The Indian Court played a significant role in protecting the reproductive rights of women often moving ahead of the legislature in *Suchita Srivastava v. Chandigarh Administration*,²⁸ The Supreme Court held that reproductive choice is part of personal liberty under Article 21. The court further clarified that the right to reproductive choice includes both the right to procreate and the right to abstain from Pro creation. The court also said that women's privacy, dignity and bodily integrity must be respected while making decisions about contraception or

sterilization.²⁹

The judiciary also addressed the issue of unequal access to reproductive health in *Lakshmi Mandal vs Deen Dayal Harinagar Hospital*,³⁰ the Delhi High Court linked reproductive rights with the right to healthcare to poor women included under Article 21. In *Devika Biswas v. Union of India*,³¹ the Supreme Court reinforced the principle of informed and voluntary consent in sterilization procedures; the court also criticised the excessive burden of sterilization on women and directed the state to adopt a more balanced approach.

5.2 Expanding Access: *X v. Principal Secretary and A (Mother of X)*

The scope of reproductive autonomy is significantly expanded in case of *X v. Principal Secretary, Health and Family Welfare Department*.³² The supreme court held that unmarried women cannot be treated differently from married women for the purpose of seeking abortion.³³ Marital status alone cannot be reason to deny a legal abortion to a woman. Therefore, such distinction is unconstitutional; the court also held that if there is a change in marital status then women can seek abortion up to 24 weeks. The court also protected reproductive autonomy of a woman by directing doctors not to demand the consent of the husband or parents of a woman before providing in abortion service. Court also recognised the pregnancy which is the result of marital rape can also be the ground for the termination of pregnancy under MTP Act. Therefore, this judgement marks a significant safety in India is abortion law where abortion is treated as individual rights and reproductive autonomy rather than only a medical issue.³⁴ The court adopted a more inclusive approach in *A (Mother of X) v. State of Maharashtra*³⁵ where the court recognised the reproductive right should not be limited only to women and used the broader term “pregnant person”. The “pregnant person” includes transgender men and non-binary persons for the purpose of providing reproductive autonomy.

5.3 The Retreat: *X v. Union of India and the Pending Swati Agarwal Challenge*

The development of reproductive rights in India has not always been consistent. In *X v. Union of India (2023)*,⁴² initially to judge, allowed determination of 26 weeks pregnancy because of her mental health. However, the case was later reconsidered because of the fetus' viability. There is a difference of opinion between the judges therefore, the case was referred to the larger bench. The larger bench refused to give permission for the termination of pregnancy and upheld the 24 weeks limit. The court upholds that 24 week limit cannot be overridden in normal circumstances unless the woman's life was at risk or there were serious foetal abnormalities.³⁶

This decision faced the greater criticism because it gives more importance to the foetal viability than two women's expressed mental and psychological suffering. This case demonstrates that the protection of reproductive rights still depends on how individual courts balance the interest of women and fetuses³⁷.

In 2019 Swati Agarwal and others constitutionally challenged the MTP Act. This petition 6 Supreme Court to interpret section 3³⁸ and Section 5³⁹ of the MTP Act more broadly in favour of reproductive rights. However, this case is still pending.⁴⁰

6. CHALLENGES: A CRITICAL ANALYSIS OF INDIA'S REPRODUCTIVE RIGHTS FRAMEWORK

6.1 The Doctor-Centric Statutory Design

The MTP Act has made important progress but its framework still faces three major concerns. First, there is a difference between reproductive autonomy and medical control. Even though the court recognizes reproductive autonomy is the constitutional right, the MTP Act still placed doctors in important places where women have to depend on doctors to exercise her right to reproductive choice. Second, the growing importance of foetal viability raises concern that the Supreme Court in *X v. Union of India*⁴¹ held that foetal viability can be a significant factor in deciding whether abortion is allowed or not, this decision conflicting with the right autonomy based approach in *Puttaswamy case* and *X v. Principal Secretary*.⁴² Therefore, giving too much unnecessary importance to the foetal viability may restrict the women's reproductive choices.

6.2 The Fragility of a Discretion-Based Right

The reproductive rights may be recognised as an important part of Article 21 but it will be meaningful only when a person can actually exercise it under the MTP Act. A woman has to depend on the opinion of the Medical Board to exercise her reproductive choices which led to the uncertainty. The pending Swati Agarwal case provides the Supreme Court with an opportunity to examine the constitutional validity of the medical board's opinion. Such decisions bring more clarity than whether reproductive autonomy is a genuine right or mere a conditional permission.

6.3 The PCPNDT-MTP Conflict and Sex-Selective Abortion

Another important issue is the maintaining balance between MTP Act which legally permitted the abortion in certain circumstances and Pre-Conception and Pre-Natal Diagnostic Techniques

Act, 1994 (PCPNDT Act)⁴³ which prohibit sex determination and sex selective abortion the challenge is to protect to reproductive autonomy without allowing abortion laws to be misused for the sex selection abortion. In *Centre for Enquiry into Health and Allied Themes v. Union of India*,⁴⁴ The Supreme Court found that the PCPNDT Act is not properly implemented and directed the centre for proper enforcement of the regulation. However, enforcement remains weak and new forms of medical consultation arose like online ultrasound consultation which make implementation even more difficult.⁴⁵

The 2021 Amendment to MTP Act made regulation even more difficult by allowing abortion at later stage in certain circumstances the challenge is to protect women reproductive autonomy without rendering the abortion service as a mean of sex election this issue is still serious as the data shows the child sex ratio fell from 927 girls per 1000 boys in 2001 to 914 in 2011 with various States where the figure is even below 900.⁴⁶

6.4 Exclusionary Family Law: The Surrogacy (Regulation) Act, 2021

Reproductive autonomy not only includes the right to terminate pregnancy but also includes the freedom to have a child and creates a family through assisted reproductive methods. But the Surrogacy (Regulation) Act, 2021,⁴⁷ restricts their surrogacy to certain women based on their marital status. It allowed surrogacy mainly for married heterosexual couples and for divorced and widowed women between 35 to 45 years of age.⁴⁸ Unmarried women, single men and same sex couples are excluded. This raises a question of equality: why the right to build a family depends on the marital status of a person? This concern was also highlighted by Delhi High Court in 2023 where the court asked the central government to explain why unmarried women are differently treated from divorced or widowed women.⁴⁹

6.5 The Marital Rape Exception as an Unaddressed Reproductive Harm

The protection of reproductive rights is difficult when marital rape remains outside the definition of rape under the Exception 2 to Section 63⁵⁰ of Bhartiya Nayay Sanhita, 2023 (BNS, 2023) which protects husbands from prosecution for non-consensual intercourse with his wife. In *Hrishikesh Sahoo v. State of Karnataka*,⁵¹ The constitutional validity of Exception 2 to Section 3 Of BNS, 2023 is challenged.⁵² The critics argued that it is also a reproductive rights issue because forced sexual intercourse can result in unwanted pregnancy which directly affects the women's ability to control her reproductive life.⁵³

6.6 Practical Barriers to Reproductive Autonomy

The reproductive autonomy is legally recognised but in reality women face practical difficulties in accessing it, poor health infrastructure especially in rural areas, lack of awareness about the abortion laws and shortage of trained doctors make the access difficult. Social stigma regarding pregnancy of unmarried women to discourage women from seeking care.

7. GLOBAL PRACTICES

7.1 United States: A Cautionary Tale

In the USA abortion laws have evolved through various judicial interpretations. In *Roe v. Wade*,⁵⁴ The USA Supreme Court recognised abortion as a part of the right to privacy. However, in *Dobbs v. Jackson Women's Health Organization*,⁵⁵ the court overruled the *Roe case*⁵⁶ and ruled that the USA constitution does not provide the right to abortion. The issue is left on the state and states were allowed to make laws on a person which leads to differences in abortion law across the country. So the USA is an example which shows the uncertainty in abortion law.

7.2 France and Comparative Lessons for India

France expressly protected the freedom to have an abortion by amending its constitution in 2024.⁵⁷ Therefore, it insulated reproductive rights from the future judicial and legislative reversal. Unlike France, India does not mention this right expressly in the Indian constitution rather the judiciary made a broad interpretation of Article 21 to include reproductive autonomy at the same time India also does not see any reversal of right as seen in USA after *Dobbs v. Jackson Women's Health Organization*,⁵⁸ Therefore India should strengthen reproductive rights by a clear legislature instead of depending only on judicial interpretations.

8. SUGGESTIONS AND POLICY RECOMMENDATIONS

8.1 Reforming the MTP Act's Consent Architecture

The MTP Act should give more importance to the informed consent of a woman and once the women give, the concerned doctor should mainly decide whether the abortion is medically safe rather than whether women are legally entitled to abortion. The legislature should also fix the time limit within which the medical board has to render its opinion in order to avoid unnecessary delay.⁵⁹

8.2 Strengthening PCPNDT Enforcement and Data Systems

The government should ensure the proper implementation of PCPNDT Act by introducing real time digital reporting for register ultrasound and genetic testing centres the law should also extend to cover the tele medicines and cross border sex determination services district wise of sex ratio at birth can help to identify the area where sex selection may be taking place and allow authorities to take proper action.

8.3 Reforming the Surrogacy (Regulation) Act, 2021

The parliament should amend the Surrogacy (Regulation) Act, 2021,⁶⁰ In order to remove the prohibition based on marital status and age, unmarried women and same sex couples also have equal access to surrogacy.⁶¹ This would make surrogacy law more consistent with MTP Act and ensure marital status should not be a deciding factor for a person's ability to form a family.

8.4 Criminalising the Marital Rape Exception

They exclusion of marital rape from the definition of rape under section 63 of Bhartiya Nyaya Sanhita, 2023⁶² should be removed the supreme court should address this issue by deciding the *Hrishikesh Sahoo case*⁶³ and parliament should remove it by an amendment recognising marital rape would protect married women from forced sex and provide legal remedy against unwanted pregnancy.⁶⁴

8.5 Expanding Telemedicine and Rural Access

The abortion services should be made accessible to women in rural and semi urban areas. This can be done when the government approves the portion centres and trained practitioners more in number in rural and semi urban areas.

8.6 Awareness, Training and Grievance Redressal

Awareness programs regarding reproductive rights should be conducted regularly in rural areas for women and healthcare workers. The government should provide regular training to Auxiliary Nurse Midwives (ANM) and Accredited Social Health Activist workers (ASHA) on the 2021 amendments to MTP Act.⁶⁵ This would help women in rural areas to access legal abortion services.

9. CONCLUSION

India's reproductive rights jurisprudence shows the significant constitutional progress and certain limitations the supreme court expanded Article 21 to include the reproductive right as a constitutional right in *Manika Gandhi v. Union of India case*⁶⁶ and the *Puttaswamy case*.⁶⁷ However, after all these development there are certain limitations like restriction under PCPNDT Act⁶⁸ and Surrogacy Act⁶⁹ and medical gate keeping and marital rape exceptions, continue to limit productive autonomy of a woman.

Therefore, India's approach should extends beyond judicial protection and provides statutory protection to reproductive choice and places women at the centre of reproductive decision making.

BIBLIOGRAPHY

Constitution and Legislation

1. India Constitution
2. Medical Termination of Pregnancy Act, 1971, No. 34, Acts of Parliament, 1971 (India).
3. Medical Termination of Pregnancy (Amendment) Act, 2021, No. 8, Acts of Parliament, 2021 (India).
4. The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India).
5. The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India).
6. Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, No. 57, Acts of Parliament, 1994 (India).
7. Surrogacy (Regulation) Act, 2021, No. 47, Acts of Parliament, 2021 (India).
8. Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

Cases

1. A (Mother of X) v. State of Maharashtra & Anr., (2024) 5 SCR 470 (India).
2. Ctr. for Enquiry into Health & Allied Themes v. Union of India, (2003) 8 SCC 398 (India).
3. Devika Biswas v. Union of India & Ors., (2016) AIR 4405 (India).
4. Dobbs v. Jackson Women's Health Org., 597 U.S. 215 (2022).

5. Hrishikesh Sahoo v. State of Karnataka, S.L.P. (Crl.) filed May 10, 2022 (India) (pending).
6. Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1 (India).
7. Laxmi Mandal v. Deen Dayal Harinagar Hosp. & Ors., W.P. (C) No. 8853 of 2008 (Delhi H.C. 2010) (India).
8. Maneka Gandhi v. Union of India, AIR 1978 SC 597 (India).
9. Roe v. Wade, 410 U.S. 113 (1973).
10. Suchita Srivastava v. Chandigarh Admin., (2009) 13 SCR 989 (India).
11. Swati Agarwal & Ors. v. Union of India, Writ Petition (Civil) filed Apr. 29, 2019 (India) (pending).
12. X v. Principal Secy., Health & Family Welfare Dep't & Anr., (2022) SCC OnLine SC 1321 (India).
13. X v. Union of India, order dated Oct. 9, 2023, and final judgment dated Oct. 16, 2023 (India).

Books and Articles

1. Aboli Jakhar, Reproductive Rights of Women in India, 7(2) Voice of Creative Rsch. 1 (2025).
2. An Argument for the Inclusive Right to Parenthood by Surrogacy in India, JURIST (Mar. 22, 2024), <https://www.jurist.org/commentary/2024/03/an-argument-for-the-inclusive-right-to-parenthood-by-surrogacy-in-india/>.
3. Anantam IAS, PCPNDT Act, 1994: Ban on Sex Selection — Complete Guide (2026), <https://anantamias.com/pcpndt-act/>.
4. Aravind Sundar, Uncertainty of Abortion: A Case Comment on X v. Union of India, L. Sch. Pol'y Rev. (Nov. 27, 2023), <https://lawschoolpolicyreview.com/2023/11/27/uncertainty-of-abortion-a-case-comment-on-x-v-union-of-india/>.
5. Arijeet Ghosh & Nitika Khaitan, A Womb of One's Own: Privacy and Reproductive Rights, 52(42-43) Econ. & Pol. Wkly. (Oct. 2017), <https://www.epw.in/engage/article/womb-ones-own-privacy-and-reproductive-rights>.
6. International Institute for Population Sciences, National Family Health Survey-5 (2019-21): India Fact Sheet (Ministry of Health & Family Welfare, Gov't of India 2021).

7. K&S Partners, Reproductive Autonomy and Abortion Law in India, KS&K (2023), <https://ksandk.com/constitutional/reproductive-autonomy-and-abortion-law-india/>.
8. Legal ServiceIndia, Constitutionality of Abortion Laws in India, <https://www.legalserviceindia.com/legal/article-1691-constitutionality-of-abortion-laws-in-india.html> (last visited Aug. 25, 2026).
9. Legal Service India, Reproductive Autonomy v. Statutory Limits Under the MTP Act, <https://www.legalserviceindia.com/Legal-Articles/reproductive-autonomy-vs-statutory-limits-under-the-mtp-act/> (last visited Aug. 25, 2026).
10. Nargis Bano, An Assessment of the Women's Reproductive Choice in India in the Light of Article 12 of CEDAW, 6(6) Indian J.L. & Legal Rsch. 1170 (2025).
11. Petrie-Flom Center, India's Top Court Affirms Reproductive Rights, Extends Abortion Access to Unmarried Women, Harv. L. Sch. Bill of Health (Oct. 17, 2022), <https://petrieflom.law.harvard.edu/2022/10/17/india-abortion-supreme-court-ruling/>.
12. Shalu Sharma, Reproductive Rights in Indian Constitution: Empowering Choice, Ensuring Justice, 7(2) Indian J.L. & Legal Rsch. 6048 (2025).
13. Spice Route Legal, Surrogacy (Regulation) Act, 2021 (Feb. 27, 2024), <https://spiceroutelegal.com/publications/surrogacy-regulation-act-2021/>.
14. Supreme Court Observer, Abortion Law in India: A Step Backward After Going Forward (Nov. 17, 2023), <https://www.scobserver.in/journal/abortion-law-in-india-a-step-backward-after-goingforward/>.
15. Supreme Court Observer, Swati Agarwal v. Union of India: Constitutionality of Abortion Laws, <https://www.scobserver.in/cases/swati-agarwal-union-of-india-constitutionality-of-abortion-laws-case-background/> (last visited Aug. 25, 2026).
16. Till Consent Do Us Part: The Marital Rape Exception and India's Constitutional Deficit, LSE Human Rights Blog (Jan. 14, 2025), <https://blogs.lse.ac.uk/humanrights/2025/01/14/till-consent-do-us-part-the-marital-rape-exception-and-indias-constitutional-deficit/>.
17. Women Share Anguish of Fleeing Abusive Husbands in India Where Marital Rape Isn't a Crime, CBC News (Oct. 12, 2024), <https://www.cbc.ca/news/world/india-marital-rape-law-supreme-court-case-1.7351968>.

- ¹ India Const. art. 21.
- ² Suchita Srivastava v. Chandigarh Admin., (2009) 13 SCR 989 (India).
- ³ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1 (India).
- ⁴ Medical Termination of Pregnancy Act, 1971, No. 34, Acts of Parliament, 1971 (India).
- ⁵ Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, No. 57, Acts of Parliament, 1994 (India).
- ⁶ Surrogacy (Regulation) Act, 2021, No. 47, Acts of Parliament, 2021 (India).
- ⁷ X v. Union of India, order dated Oct. 9, 2023, and final judgment dated Oct. 16, 2023 (India).
- ⁸ Medical Termination of Pregnancy Act, 1971, No. 34, Acts of Parliament, 1971 (India).
- ⁹ Medical Termination of Pregnancy (Amendment) Act, 2021, No. 8, Acts of Parliament, 2021 (India). ¹¹ India Const. art. 21.
- ¹⁰ India Const. art. 14. ¹³ India Const. art. 15.
- ¹¹ India Const. art. 21.
- ¹² Maneka Gandhi v. Union of India, AIR 1978 SC 597 (India).
- ¹³ Id.
- ¹⁴ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1 (India).
- ¹⁵ India Const. art. 21.
- ¹⁶ India Const. art. 14.
- ¹⁷ India Const. art. 15. ²¹ India Const. art. 15, cl. 3 ²² India Const. art. 47.
- ¹⁸ India Const. art. 51, cl. (c).
- ¹⁹ India Const. art. 253.
- ²⁰ Convention on the Elimination of All Forms of Discrimination Against Women art. 12, Dec. 18, 1979, 1249 U.N.T.S. 13.
- ²¹ Nargis Bano, An Assessment of the Women's Reproductive Choice in India in the Light of Article 12 of CEDAW, 6(6) Indian J.L. & Legal Rsch. 1170, 1172 (2025).
- ²² The Indian Penal Code, 1860, §§ 312-316 (India) (largely re-enacted in the Bharatiya Nyaya Sanhita, 2023, §§ 88-93).
- ²³ Legal Service India, Constitutionality of Abortion Laws in India, <https://www.legalserviceindia.com/legal/article-1691-constitutionality-of-abortion-laws-in-india.html> (last visited Aug. 25, 2026).
- ²⁴ Medical Termination of Pregnancy Act, 1971, No. 34, Acts of Parliament, 1971 (India). ³⁰ Medical Termination of Pregnancy Act, 1971, § 3(2) (India), as amended in 2021.
- ²⁵ Medical Termination of Pregnancy Act, 1971, § 3(2-B) (India), as inserted by the 2021 Amendment.
- ²⁶ K&S Partners, Reproductive Autonomy and Abortion Law in India, KS&K (2023), <https://ksandk.com/constitutional/reproductive-autonomy-and-abortion-law-india/>.
- ²⁷ Legal Service India, Reproductive Autonomy v. Statutory Limits Under the MTP Act, <https://www.legalserviceindia.com/Legal-Articles/reproductive-autonomy-vs-statutory-limits-under-the-mtp-act/> (last visited Aug. 25, 2026).
- ²⁸ Suchita Srivastava v. Chandigarh Admin., (2009) 13 SCR 989 (India).
- ²⁹ Id.
- ³⁰ Laxmi Mandal v. Deen Dayal Harinagar Hosp. & Ors., W.P. (C) No. 8853 of 2008 (Delhi H.C. 2010) (India).
- ³¹ Devika Biswas v. Union of India & Ors., (2016) AIR 4405 (India).
- ³² X v. Principal Secy., Health & Family Welfare Dep't & Anr., (2022) SCC OnLine SC 1321 (India).
- ³³ Id.
- ³⁴ Petrie-Flom Center, India's Top Court Affirms Reproductive Rights, Extends Abortion Access to Unmarried Women, Harv. L. Sch. Bill of Health (Oct. 17, 2022), <https://petrieflom.law.harvard.edu/2022/10/17/india-abortion-supreme-court-ruling/>.
- ³⁵ A (Mother of X) v. State of Maharashtra & Anr., (2024) 5 SCR 470 (India). ⁴² X v. Union of India, order dated Oct. 9, 2023 (India).
- ³⁶ X v. Union of India, final judgment dated Oct. 16, 2023 (India) (three-judge bench, per Chandrachud, C.J.).
- ³⁷ Aravind Sundar, Uncertainty of Abortion: A Case Comment on X v. Union of India, L. Sch. Pol'y Rev. (Nov. 27, 2023), <https://lawschoolpolicyreview.com/2023/11/27/uncertainty-of-abortion-a-case-comment-on-x-v-union-of-india/>.
- ³⁸ Medical Termination of Pregnancy Act, 1971, § 3 (India).
- ³⁹ Medical Termination of Pregnancy Act, 1971, § 5 (India).
- ⁴⁰ Swati Agarwal & Ors. v. Union of India, Writ Petition (Civil) filed Apr. 29, 2019 (India) (pending).

- ⁴¹ X v. Union of India, order dated Oct. 9, 2023 (India).
- ⁴² X v. Principal Secy., Health & Family Welfare Dep't & Anr., (2022) SCC OnLine SC 1321 (India).
- ⁴³ Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, No. 57, Acts of Parliament, 1994 (India).
- ⁴⁴ Ctr. for Enquiry into Health & Allied Themes v. Union of India, (2003) 8 SCC 398 (India).
- ⁴⁵ Anantam IAS, PCPNDT Act, 1994: Ban on Sex Selection — Complete Guide (2026), <https://anantamias.com/pcpndt-act/>.
- ⁴⁶ Id.
- ⁴⁷ Surrogacy (Regulation) Act, 2021, No. 47, Acts of Parliament, 2021 (India).
- ⁴⁸ An Argument for the Inclusive Right to Parenthood by Surrogacy in India, JURIST (Mar. 22, 2024), <https://www.jurist.org/commentary/2024/03/an-argument-for-the-inclusive-right-to-parenthood-by-surrogacy-inindia>.
- ⁴⁹ Delhi High Court Asks Centre to Explain Exclusion of Single, Unmarried Women from Surrogacy Law, Tribune India (Oct. 16, 2023), <https://www.tribuneindia.com/news/delhi/delhi-high-court-asks-centre-to-explain-exclusion-of-single-unmarried-women-from-surrogacy-law-553795/amp>.
- ⁵⁰ The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023, § 63, Exception 2 (India).
- ⁵¹ Hrishikesh Sahoo v. State of Karnataka, S.L.P. (Crl.) filed May 10, 2022 (India) (pending before the Supreme Court).
- ⁵² Till Consent Do Us Part: The Marital Rape Exception and India's Constitutional Deficit, LSE Human Rights Blog (Jan. 14, 2025), <https://blogs.lse.ac.uk/humanrights/2025/01/14/till-consent-do-us-part-the-marital-rape-exception-and-indias-constitutional-deficit/>.
- ⁵³ International Institute for Population Sciences, National Family Health Survey-5 (2019-21): India Fact Sheet 4 (Ministry of Health & Family Welfare, Gov't of India 2021) (recording that 29.3 per cent of ever-married women aged 18-49 reported having experienced spousal violence).
- ⁵⁴ Roe v. Wade, 410 U.S. 113 (1973).
- ⁵⁵ Dobbs v. Jackson Women's Health Org., 597 U.S. 215 (2022).
- ⁵⁶ Roe v. Wade, 410 U.S. 113 (1973).
- ⁵⁷ Aboli Jakhar, Reproductive Rights of Women in India, 7(2) Voice of Creative Rsch. 1, 8 (2025).
- ⁵⁸ Dobbs v. Jackson Women's Health Org., 597 U.S. 215 (2022).
- ⁵⁹ Medical Termination of Pregnancy Act, 1971, No. 34, Acts of Parliament, 1971 (India).
- ⁶⁰ Surrogacy (Regulation) Act, 2021, No. 47, Acts of Parliament, 2021 (India).
- ⁶¹ Spice Route Legal, Surrogacy (Regulation) Act, 2021 (Feb. 27, 2024), <https://spiceroutelegal.com/publications/surrogacy-regulation-act-2021/>.
- ⁶² Spice Route Legal, Surrogacy (Regulation) Act, 2021 (Feb. 27, 2024), <https://spiceroutelegal.com/publications/surrogacy-regulation-act-2021/>.
- ⁶³ Hrishikesh Sahoo v. State of Karnataka, S.L.P. (Crl.) filed May 10, 2022 (India) (pending).
- ⁶⁴ Women Share Anguish of Fleeing Abusive Husbands in India Where Marital Rape Isn't a Crime, CBC News (Oct. 12, 2024), <https://www.cbc.ca/news/world/india-marital-rape-law-supreme-court-case-1.7351968>.
- ⁶⁵ Medical Termination of Pregnancy Act, 1971, No. 34, Acts of Parliament, 1971 (India).
- ⁶⁶ Maneka Gandhi v. Union of India, AIR 1978 SC 597 (India).
- ⁶⁷ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1 (India).
- ⁶⁸ Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, No. 57, Acts of Parliament, 1994 (India).
- ⁶⁹ Surrogacy (Regulation) Act, 2021, No. 47, Acts of Parliament, 2021 (India).