



Supreme Court Allows Termination of Pregnancy for Rape Survivor

For Prelims: [Supreme Court of India, Medical Termination of Pregnancy \(MTP\) Act, 1971, Abortion Law in India](#), Reproductive Rights, Shantilal Shah Committee.

For Mains: Legal Provisions Related to Abortion in India, Major Issues Related to Women.

[Source: IE](#)

Why in News?

Observing that pregnancy outside marriage, especially in cases of sexual assault, is injurious and a cause of stress, the [Supreme Court of India](#) allowed a rape survivor from Gujarat to terminate her **27-week pregnancy**.

- The court **overruled the Gujarat High Court's order** that denied her request and directed the hospital to carry out the procedure without any delay.
- Under the [Medical Termination of Pregnancy \(MTP\) Amendment Act 2021](#), the upper limit for termination of pregnancy is 24 weeks.

What are the Legal Provisions Related to Abortion in India?

- Until the **1960s, abortion was prohibited in India**, and violating this led to imprisonment or fines under **Section 312 of the Indian Penal Code**.
 - The **Shantilal Shah Committee** was set up in the mid-1960s to investigate the need for abortion regulations.
 - Based on its findings, the **Medical Termination of Pregnancy (MTP) Act, 1971 was enacted, allowing safe and legal abortions, safeguarding women's health, and reducing maternal mortality**.
- The **MTP Act, 1971**, allows **abortion up to 20 weeks of gestation, with the consent of the woman and on the advice of one registered medical practitioner (RMP)**. However, the law was updated in **2002 and 2021**.
 - The 2021 amendment **permits abortion from 20 to 24 weeks of gestation** for specific cases like rape survivors, with **approval from two doctors**.
 - It sets up **state level Medical Boards** to decide if a pregnancy may be terminated after **24 weeks in cases of substantial fetal abnormalities**.
- It extends the failure of contraceptive clauses to **unmarried women(initially only married women)**, allowing them to seek abortion services on grounds of their choice, irrespective of their marital status.
 - Consent requirements vary based on age and mental state, ensuring medical practitioner

oversight.

The MTP Act 1971 and The MTP Act Amendments 2021

| | MTP Act 1971 | The MTP Amendment Act 2021 |
|---|---|--|
| Indications (Contraceptive failure) | Only applies to married women | Unmarried women are also covered |
| Gestational Age Limit | 20 weeks for all indications | 24 weeks for rape survivors Beyond 24 weeks for substantial fetal abnormalities |
| Medical practitioner opinions required before termination | One RMP till 12 weeks Two RMPs till 20 weeks | One RMP till 20 weeks Two RMPs 20-24 weeks Medical Board approval after 24 weeks |
| Breach of the woman's confidentiality | Fine up to Rs 1000 | Fine and/or Imprisonment of 1 year |

- **Recent Supreme Court judgments reaffirm women's bodily autonomy.** Courts recognized abortion rights in cases of rape and acknowledged reproductive choice as a component of personal liberty.

Note:

In **Justice K.S. Puttaswamy (Retd.) vs. the Union Of India And Others (2017)**, the Supreme court **recognized the constitutional right of women** to make reproductive choices, as a part of **personal liberty under Article 21 of the Indian Constitution**, which, despite laying a robust jurisprudence on reproductive rights and the privacy of a woman, does not translate into a fundamental shift in power from the doctor to the woman seeking an abortion.

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