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MEDICAL TERMINATION OF PREGNANCY (MTP) AND REPRODUCTIVE RIGHTS

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ABSTRACT :

Medical Termination of Pregnancy (MTP) is a critical component of reproductive rights, enabling individuals to make autonomous decisions about their bodies and health. The MTP Act of 1971, which prioritized women's health and well-being while balancing ethical and socio cultural factors, legalized abortion in India under certain restrictions. Through analysis of contested MTP cases, what disparities emerge between India's abortion Laws and ground realities, particularly regarding so called judicial bias, gestational limits, and women's right in reproductive decision-making. Analyzing landmark Court Rulings and their impact on reproductive rights jurisprudence. Pregnant individuals' autonomy is often undermined by societal pressures, despite judicial rulings e.g., *X v. Principal Secretary*, 2022.

Access to safe abortion and other reproductive rights are essential for both public health and equality. India's maternal death rate decreased by 77% between 1990 and 2016 as a result of the MTP Act's dramatic reduction in unsafe abortions. However, the obstacles still exist, such as delays brought on by required Medical Boards for late-term abortions and restricted access in rural areas because of a lack of competent doctors. Pro-choice activists, who stress women's autonomy, and pro-life campaigners, who place a higher priority on fetal rights, continue to engage in ethical discussions.

The fight over the gestational limit is still going strong, with conservative organizations opposing increases and medical professionals supporting case-by-case assessments beyond 24 weeks. Although, the 2021 amendment's inclusion of unmarried women was a step in the right direction, judges still need to step in, as seen by instances where they allowed abortions that went beyond the law because of fetal abnormalities or mental health concerns.

In the end, even if India's MTP laws are progressive, systemic changes are essential to achieving reproductive equity. These changes include removing needless limitations, growing provider networks, and fortifying legal protections.

Key words: Reproductive Rights, MTP Act 1971/2021, Judicial Bias, Gestational Limits, Bodily Autonomy

INTRODUCTION

Abortion, also known as a medical termination of pregnancy (MTP), continues to remain an emotive issue at the nexus of ethics, law, medicine, and human rights. Around the globe, the availability of safe and legal MTP is considered as a vital aspect of reproductive healthcare, encouraging individuals to take charge of their bodies and life decisions. However, there are significant variations in MTP availability and regulations, which are affected by cultural, religious, and political conditions. The various elements of MTP are explored in this study, with a focus on how it impacts reproductive liberty and the constant attempt for balancing individual freedoms with societal and cultural norms.

Reproductive rights¹ comprise the freedom to make decisions surrounding reproduction, especially the right to safe abortion services, availability of contraception, and maternity healthcare, in accordance with global agreements such as the 1994 International Conference on Population and Development² (ICPD). MTP is the foundation of these rights as a medical treatment for unintended pregnancies, health risks, or fetal abnormalities. However, despite global progress in accepting reproductive autonomy, millions of people continue to face obstacles to MTP, including as stigma,

¹ Cook, R.J., et al, 2003, *Reproductive Health and Human Rights: Integrating Medicine, Ethics, and Law*, Oxford University Press, New York, USA, p. 345- 365.

² International Conference on Population and Development (ICPD), Programme of Action. Cairo, 2014.

restrictive laws, and a lack of sufficient medical infrastructure. These challenges emphasize the conflict between local conditions and global human rights standards, which is the primary objective of this study.

In the past, the discussion of MTP has shifted from being solely moral and religious to becoming more based on gender equality and public health. The legalization of abortion in a number of nations, including the US with *Roe v. Wade* in 1973 (later reversed in 2022) and India with the MTP Act of 1971³ represented important turning points in the recognition of women's agency. Nonetheless, resistance endures, frequently stemming from views on the value of life or conventional gender norms. This study looks at how these changes have affected practice and policy, as well as the ongoing access inequalities that disproportionately impact marginalized groups, such as those living in rural areas and those with low incomes.

Fundamental concerns regarding state intrusion, personal autonomy, and the role of medicine in preserving human dignity are at the heart of the debate surrounding MTP and reproductive rights. This study intends to shed light on the advancements and obstacles still facing achieving fair access to MTP by examining legal frameworks, healthcare institutions, and public views. By doing this, it emphasizes how crucial it is to see abortion as a crucial component of reproductive justice one that mirrors larger fights for equality, empowerment, and self-determination rather than just as a medical treatment.

HISTORICAL BACKGROUND OF MTP AND REPRODUCTIVE RIGHTS

Reproductive rights and medical termination of pregnancy (MTP) have a complex history that is interwoven by ethical discussions, societal changes, and legislative advancements. Abortion regulations have changed significantly from outdated customs to modern statutes, reflecting evolving views on women's autonomy, public health, and moral principles. This section maps the evolution of abortion legislation around the world, identifies key legislative milestones in the acceptance of reproductive rights, and looks at the enduring impact of cultural and religious perspectives on these changes.

Evolution of Abortion Laws Globally

Abortion has been practiced since ancient times, with evidence of its use in ancient Egypt, Greece, and Rome, often through herbal remedies or surgical methods. However, formal legal structures were developed considerably later⁴. Due to religious convictions, abortion was prohibited in many medieval countries, particularly after "quickening" (the sensation of fetal movement). Because colonial powers exported strict abortion laws, such as the Offences against the Person Act of 1861, to their colonies, abortion was effectively outlawed globally by the 19th century. When public health crises, such deaths from unsafe abortions, prompted reform in the 20th century, it marked a sea change⁵. In 1920, the Soviet Union became one of the first countries to decriminalize abortion for both social and medical reasons.

After World War II, a wave of liberalization brought about by feminist movements and medical advancements swept through Europe, North America, and parts of Asia. However, many regions still have restrictive rules, particularly in areas of Africa and Latin America.

Key Legal Milestones in Reproductive Rights

The 20th century saw an increase in the legal recognition of reproductive rights, with a number of significant rulings changing the framework of MTP access. In 1971, India, a traditionally conservative nation, made a progressive step by passing the Medical Termination of Pregnancy Act, which allowed abortion in specific situations, such as health risks or contraceptive failure. The United States reversed the 1973 *Roe v. Wade* ruling of the Supreme Court, which ruled that abortion was a constitutional right safeguarded by private rights, in 2022 with the *Dobbs v. Jackson Women's Health Organization* case, which restored state authority over abortion laws. Access to safe abortion and reproductive health were framed as human rights during the 1994 International Conference on Population and Development⁶ (ICPD) in Cairo, this impacted policies in numerous countries and brought about a paradigm shift in international relations. Countries like Argentina (2020) and Ireland (2018) have legalized abortion following public referendums, indicating a growing acceptance of individual autonomy over reproductive choices.

GLOBAL PERSPECTIVE ON MTP LAWS AND REPRODUCTIVE RIGHTS UNITED NATIONS PERSPECTIVE ON MTP

Access to safe abortion is presented by the UN as a human- rights issue that is crucial for achieving both good health and well-being (SDG 3) and gender equality (Sustainable Development Goal 5). This stance is highlighted in several UN human- rights treaties and bodies. Some of these are outlined below:

³ Medical Termination of Pregnancy (MTP) Act, Government of India, 1971.

⁵ Petchesky, R. P, 1984, *Abortion and Woman's Choice: The State, Sexuality, and Reproductive Freedom*, Northeastern University Press, Boston, Massachusetts, USA, p. 376-389.

⁶ Ibid

(a) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁷: The freedom to decide the number and spacing of children is guaranteed by Article 16(1)(e), which suggests that access to abortion services allows women to exercise this right. Restrictive abortion legislation has faced criticism from CEDAW for unjustly harming women, particularly in disadvantaged regions.

(b) Convention against Torture: UN reports have stated that denying abortion in cases of rape, incest, or severe fetal anomalies constitutes cruel, inhuman, or degrading treatment, especially when it compels women to carry unwanted pregnancies to term.

WORLD HEALTH ORGANISATION PERSPECTIVE ON MTP

The WHO advocates safe, readily accessible, and evidence-based abortion care by addressing MTP from a public health perspective. Its research and guidelines emphasize the following keypoints:-

(a) Safety and Accessibility: According to WHO⁸, abortion is as simple and safe procedure when carried out by trained professionals, including mid-level health workers, using WHO-endorsed techniques (such as surgical abortion by vacuum aspiration or medicinal abortion with mifepristone and misoprostol). WHO released comprehensive guidelines in 2022 advocating the removal of unnecessary barriers such as waiting periods, criminalisation, and third-party consent mandates.

(b) Consequences of Unsafe Abortion⁹: Unsafe abortions account for 5–13 % of maternal mortality worldwide (about 39,000 per year), and they often result from restrictive legislation. According to WHO estimates, there are roughly 25 million unsafe abortions carried out each year, which can lead to complications such as infection, bleeding, and long-term health problems. With lawful and medical support, these can be entirely preventable.

UN's PERSPECTIVE ON REPRODUCTIVE RIGHTS

1. ICPD Programme of Action (1994): According to the pivotal agreement, access to safe and affordable reproductive health services, such as family planning, STI prevention, and maternity care, is part of the concept of reproductive rights. It placed a strong emphasis on nondiscrimination and voluntary choice, two principles that were reaffirmed at ICPD+25 in 2019.

2. Human Rights Council and Special Rapporteurs: Consistently tying reproductive rights to bodily autonomy, the Special Rapporteur on the Right to Health has denounced practices such as abortion prohibitions (e.g., El Salvador) and forced sterilization (e.g., Indigenous women in Peru). In 2022, UN scientists predicted a rise in maternal fatalities and condemned the U.S. repeal of *Roe v. Wade* as a breach of international standards. Forcible marriage and refusal of contraception are examples of reproductive coercion, which the Working Group on Discrimination against Women and Girls (2023) identified as a global human rights concern.

WHO's PERSPECTIVE ON REPRODUCTIVE RIGHTS

1. **Human Reproduction Programme (HRP)**: Research on reproductive health breakthroughs, including telemedicine for abortion, long-acting contraceptives, and stigma reduction, is carried out by HRP, which is co-managed with the UN. Additionally, it monitors global trends, revealing that approximate 270 million women lack access to family planning while 1.1 billion women require it.

2. **Comprehensive Reproductive Health Framework**: Reproductive rights are incorporated within the WHO's larger health agenda, which also addresses family planning, safe abortion, STI prevention and treatment, maternity and newborn care, and sexuality education. As stated in the 2020 Essential Health Services list, this is a component of its Universal Health Coverage (UHC) strategy.

COMMONLY PRACTICED RELIGIOUS BELIEVE AND MYTHS ON MTP

While religious perspectives on abortion are highly varied, several elements are common across many religious traditions and often influence public opinion, legal systems, and personal choices. Many faiths place great emphasis on the sanctity of life, making abortion morally wrong when it is regarded as taking an innocent life. According to some belief systems, abortion is morally wrong because life starts at conception. Others adopt a more nuanced stance, permitting abortion in cases such as rape, fetal anomalies, or threats to the mother's life. These differing interpretations spark complex ethical debates, with some religious communities endorsing regulated access while others demand strict legal bans.

Public perception of MTP is shaped by numerous myths and misconceptions alongside official religious teachings. Despite research showing that when abortion access is safe and legal, relief is the most common emotional response, a prevalent misconception holds that abortion induces serious psychological distress. Another myth claims abortion is overly dangerous, yet unsafe abortions—not legal ones—are the primary cause of maternal

⁷ UN Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation No. 35 on Gender-Based Violence, 2017.

⁸ Qadeer, I., & John, M., 2009, The MTP Act: A Review. Indian Journal of Gender Studies, Volume 16, .p. 199-224.

⁹ Sedgh, G., et al, 2016, Abortion Incidence Between 1990 and 2014.", BMJ Global Health, Volume 1, .p. e000020.

mortality. Moreover, moral stigma often portrays abortion seekers as irresponsible, overlooking the nuanced socioeconomic factors influencing these decisions, such as poverty, illiteracy, or abuse.

Gender- biased view points are also influenced by faith- based and cultural narratives, which down playmen's role in unwanted pregnancies while largely condemning women for abortions. Certain practices promote the idea that a woman's main responsibility is to bear children, portraying abortion as a denial of this natural obligation. Progressive religious- based initiatives have also emerged at this time, supporting empathetic, nonjudgmental assistance and acknowledging reproductive choice as a component of bodily autonomy.

A complex environment where moral, cultural, and social variables impact attitudes and regulations is created by the junction of widely held ideas and common misconceptions about medical termination of pregnancy (MTP). Some opinions are supported by false information, which results in stigma, restrictive laws, and dangerous activities, while others are motivated by ethical convictions regarding the sanctity of life. Nonetheless, safe and legal abortion is a vital part of reproductive healthcare¹⁰, lowering maternal mortality and enabling people to make Educated decisions, as evidence-based research continuously shows. Bridging the gap between belief systems and public health reality requires addressing myths through education, compassionate discourse, and progressive policy measures.

In the end, creating an atmosphere in which reproductive rights are upheld—free from pressure or condemnation—guarantees that medical safety, individual liberty, and human dignity—rather than fear or skepticism—will drive healthcare choices. In the future, promoting fair access to MTP globally will require a well-rounded strategy that honors various viewpoints while maintaining ethical and scientific healthcare standards.

IMPACT OF THE CONFLICT OF MTP WITH PRESENT HUMAN RIGHTS

There are important social and legal ramifications to the clash between the Medical Termination of Pregnancy (MTP) Act and current human rights standards. On the one hand, stringent abortion legislation or access restrictions perpetuate gender-based discrimination by undermining women's fundamental rights to equality, health, and bodily autonomy. Women's rights to life and health are infringed when they are compelled to seek unsafe abortions because of legal or practical obstacles, which results in avoidable maternal death and morbidity. In contrast, the claim that abortion violates the fetus's "right to life" leads to ethical and legal rifts, which frequent postpone reforms and stoke divisive discussions. Because of this contradiction, progressive legislation pertaining to reproductive rights is less effectively implemented, leaving women more susceptible to systemic injustices and human rights abuses¹¹.

Furthermore, the dispute makes social injustices worse by disproportionately harming vulnerable groups, such as minorities, low-income women and rural residents, who have a harder time getting safe abortions. Additionally, stigma is increased by the misalignment of MTP legislation with human rights standards, which drives abortion services underground and raises the possibility of exploitation and dangerous practices. The rights of women to dignity and nondiscrimination are further violated when medical professionals decline services on the grounds of conscientious objection without providing alternative care. In the end, this conflict impedes the advancement of gender equity by upholding patriarchal standards and depriving women of complete control over their reproductive life. Legal clarity, increased access, and a rights-based strategy that puts women's autonomy and health first while addressing ethical issues through inclusive discourse are all necessary to resolve this dilemma.

EFFECT OF SOCIO-CULTURAL ON MTP AND REPRODUCTIVE RIGHTS

Access to Medical Termination of Pregnancy (MTP) and reproductive rights are strongly shaped by socio cultural factors, which often create barriers contrary to the law. Bias against women seeking abortions stems from cultural attitudes influenced by deeply rooted patriarchal norms, religious beliefs, and the stigmatization of abortion. Premarital or extramarital pregnancies are viewed as moral failings in many communities, and women are forced to undergo risky, covert procedures out of fear of social rejection. Ethical debates surrounding MTP are further complicated by the fact that some societies prefer male offspring, leading to sex- selective abortions. Women's reproductive choices remain dictated by social and familial expectations rather than their own rights; these cultural prejudices not only curb women's autonomy but also reinforce gender inequality.

Socio cultural variables also affect healthcare systems, as professionals may withhold or delay abortion services due to personal or communal biases. Medical practitioners' conservative convictions, ignorance, and misinformation all contribute to their reluctance to provide MTP services, especially in conservative and rural areas. Moreover, women are denied timely medical care because of societal taboos surrounding sexual¹² and reproductive health, which heighten shealth risks. To challenge these norms and ensure that reproductive rights are recognized both legally and socially, grassroots education and community engagement are essential. The full realization of reproductive rights remains unattainable without eliminating these cultural obstacles, which leave women vulnerable to coercion, unsafe practices, and systemic discrimination

¹⁰ Agrawal, S, 2019, Reproductive rights as human rights: Indian judiciary's evolving stance, Economic and Political Weekly, Volume 54, .p. 35-42.

¹¹ Cook, R. J., Dickens, B. M., & Fathalla, M. F, 2003, Reproductive Health and Human Rights: Integrating Medicine, Ethics, and Law, Oxford University Press, UK, p. 192-215

¹² Kumar, A., Hessini, L., & Mitchell, E. M. H, 2009, Conceptualizing abortion stigma, Culture, Health & Sexuality, Volume 11, .p. 625-639.

ANALYZING LANDMARK COURT RULINGS: 1960-2024

In India, court readings of constitutional protections such as the right to equality (Article 14), the right to life (Article 21), and personal liberty have led to the evolution of reproductive rights. Although reproductive rights are not specifically mentioned in the Indian Constitution, Indian courts have been crucial in advancing these rights since the 1960s through a number of rulings. The development of reproductive rights has been a reflection of larger cultural changes as well as the increasing acceptance of gender equality, access to healthcare, and bodily autonomy.

(a) Early Developments: 1960 to 1990

The judiciary gave limited attention to reproductive autonomy in the early decades. Nonetheless, the Supreme Court reached a seminal judgment in *Suchita Srivastava v. Chandigarh Administration* (2009), finding that a woman's reproductive decisions are apart of her personal liberty under Article 21. A state- focused approach over individual autonomy was demonstrated by earlier instances such as *B. K. Parthasarathi v. Government of Andhra Pradesh* (2000), which upheld state- mandated sterilization rules. During this time, judges largely refrained from broadening individual rights in reproductive contexts in favor of reading statutory limits, as demonstrated in cases like *State of Maharashtra v. Maroti S/o Shiva Kadu* (1987). Reproductive autonomy was rarely recognized by the courts, particularly for women and marginalized groups. Although progressive for its time, the Medical Termination of Pregnancy (MTP) Act of 1971 nonetheless required medical or judicial review, particularly for minors or after 20 weeks of gestation, highlighting the limited autonomy granted to women.

(b) Expanding Autonomy and Recognition of Rights: 1990 to 2010

The judiciary began to recognize individual rights in reproductive matters in the late 1990s and early 2000s. The Supreme Court's clear pronouncement that a woman's right to make reproductive decisions is a part of her personal liberty under Article 21 marked a watershed in the 2009 case of *Suchita Srivastava v. Chandigarh Administration*. This case, which involved a rape survivor who was competent, underscored the basic constitutional principles of consent and bodily autonomy, indicating shift from governmental control to personal empowerment.

In the 2010 case of *Laxmi Mandal v. Deen Dayal Harinagar Hospital*, the Delhi High Court condemned the denial of maternal healthcare as a violation of constitutional rights and linked reproductive rights to the right to health. As a result of these rulings, the emphasis moved from population management and governmental control to individual autonomy and dignity, closer to international human- rights norms.

(c) Modern Jurisprudence and the Role of Privacy: 2010-2017

The landmark *Justice K.S. Puttaswamy v. Union of India* (2017) decision, which upheld privacy as a fundamental right, had a significant impact on reproductive rights. By recognizing the freedom to make choices regarding one's body and family life, the decision strengthened the foundation for reproductive rights. This decision affirmed that reproductive rights include the right to safe childbirth, nutrition, and medical care. It expanded the scope of reproductive rights beyond abortion to cover the right to safe motherhood and health care, based on a comprehensive and rights- based interpretation of the Constitution.

(d) Contemporary Advances: 2018-2024

The Supreme Court gave the MTP Act a wide interpretation in *X v. Principal Secretary, Health and Family Welfare Department* (2022), permitting an unmarried woman to terminate her pregnancy up to 24 weeks. The decision made it clear that a woman's marital status should not be a determining factor in her eligibility for an abortion. The Court acknowledged survivors' right to terminate pregnancies and broadened the legal scope despite the lack of formal criminalization of marital rape. These decisions show a growing commitment to gender justice, autonomy, and inclusiveness in reproductive law.

(e) Future Outlook

India's reproductive rights law has changed significantly from a restrictive, state- controlled approach to a rights- oriented, inclusive paradigm based on constitutional ideals. Landmark rulings have expanded reproductive liberty by tying get to equality, privacy, and dignity. Nevertheless, gaps remain, particularly regarding the stigma attached to reproductive choices, healthcare access in rural areas, and the execution of court rulings at the local level. Looking ahead, ongoing judicial scrutiny and legislative reforms are vital to guarantee that reproductive rights are not merely protected by law but also practically accessible to everyone, especially the most vulnerable.

CONCLUSION

Medical termination of pregnancy (MTP) is an essential component of reproductive rights that is intrinsically linked to equality, social justice, and bodily autonomy. It's not just a medical procedure. MTP's ethical and legal frame works reflect broader cultural values; progressive policies can protect lives by averting unsafe abortions, while restrictive regulations jeopardize women's health and foster inequality. As a fundamental health right, access

to safe abortion care, backed by compassionate support and evidence-based practice, must be upheld. Reproductive freedom must be safeguarded so that women can be empowered to decide about their bodies, health, and futures without coercion or stigma.

However, it is difficult to ensure widespread access to MTP because of ongoing political, religious, and cultural barriers. False narratives and misinformation keep stoking opposition, and healthcare access gaps disproportionately affect poor regions. To safeguard reproductive rights, governments and NGOs should prioritize education, counter harmful stereotypes, and adopt inclusive policies that shield vulnerable groups. The way forward requires a collective commitment to human rights, where a safe, legal abortion is not a luxury but an essential component of comprehensive healthcare. True reproductive justice for all will remain out of reach until societies address systemic inequities and foster open communication.

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