LEX LOCALIS-JOURNAL OF LOCAL SELF-GOVERNMENT
ISSN:1581-5374 E-ISSN:1855-363X
VOL. 22, NO. S4(2024)

"AUTONOMY VS.CONSTRAINT: JUDICIAL INCONSISTENCIES IN INDIAN ABORTION JURISPRUDENCE"

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Abstract
Indian abortion law presents a paradox. While constitutional jurisprudence has progressively recognised women′s reproductive autonomy as their fundamental right under Article 21 of Constitution, access to abortion continues to be governed by a statutory framework that treats termination as a conditional, provider-centric exception rather than a matter of choice. This contradiction has deepened in the post-2021 landscape, where despite liberal amendments to the Medical Termination of Pregnancy Act and rights-affirming Supreme Court judgments, High Courts across the country continue to deny or delay access to abortion through restrictive interpretations, extra-statutory requirements, and increasing emphasis on foetal interests. This paper examines this contradiction of constitutional expansion and judicial restraint in Indian abortion jurisprudence. It argues that the persistent framing of abortion as a conditional right has resulted in inconsistent outcomes, erosion of decisional autonomy, and a troubling re-entry of moral reasoning into constitutional adjudication.

I. Introduction

Reproductive rights are situated at the cross section of bodily autonomy, gender equality, and state regulation of morality. In India, these rights have historically seen ambivalent approach- acknowledged in principle, yet constrained in practice. However, as seen in various cases over the past decade, courts have increasingly recognised that decisions relating to reproduction are deeply personal and central to a person′s dignity, bodily integrity, and autonomy. At the same time, women across India continue to approach various High Courts seeking permission to terminate pregnancies, often in circumstances involving rape, incest, socio-economic vulnerability, or medical distress. This discord raises the fundamental question: why does access to abortion remain uncertain even after constitutional recognition of women′s reproductive autonomy?

As the researcher argues, the answer lies somewhere in the uneasy existence of progressive constitutional jurisprudence with a restrictive statutory framework. The Medical Termination of Pregnancy Act, 1971 (**"MTP Act"**) is the primary legislation governing abortion in India. It was amended in 2021 to expand gestational limits and categories of access, yet it continues to conceptualise abortion as a ′conditional′ medical procedure rather than as an autonomous expression of personal choice. The access to abortion is mediated through medical opinion, statutory categories, and gestational thresholds, rather than grounded in the decisional autonomy of the pregnant person.

This structural design has created space for judicial discretion to shape abortion access, particularly in cases that fall outside clear statutory boundaries. While the Supreme Court of India has articulated a rights-based understanding of reproductive autonomy rooted in Article 21, High Courts across jurisdictions have frequently adopted restrictive approaches that undermine this constitutional vision. Women—

particularly minors, survivors of sexual violence, and unmarried women—are often subjected to delays, additional scrutiny, and moral judgment, even when the statute ostensibly permits termination.

This paper examines the contradiction between the progressive jurisprudence of the Supreme Court and the restrictive practices of High Courts in abortion adjudication. It argues that the continued treatment of abortion as a conditional, provider-centric right has resulted in inconsistent judicial outcomes, increased reliance on foetal-centred reasoning, and erosion of decisional autonomy. By analysing statutory frameworks, judicial trends, and recent case law, this paper seeks to demonstrate that reproductive autonomy in India remains precarious—recognised in theory, yet constrained in practice.

Literature Review-

Dipika Jain and Payal K. Shah. (2020) *Reimagining Reproductive Rights Jurisprudence in India: Reflections on the Recent Decisions on Privacy and Gender Equality from the Supreme Court of India* - analyses recent Supreme Court decisions on the rights to privacy, sexual autonomy and equality – namely Navtej Singh Johar v UOI, Joseph Shine v UOI, and Puttuswamy v UOI – to argue that the Court has provided a legal foundation for the recognition of abortion as a fundamental right and the liberalization of India′s abortion laws. Jain and Shah examine the legal reasoning in these cases to argue that the judicial recognition of a right to abortion must be grounded both in privacy and equality.

Siddhivinayak S. Hirve. (2004) *Abortion Law, Policy and Services in India: A Critical Review* - reviews the history of abortion laws and policy in India to trace the changes that have taken place over 40-odd years. It also examines barriers to abortion access, which is the primary cause of unsafe abortion and highlights the impact of poor awareness of the law. It also addresses the relationship between abortion and sex determination, concluding that these must be treated as distinct practices to ensure that women are not unduly victimized by laws on the latter.

Ravi Duggal and Vimala Ramachandran. (2004) *The Abortion Assessment Project — India: Key Findings and Recommendations* - examines the key findings of the Abortion Assessment Project, a project which conducted surveys, policy reviews, and studies of abortion providers across India. Duggal and Ramachandran base their recommendations to improve access to and quality of abortions in India on these findings, which can be summarized as lack of government action to ensure safe abortions; and a dearth of licensed and affordable abortion providers.

Gauri Pillai (2022) *Shades of Life in Indian Abortion Law*- This case comment analyses the recent Kerala High Court decision in Cry of Life Society v Union of India, where a petition was filed to declare India's law on abortion unconstitutional for violating the right to life of the foetus. The High Court dismissed the petition, upholding the constitutionality of the legislation as protecting women's right to life. The author discusses the High Court's order, narrowing in on the right to life argument used by the Court, and the right to life argument that the Court missed. This analysis distills and responds to the 'shades of life' underlying abortion law in India.

Factsheet: The Medical Termination Of Pregnancy (Amendment) Act, 2021 - analyses the MTP Amendment Act. In 2021, the Parliament of India passed the

Medical Termination of Pregnancy (MTP) Amendment Act, amending India's 50-year-old abortion law that legalized abortion. The Amendment passed following calls by advocates to make safe, quality abortion more accessible, particularly in the context of the Indian Penal Code, which continues to criminalise "causing a miscarriage". The MTP Amendment Act brought much-needed reforms to the existing abortion law but falls short of undoing certain key barriers to access.

Research Questions-

1. How has the Medical Termination of Pregnancy Act, particularly after the 2021 amendment, shaped judicial understandings of reproductive autonomy in India?
2. Why do High Courts continue to adopt restrictive and inconsistent approaches to abortion access despite progressive Supreme Court jurisprudence recognising reproductive choice under Article 21?
3. To what extent does the provider-centric and category-based framework of the MTP Act undermine decisional autonomy and reproductive justice for pregnant persons?

Research Methodology

This study adopts a doctrinal legal research methodology. It undertakes a critical analysis of constitutional provisions, statutory frameworks, and judicial decisions relating to abortion and reproductive rights in India. Primary sources include the Constitution of India, the Medical Termination of Pregnancy Act and its amendments, and judgments of the Supreme Court and various High Courts. Secondary sources such as academic literature, law commission reports, parliamentary debates, and policy analyses are used to contextualise judicial reasoning and legislative intent. The study also employs a comparative and analytical approach to examine inconsistencies in judicial interpretation and their implications for reproductive autonomy and reproductive justice.

II. Conceptualising Reproductive Rights in the Indian Context

Reproductive rights broadly entail the right to make autonomous decisions regarding reproduction, including the right to access contraception, the right to carry a pregnancy to term, and the right to terminate a pregnancy safely and legally. In the Indian context, these rights are not explicitly enumerated in the Constitution but have been judicially derived from Article 21, which guarantees the right to life and personal liberty. Over time, the Supreme Court has interpreted Article 21 to include dignity, bodily integrity, privacy, and decisional autonomy.

Unlike jurisdictions where abortion is framed as a matter of choice within a defined gestational period, such as the United States, India's legal framework has long approached abortion as an exception to criminal liability. The erstwhile Indian Penal Code, now Bharatiya Nyaya Sanhita under Section 88, 89 (BNS) continues to criminalise "causing miscarriage,"[1] and the MTP Act merely carves out specific

[1] See **Sec. 88 of BNS-** "Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.
Explanation: A woman who causes herself to miscarry, is within the meaning of this section."

circumstances under which termination does not attract punishment. This foundational approach has shaped both legislative drafting and judicial interpretation, resulting in a persistent reluctance to recognise abortion as a right exercisable at the request of the pregnant person.

This conceptual tension is critical because when abortion is framed as a conditional exception rather than a right, the burden shifts to the pregnant person to justify her choice. Her autonomy is assessed against statutory grounds, medical opinions, and judicial conscience, rather than being presumed as legitimate. This framing has profound implications for how courts adjudicate abortion cases and for the lived experiences of women seeking termination.

III. The Statutory Framework: The Medical Termination of Pregnancy Act

A. Origins and Objectives of the MTP Act, 1971

Historically, India′s abortion law, the MTP, was not conceived as a vehicle for bodily autonomy. Enacted in 1971, it was primarily a public health and population control measure designed to curb maternal mortality from unsafe procedures.[2] It established a system where a woman′s access hinges not on her choice but on the approval of Registered Medical Practitioners (RMPs), who must determine if her case fits within specified gestational limits and grounds such as risk to life, mental health, or contraceptive failure. It is also pertinent that the MTP Act was enacted in a socio-legal context where abortion was criminalised under the Indian Penal Code. The primary objectives of the Act were to reduce maternal mortality resulting from unsafe abortions, address population control concerns, and provide clarity to medical practitioners. Importantly, the Act did not emerge from a rights-based discourse on women′s autonomy or reproductive justice.

Be that as it may, it is an undisputable inference from the framing of the MTP Act that it intended to prioritise the health of the pregnant woman, in light of the vast number of maternal deaths occurring due to unsafe abortions. It did not confer any rights upon the foetus, more so. The reason for not allowing MTPs beyond the stipulated time periods was because of the increased risk to maternal health of the mother and not because of any rights conferred to the foetus.

The structure of the Act reflects this orientation. Termination of pregnancy is permitted only under specified conditions and within prescribed gestational limits. The consent of the pregnant woman is necessary, but not sufficient. Medical opinion operates as the gatekeeper, and abortion is framed as a medical decision rather than a personal one.

B. The 2021 Amendment: Progress and Limits

The Medical Termination of Pregnancy (Amendment) Act, 2021 was introduced as a long-awaited response to persistent criticisms of the original 1971 framework, particularly its narrow gestational limits and exclusionary categories. On its face, the amendment appears progressive: it extends the upper gestational limit for abortion from 20 to 24 weeks for certain categories of women, reduces the requirement of two medical opinions to one for pregnancies up to 20 weeks, and replaces the term ″married woman″ with ″any woman″ in cases of contraceptive failure. These changes

[2] Pai, Satvik N, and Krithi S Chandra. "Medical Termination of Pregnancy Act of India: Treading the Path between Practical and Ethical Reproductive Justice." Indian journal of community medicine : official publication of Indian Association of Preventive & Social Medicine vol. 48,4 (2023): 510-513.

reflect a growing judicial and legislative acknowledgement of the realities of women′s lives, including delayed detection of pregnancy, socio-economic vulnerability, and changing family structures.

However, despite these advances, the amendment stops short of adopting a rights-based model of abortion access. Termination between 20 and 24 weeks is not universally available but is restricted to specific categories of women enumerated under Rule 3B of the MTP Rules, 2021. This categorisation—covering survivors of rape or incest, minors, women with disabilities, and others facing substantial social or mental hardship—implicitly creates a hierarchy of deservingness. Women who do not fall neatly within these categories are compelled to justify their circumstances before medical practitioners or courts, reinforcing the notion that abortion is permissible only when suffering can be sufficiently demonstrated.

The amendment further entrenches medical gatekeeping by retaining the requirement of medical opinion as a precondition to termination. Although the reduction in the number of required medical practitioners up to 20 weeks alleviates some procedural burdens, the ultimate authority to permit or deny abortion remains vested in healthcare providers rather than the pregnant person. This provider-centric design continues to dilute decisional autonomy and reinforces paternalistic control over reproductive choices.

The most restrictive aspect of the amendment lies in its treatment of pregnancies beyond 24 weeks. Termination at this stage is permitted only in cases of substantial foetal abnormalities, as determined by state-level medical boards. The creation of such boards has been widely criticised for causing delays, subjecting women to invasive scrutiny, and producing inconsistent outcomes across states. In practice, women seeking abortions beyond 24 weeks—often due to late detection of foetal anomalies or barriers to earlier access—are forced to approach constitutional courts, transforming a deeply personal decision into a matter of judicial discretion.

Notably, the amendment fails to clearly address the constitutional developments surrounding reproductive autonomy. Despite the Supreme Court′s recognition of decisional autonomy, dignity, and privacy as integral to reproductive choice, the statutory framework remains grounded in conditional access and eligibility criteria. Mental health, although formally included as a ground for termination, continues to be narrowly interpreted, with courts frequently prioritising foetal viability over psychological well-being.

In effect, the 2021 amendment represents incremental progress rather than transformative reform. While it expands access for certain categories of women, it preserves the underlying logic of abortion as an exception rather than a right. By retaining gestational thresholds, categorical eligibility, and medical gatekeeping, the amendment perpetuates the very inconsistencies and barriers that have long characterised abortion access in India. Consequently, the promise of reproductive autonomy articulated in constitutional jurisprudence remains only partially realised within the statutory framework.

IV. Reproductive Rights: The Supreme Court′s Progressive Turn

A. Reproductive Choice under Article 21

The Supreme Court′s recognition of reproductive rights as fundamental rights marks a significant shift in Indian constitutional law. In *Suchita Srivastava v. Chandigarh Administration*,[3] Supreme Court was approached on behalf of a woman diagnosed with ″mental retardation″ challenging the High Court′s order for termination of her pregnancy without her consent. The SC held that reproductive choice is an integral part of personal liberty under Article 21. The judgment explicitly acknowledged a woman′s right to make decisions regarding procreation, including the right to refuse motherhood.The Court affirmed that the consent of a woman, who has attained the age of majority and does not suffer from any ″mental illness″ (as distinct from ″mental retardation″ and as defined under Section 2 (b) of the MTP Act), constitutes an essential condition for termination of pregnancy. It pointed out that the legislative provisions treat ″mental retardation″ differently from mental illness. In its decision, the Supreme Court recognized and emphasized that a woman′s right to make reproductive choices is a dimension of her personal liberty under Article 21 of the Indian Constitution.

Crucially, the Court characterised the foetus as a ″prospective child,″ thereby avoiding attribution of independent rights to the foetus. This framing allowed the Court to prioritise the rights, health, and dignity of the pregnant person without engaging in a balancing exercise between competing rights.

B. Privacy, Autonomy, and Decisional Freedom

The Supreme Court′s decision in KS Puttaswamy v. Union of India marked a foundational shift in Indian constitutional law by recognising privacy as a fundamental right intrinsic to Article 21′s guarantee of life and personal liberty. This unanimous, nine-judge ruling overruled earlier precedents that denied privacy as a separate constitutional right, holding that privacy protects the ″inner sphere″ of individuals from unwarranted intrusion and enables them to make choices central to their identity and dignity. Crucially, the Court articulated decisional autonomy—the ability to make personal decisions without state interference—as an essential facet of privacy, encompassing intimate choices related to family, marriage, procreation, bodily integrity, and personal identity.

By situating reproductive decisions within the core of privacy, Puttaswamy provided the doctrinal basis for later reproductive rights jurisprudence. The Court emphasised that personal aspects of life, including procreation and sexual relations, are intrinsic to human dignity and autonomy. This expansive conception protects not only the private space of the body but also a person′s freedom to determine the course of their own life. In subsequent abortion jurisprudence, courts have relied on Puttaswamy to affirm that reproductive choice—including the decision to terminate a pregnancy—must be insulated from undue state interference, reinforcing that such decisions lie at the heart of individual liberty.

C. Equality and Non-Discrimination

[3] (2009) 14 SCR 989

In *X v. Principal Secretary, Health and Family Welfare Department*,[4] the Supreme Court extended this rights-based framework by striking down distinctions between married and unmarried women in access to abortion. The Court recognised that unwanted pregnancies can have serious consequences for a woman′s mental health, education, employment, and life trajectory. It held that marital status cannot be used as a gatekeeping criterion and reaffirmed that the pregnant person is the ultimate decision-maker.

Together, these decisions signal a constitutional shift towards recognising reproductive autonomy as grounded in dignity, privacy, and equality.

V. High Court Resistance and Judicial Inconsistency

Despite the Supreme Court′s increasingly progressive jurisprudence, High Courts across states continue to deny permission for termination of pregnancy on unreasonable grounds, in violation of principles laid down by the Supreme Court.

1. Denial of Termination in Vulnerable Cases

In 2024, in cases of rape where 11 year old minor rape victim approached the Rajasthan High Court seeking termination, the Court refused permission stating that the ′medical opinion′ does not suggest that the pregnancy would injure the woman′s mental or physical health.[5]

In another case, Kerala High Court denied termination in direct violation of *X v. Principal Secretary* case, on the ground that socio-economic conditions cannot be a ground for termination of pregnancy.[6] In a case before the Aurangabad Bench of the Bombay High Court and the Gujarat High Court,[7] foetal viability prioritized over the reproductive rights of a minor rape victim.[8]

2. Extra-Statutory Requirements

In a few cases, the High Courts have even entertained petitions for termination of pregnancy within the statutory limit and directed setting up of a Medical Committee (which is not a requirement under the Act) and have also refused permission on improper and extra-statutory grounds[9].

Apart from these numerous examples, the inconsistency and contradiction of understanding of High Courts can be highlighted through these two cases: In one case, Telangana High Court stated that it is settled law that Constitutional Courts can allow termination even beyond the statutory limit taking into consideration the fundamental right of the woman.[10] However, in a case before the Kerala High Court, the Court stated that they are not empowered to allow termination of pregnancy in cases and situations not mentioned in the statute.[11]

These cases indicate that there are gaps in abortion jurisprudence that, if not addressed, will perpetuate conflicting and discordant rulings. In the absence of

[4] 2022 SCC OnLine SC 1391

[5] Victim v. State of Rajasthan & Ors (S.B. Civil Writ Petition No. 821/2024); 2024 LiveLaw (Raj) 10; X v. State of Odisha (CRLMC NO.1741 OF 2021)

[6] Ramsiyamol R S v. State of Kerala (WP(C) NO. 33884 OF 2022)

[7] XYZ v. State of Maharashtra (WP no. 6340 OF 2023)

[8] Kunwarlal Yadav vs. State of MP and Ors. (WP 5723 of 2021)

[9] Prosecutrix Vs. The State of M.P. and ors. (Writ Petition No.14658/2021)

[10] xxxx v. Union of India, 2021 SCC OnLine TS 1345 (https://www.scconline.com/blog/post/2021/10/14/law-on-termination-of-pregnancy/)

[11] Indulekha Sreejith v. Union of India (WP(C) NO. 17036 OF 2021)

definitive directions from the Supreme Court on the concept of 'decisional autonomy' for women in abortion cases and its implications for foetal viability and statutory limitations, judges may persist in denying abortions based on their own personal biases, thereby infringing upon women's basic and categorical fundamental rights.

There are emerging patterns of second medical opinions, narrow readings of the law, ′ interactions′ with the doctors and ′counselling′ of pregnant persons. It also brings to question the impact of ′judicial conscience′ in the context of abortion cases, a phrase which was used by Justice Hima Koli of Supreme Court in *X v. Union of India* case to deny the termination of pregnancy.

3. Growing Prominence of Foetal Interests

The High Courts are also portraying a particular worrying trend, i.e., a growing prominence of foetal interests in India′s regulation framework of abortion. The Delhi High Court in case of *Ms X v The Principal Secretary of Health and Family Welfare Dept. Govt. of NCT of Delhi*[12] stated that ″allowing termination at 23 weeks would ′ virtually amount to killing the child′. This is just one of the many examples where courts incorporate language strengthening foetus′s rights. In so observing, the Court then proceeds to view the 23-week old foetus as a child, presumably with a right to life. It is reiterated that this is contrary to the earlier Supreme Court decision in *Suchitra Srivastava*, which held that the foetus is to be viewed only as a ′ prospective child′, and the Bombay High Court decision in *High Court on its Own Motion*[13] where the Court held that ′an unborn foetus is not an entity with human rights... A child when born and takes first breath, is a human entity′. Even parliamentary debates on the MTP Act make clear that the foetus, under Indian law, is not seen as an unborn child. Though two members of the Parliament in 1971 and one member in 2020 opposed the MTPA on the basis that abortion is ′virtually murder′ and a ′crime against humanity′, their objections were rejected, pointing out that ′there is no violation of [the right to life] in *any* manner′.[14] These High Court decisions, then, are inconsonant with precedent and legislative intent in India.

Despite the Supreme Court′s progressive jurisprudence, High Courts across India have frequently adopted restrictive approaches to abortion. Women continue to approach courts seeking permission for termination, even in cases where statutory provisions appear to permit abortion.

VII. Supreme Court′s Mixed Signals

Although the Supreme Court has played a central role in advancing reproductive autonomy, recent decisions reveal troubling inconsistencies in its approach. The autonomy-centred reasoning adopted in *X v. Principal Secretary, Health and Family Welfare Department* (2022) appeared to mark a decisive shift towards recognising abortion as an aspect of dignity, privacy, and decisional freedom under Articles 14

[12] W.P.(C) 10602/2022
[13] Ibid 4
[14] Two Courts, Two Conclusions: Abortion Law in India, Gauri Pillai, 2022

and 21. In that case, the Court rejected moral and marital gatekeeping, emphasising that the pregnant person is the ultimate decision-maker and that unwanted pregnancies can have profound consequences for mental health, education, employment, and life trajectory.

However, this progressive trajectory was unsettled in *X v. Union of India* (2023), where the Court denied permission for termination despite acknowledging the petitioner′s significant mental health distress. Instead of foregrounding decisional autonomy, the Court relied heavily on statutory gestational limits, medical board opinions, and foetal viability. The reasoning reflected a formalistic application of the Medical Termination of Pregnancy Act, treating statutory eligibility as determinative rather than engaging meaningfully with constitutional harm arising from forced continuation of pregnancy.

This shift illustrates the fragility of reproductive rights when autonomy is subordinated to statutory checklists. Mental health—explicitly recognised in earlier jurisprudence as integral to reproductive choice—was effectively deprioritised in favour of procedural compliance. The decision suggests that reproductive autonomy, while constitutionally acknowledged, remains contingent upon legislative thresholds and medical certification.

The contrast between these two decisions exposes an unresolved tension within Supreme Court jurisprudence: whether reproductive choice is to be treated as a substantive constitutional right or as a conditional liberty constrained by statutory design. Until this tension is resolved, reproductive rights in India risk remaining rhetorically affirmed yet inconsistently enforced.

VIII. Provider-Centric Design and the Erosion of Autonomy

A. Medical Gatekeeping and Conditional Access

A defining feature of India′s abortion framework is its provider-centric design, wherein access to medical termination is mediated through the opinions and approvals of medical professionals. Under the Medical Termination of Pregnancy Act, the pregnant person′s consent, while necessary, is not determinative. Instead, termination is permitted only when registered medical practitioners certify that statutory conditions are satisfied. This structure treats abortion primarily as a medical decision rather than an exercise of personal autonomy. Consequently, the authority to permit or deny termination rests with doctors, whose judgments are shaped by institutional caution, fear of legal liability, and personal beliefs.

Such medical gatekeeping disproportionately affects women who seek abortions at later gestational stages, where additional opinions or medical boards are required. Delays caused by administrative processes often exacerbate physical and psychological distress, undermining timely access to care. The provider-centric model thus converts reproductive choice into a process of medical validation, where the pregnant person′s reasons are scrutinised rather than respected.

B. Judicial Oversight and the Adversarialisation of Pregnancy

The provider-centric framework is further reinforced through judicial intervention. Women frequently approach constitutional courts seeking permission for abortion, even in cases that fall within statutory limits. In these proceedings, pregnancy

becomes a matter of adjudication, with courts weighing medical reports, gestational age, and foetal condition. This judicialisation places women in an adversarial position against their own pregnancies, requiring them to justify deeply personal decisions before judges.

Judicial reliance on medical board opinions often sidelines the lived experiences and expressed wishes of pregnant persons. Particularly in cases involving advanced gestation, courts have prioritised foetal viability or statutory compliance over mental health, trauma, and socio-economic realities. As a result, autonomy is filtered through judicial conscience rather than grounded in constitutional liberty.

C. Silencing of the Pregnant Person′s Voice

The cumulative effect of medical and judicial gatekeeping is the erosion of the pregnant person′s voice. Women are rendered passive subjects within a process dominated by expert opinion and legal thresholds. Their narratives of distress, coercion, or incapacity are frequently subordinated to clinical assessments of risk or legality. This approach dilutes the very concept of autonomy, reducing it to a procedural formality rather than a substantive right.

Ultimately, the persistence of a provider-centric framework reflects a deeper discomfort with recognising women as full moral agents capable of making reproductive decisions. Until decision-making authority is meaningfully shifted towards pregnant persons themselves, reproductive autonomy in India will remain constrained, conditional, and unevenly realised.

IX. Broader Implications for Reproductive Justice

The contradictions in Indian abortion jurisprudence have broader implications for reproductive justice. Access to abortion remains uneven, shaped by socio-economic status, geographic location, and judicial attitudes. Marginalised women bear the brunt of delays and denials, often resorting to unsafe methods when legal access is denied.
Reproductive justice requires not only formal recognition of rights but also structural conditions that enable their exercise. Without a shift towards autonomy-centred adjudication and systemic reform, constitutional promises remain hollow.

Conclusion

Indian abortion jurisprudence is marked by a persistent tension between constitutional ideals and statutory constraints. While the Supreme Court has articulated a robust vision of reproductive autonomy grounded in dignity, privacy, and equality, its implementation remains uneven and uncertain. High Courts continue to impose restrictive interpretations, extra-statutory requirements, and moral reasoning that undermine autonomy.
For reproductive rights to be meaningfully realised, courts must move beyond a conditional, provider-centric framework and centre decisional autonomy in abortion adjudication. This requires clear and binding guidance from the Supreme Court, rejection of foetal personhood narratives, and insulation of reproductive decision-making from personal morality. Until then, reproductive autonomy in India will remain formally recognised yet substantively fragile.

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