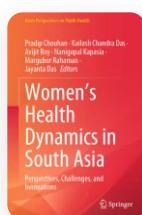


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Abstract

This chapter reviews the judgments of the Indian Supreme Court and several High Courts since the coming into effect of the 2021 Amendment to the Medical Termination of Pregnancy (MTP) Act, 1971, to analyze how Indian courts have addressed the issue of late-stage abortion (after 24 weeks). The chapter finds that while many courts have upheld the spirit of the law, the judicialization of abortion has led to divergent approaches which have created an emerging line

of case law in which abortion rights have not been upheld. In particular, the chapter also finds that some courts have improvised judicial doctrines to prevent late-stage abortions and have failed to consider international legal obligations. From the secondary data that the authors have relied on for exploring the reasons for abortions and impact the lack of safe and legal abortions have, the decision of courts to deny abortions is not conducive to the health and welfare of women. Ultimately, the chapter concludes that a new modification is necessary to the MTP to ensure that courts adhere to constitutional and international laws that uphold women's personal autonomy and choice to terminate their pregnancies. In addition, there is a need to expedite the setting up of medical boards and sensitization of doctors.

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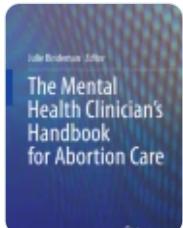
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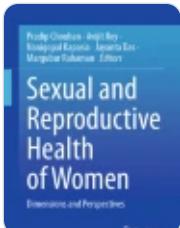
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References

Cases

CEDAW, General Recommendation No. 24: Article 12 (Women and Health), adopted in 1999.

[Google Scholar](#)

CEDAW. (2015). Summary of the inquiry concerning the Philippines under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. United Nations.

[Google Scholar](#)

CEDAW. 2014. Concluding observations on the combined fourth and fifth periodic reports of India. CEDAW/C/IND/CO/4–5. United Nations.

[Google Scholar](#)

CESCR. General Comment No. 22 on the Right to Sexual and Reproductive Health: Article 12 (Right of everyone to the enjoyment of the highest attainable standard of physical and mental health), adopted in 2016.

[Google Scholar](#)

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). adopted 18 December 1979, 1249 U.N.T.S. 13, entered into force 3 September 1981.

[Google Scholar](#)

Chandra, A., et al. (2021). Legal Barriers to Accessing Safe Abortion Services in India: A Fact-

Finding Study [online]. Center for Reproductive Rights. https://reproductiverights.org/wp-content/uploads/2021/08/Legal-Barriers-to-Accessing-Safe-Abortion-Services-in-India_Final-for-upload.pdf. Accessed July 8, 2024.

Deo, S. (2020, March 17). *Lok Sabha, Third Session*. Parliament of India, Lok Sabha Digital Library. https://eparlib.nic.in/bitstream/123456789/794800/1/lst_17_03_17-03-2020.pdf#search=abortion. Accessed July 10, 2024.

Erdman, J. N. (2023). The WHO abortion care guideline: Law and policy—Past, present, and future. *International Journal of Gynecology and Obstetrics*, 162(3), 1119–1124. <https://doi.org/10.1002/ijgo.15017>

[Article](#) [Google Scholar](#)

Guttmacher Institute. India: Meeting the Needs for Services. <https://www.who.int/news-room/fact-sheets/detail/abortion>. Accessed July 4, 2024.

Haddad, L. B., & Nour, N. M. (2009, January 1). Unsafe abortion: unnecessary maternal mortality. PubMed Central (PMC). <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2709326/>.

HRC. K.L. v. Peru, CCPR/C/85/D/1153/2003, Communication No. 1153/2003.

[Google Scholar](#)

Mellet, Amanda Jane v Ireland, Merits, UN Doc CCPR/C/116/D/2324/2013, IHRL 4106 (UNHRC 2016), 31st March 2016, United Nations [UN]; United Nations General Assembly [UNGA]; United Nations Human Rights Council [UNHRC].

[Google Scholar](#)

Pietilä, H. (2007). The Unfinished Story of Women and the United Nations. UNCTAD/NGLS/2007/1. U.N. Non-Governmental Liaison Service.

[Google Scholar](#)

Pillai, G. (2024, April 17). *India's push-and-pull on reproductive rights*. Published on Verfassungsblog on Matters Constitutional. <https://verfassungsblog.de/indias-push-and-pull-on-reproductive-rights/>. Accessed July 1, 2024.

Rao, S. (2023, November 2). Feminists in India laud their abortion rights—but they don't extend to Dalit women. *The Guardian*. <https://www.theguardian.com/global-development/2022/aug/03/india-abortion-rights-dalit-women>. Accessed July 7, 2024.

Ray, N. (2024, May 13). *In brief: unveiling the realities of laws on abortion in the Philippines*. Center for Reproductive Rights. <https://reproductiverights.org/abortion-law-philippines-brief/>

Shah. (1964). Ministry of Health and Family Planning, Report of the Committee to Study the Question of Legislation of Abortion.

[Google Scholar](#)

Singh, S., Shekhar, C., Acharya, R., Moore, A. M., Stillman, M., Pradhan, M. R., Frost, J. J., Sahoo, H., Alagarajan, M., Hussain, R., Sundaram, A., Vlassoff, M., Kalyanwala, S., & Browne, A. (2018). The incidence of abortion and unintended pregnancy in India, 2015. *Global Health/The Lancet. Global Health*, 6(1), e111–e120. [https://doi.org/10.1016/s2214-109x\(17\)30453-9](https://doi.org/10.1016/s2214-109x(17)30453-9)

Tibrewala, M. (2024, January 25). Guest post: The phantasm of 'feticide'—On the Delhi High Court's abortion order in R v. Union of India on Constitutional Law and Philosophy. Accessed July 19, 2024.

[Google Scholar](#)

UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, United Nations, Treaty Series, vol. 1249, p. 13, 18 December 1979.

[Google Scholar](#)

UN Office of the High Commissioner for Human Rights (OHCHR), Reproductive Rights are Human Rights: A Handbook for National Human Rights Institutions Published jointly with UNFPA and the Danish Institute for Human Rights, HR/PUB/14/6, 2014. Accessed July 8, 2024.

[Google Scholar](#)

UNHCR. General Comment No. 35: Article 9 (Liberty and Security of Persons), adopted in 2014.

[Google Scholar](#)

UNHCR. General Comment No. 36: Article 6 (Right to Life), adopted in 2018.

[Google Scholar](#)

United Nations Population Fund: UNFPA. (2022). The case for action in the neglected crisis of unintended pregnancy. <https://www.unfpa.org/swp2022>.

Van Der Meulen Rodgers, Y., Coast, E., Lattof, S. R., Poss, C., & Moore, B. (2021). The macroeconomics of abortion: A scoping review and analysis of the costs and outcomes. *PLoS One*, 16(5), Article e0250692. <https://doi.org/10.1371/journal.pone.0250692>

[Article](#) [Google Scholar](#)

Venter, C. M. (2012). *International women's rights, equality, and justice: A context and practice casebook*. Carolina Academic Press.

[Google Scholar](#)

World Health Organization: WHO. (2024, May 17). Abortion. <https://www.who.int/news-room/fact-sheets/detail/abortion>.

A (Mother of X) v. State of Maharashtra 2024 SCC Online SC 835.

[Google Scholar](#)

High Court on its Own Motion v. State of Maharashtra (2016) 3 AIR Bom R (Cri) 575).

[Google Scholar](#)

Justice K.S. Puttaswamy (Retd.) & Anr. v Union of India &Ors. AIR 2017 SC 4161

[Google Scholar](#)

Minor R Thr. Mother H v. State (NCT of Delhi) (2023) 1 HCC (Del) 198.

[Google Scholar](#)

State v. Kalyan Singh (2017) 7 SCC 444.

[Google Scholar](#)

Suchita Srivastava & Anr. v. Chandigarh Administration (2009) 14 SCR 989.

[Google Scholar](#)

X v Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi & Anr (2023) 9 SCC 433.

[Google Scholar](#)

X v Union of India 2023 SCC Online SC 1338.

[Google Scholar](#)

X v. State of Karnataka 2023 SCC Online Kar 75.

[Google Scholar](#)

X v. State of West Bengal 2023 SCC OnLine Cal 2399.

[Google Scholar](#)

X v. State of West Bengal 2023 SCC Online Cal 2609.

[Google Scholar](#)

X v. UoI represented by Secretary &Ors. 2024 SCCOnline Ker 2135.

[Google Scholar](#)

X v. UT of J&K & Others 2023 SCC Online J&K 197.

[Google Scholar](#)

X.Y.Z v Union of India W.P. No. 8920 of 2024.

[Google Scholar](#)

X.Y.Z. v. Dean of B.J. Govt. Medical College and Sassoon Hospital through the Professor, HoD and Ors
W.P. No. 5123 of 2021.

[Google Scholar](#)

Z v. State of Bihar (2018) 11 SCC 572.

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