



Abortion

For Prelims: [Abortion](#), Article 34 of the French Constitution, [Medical Termination of Pregnancy \(MTP\) Act, 1971](#), [Article 21 of the Indian Constitution](#).

For Mains: Abortion Law in India, Legal Provisions Related to Abortion in India.

[Source: TH](#)

Why in News?

Recently, the French lawmakers have overwhelmingly approved a bill to enshrine abortion rights in **France's constitution**, making it the only country to explicitly guarantee a **woman's right to voluntarily terminate a pregnancy**.

- The approved bill amends **Article 34 of the French Constitution**, explicitly stating that “the law determines the conditions by which the freedom of women to have **recourse to an abortion**, which is guaranteed.”

Note

The bill was brought forth in response to concerns about the erosion of abortion rights globally, particularly **highlighted by the US Supreme Court's decision in [Roe v Wade case](#) to overturn long standing abortion rights in 2022**.

What is Abortion?

- **About:**
 - Abortion is the **deliberate termination of a pregnancy**, typically performed during the **first 28 weeks of gestation**. It can be achieved through various medical procedures or medications, depending on the stage of pregnancy and the preferences of the individual seeking abortion.
 - Abortion can be a highly contentious and debated topic, often involving ethical, moral, religious, and legal considerations.
- **Proponents:**
 - Proponents of abortion rights **argue that it is a fundamental reproductive right** that allows individuals to make choices about their own bodies, health, and future.
 - They emphasise the **importance of access to safe and legal abortion services** in preventing unwanted pregnancies, protecting women's health, and supporting reproductive autonomy.
- **Opponents:**
 - Opponents of abortion, often referred to as "**pro-life**," **believe that abortion is morally**

wrong and should be restricted or prohibited entirely.

- They typically argue that **life begins at conception** and that terminating a pregnancy is equivalent to taking a human life, thus violating the rights of the unborn foetus.

▪ **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 Supreme Court recognized **martial rape as a ground for abortion**, even **though marital rape itself is not recognized**, in a progressive move for women's reproductive rights.
- 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 **MTP Amendment Act, 2021** 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 Constitution of India, which guarantees the **right to life and personal liberty** to all citizens under **Article 21**. This right has been interpreted by the Supreme Court of India to **include the right to reproductive choice** and autonomy for women.

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| Time Since Conception | MTP Act, 1971 | MTP (Amendment) Act, 2021 |
|-------------------------------|---|---|
| Up to 12 weeks | On the advice of one doctor | On advice of one doctor |
| 12 to 20 weeks | On advice of two doctors | On advice of one doctor |
| 20 to 24 weeks | Not allowed | On advice of two doctors for special categories of pregnant women |
| More than 24 weeks | Not allowed | On advice of medical board in case of substantial fetal abnormality |
| Any time during the pregnancy | On advice of one doctor, if immediately necessary to save pregnant woman's life | On advice of one doctor, if immediately necessary to save pregnant woman's life |

Note

- In **Justice K.S. Puttaswamy (Retd.) vs. the Union Of India Case, 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.**

What are the Concerns Related to Abortion?

- **Cases of Unsafe Abortions:**
 - Unsafe abortions are the **third leading cause of maternal mortality** in India, and close to 8 women die from causes related to unsafe abortions each day, according to the **United Nations Population Fund (UNFPA)**'s State of the World Population Report 2022.
 - The women outside marriages and in poor families are left with no choice but to use unsafe or illegal ways to abort unwanted pregnancies.
- **Preference for a Male Child:**
 - The selective abortion of female foetuses is most common **where male children are valued over female children**, especially in parts of East Asia and South Asia (particularly in countries such as China, India and Pakistan).
- **Shortage of Medical Expert in Rural India:**
 - According to a **2018 study in the Lancet**, 15.6 million abortions were accessed every year in India as of 2015.
 - The MTP Act requires abortion to be performed only by doctors with specialisation in gynaecology or obstetrics.
 - However, the Ministry of Health and Family Welfare's 2019-20 report on Rural Health Statistics indicates that there is a **70% shortage of obstetrician-gynaecologists in rural India**.

Way Forward

- Efforts should be made to ensure **that women have access to safe and legal abortion services** without facing **unnecessary barriers or stigma**.
 - This may involve **expanding the availability of abortion services** in both urban and rural areas, training healthcare providers to offer comprehensive reproductive health services, and **raising awareness about women's rights** under the MTP Act.
- Medical practitioners play a vital role in ensuring women's access to safe abortion services.
 - Policies should be **designed to support healthcare providers** in delivering high-quality, **non-judgmental care to women seeking abortion services**, while also addressing any ethical or legal concerns they may have.

UPSC Civil Services Examination, Previous Year Question:

Mains

Q. What are the continued challenges for Women in India against time and space? **(2019)**