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Rights Of Women With Intellectual And Developmental Disabilities (IDD): A Study On Role Of Consent In Exercise Of Reproductive Choices

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Abstract

The reproductive choices of Intellectual and Developmental Disabilities (IDD) are matter of concern, particularly as women with intellectual disability have often not been allowed to take decision regarding their reproduction. However equal accessibility to reproductive rights and related services remains a challenge for them in India. The paper seeks to explore the prevailing stereotypes and societal attitudes surrounding parenting, sexuality, and reproductive autonomy that lead to a higher likelihood of sterilization for women with disabilities compared to their non-disabled counterparts. Further it discusses the rights of disabled women in India with reference to their reproductive rights including the area of mental illness and their consent for termination of pregnancy, highlighting the legal, social and institutional challenges they encounter. Women with intellectual disabilities are more vulnerable and likely to experience infringement of their sexual and reproductive rights including pregnancy due to sexual offences, acquisition of sexual transmitted infections, forced sterilisation and unsafe abortions, poorly managed pregnancy, and unjust termination of parental right. The paper also examines the legal and practical dimensions of consent in reproductive decisions among women with IDD in India, highlighting the urgent need to respect their autonomy. Lastly the research aims to contribute to a policy framework that upholds their rights, dignity, and reproductive independence.

Keywords: Reproductive Rights, Disability, Consent; Mental Health, Medical Termination Pregnancy, Intellectual and Developmental Disability.

Introduction

The reproductive rights of women with Intellectual and Developmental Disabilities (IDD) are often overlooked or violated despite having national and international legal protections. Women with disabilities face a dual marginalization both as women and as individuals with disabilities which may impact their autonomy, access to reproductive care, and interactions with health systems. Intersectionality highlights the need for nuanced, patient-centered obstetric care that acknowledges complex, layered identities. Women have faced systemic discrimination, including forced sterilisation and denial of reproductive agency often justified under the guise of protection or public interest. The right to informed and autonomous reproductive choices is a fundamental aspect of right to personal liberty under the constitution of India[1]. Women with intellectual and developmental disabilities are more likely to experience infringement of their sexual and reproductive rights as well as human dignity. However, the exercise of this right is often fraught with ethical, legal, and social complexities. Due to various preconceptions about their abilities, women with IDD are often restricted to exercising their reproductive rights and are frequently denied the chance to bear or abort a child. Cases where consent is provided by caregivers on behalf of women with intellectual and developmental disabilities represent another way in which their right to autonomy is taken away. Women and girls with disabilities confront unique obstacles when trying to obtain services.[2]. Although many women in India struggle to access safe abortion services, women with disabilities encounter even greater challenges including physical and informational barriers within healthcare systems, a lack of sensitivity among medical staff, and the broader societal tendencies to infantilize and overlook them. India's legal framework poses an additional obstacle, to exercising bodily autonomy, as women with IDD are often subject to guardianship under the statute.[3] The Medical Termination of Pregnancy (Amendment) Act, 2021[4], which constitutes the principal legal framework regulating abortion in India, mandates that termination of pregnancy in women diagnosed with intellectual disabilities requires the explicit, written consent of a legally authorized guardian. This provision underscores the necessity of substituted decision-making in such cases, reflecting a paternalistic legal approach to reproductive autonomy within this population.

Amendments in the Medical Termination of Pregnancy Act, 1971

The two amendments have been made in the Medical Termination of Pregnancy Act 1971. First in 2002, the term "lunatic" was amended to "mentally ill person." Second, in 2021, "the gestational limit" for abortion was raised from 12 weeks to 24 weeks.[5] Abortions after 24 weeks are permissible if a Medical Board finds foetal abnormalities. A writ Petition is the only option in cases requiring abortions for

[1]Article 21, 'No Person Shall Be Deprived of his Life or Personal Liberty Except According to Procedure Established by Law'.
[2]Holness, Willene, "Informed Consent for Sterilisation of Women and Girls with Disabilities in the Light of the Convention on the Rights of Persons with Disabilities." *Agenda: Empowering Women for Gender Equity*, Vol. 27, No. 4 (98), 2013, P1.
[3]Vaibhav Ambhore, etal, "Bilaspur Sterilisation Deaths, Evidence of Oppressive Population Control Policy," INDIAN JOURNAL OF MEDICAL ETHICS, Vol.12No.1, 2015, p.5.
[4] The Medical Termination of Pregnancy (Amendment) Act, 2021
[5]Shreya Raman, "INDIA'S LAWS FAIL TO UPHOLD ABORTION RIGHTS OF WOMWN WITH DISABILITIES," https://Behanbox.Com/2021/11/11/Indias-Laws-Fail-To-Uphold-Abortion-Rights-Of-Women-With-Disabilities, (Visited on April,2025).

pregnancies resulting from rape that extend beyond 24 weeks. Although Article 21[6] of the Constitution of India has given rise to a robust jurisprudential foundation affirming women's reproductive rights and bodily autonomy, it falls short of fully transferring decision-making authority from medical professionals to the women seeking abortions. Judicial interpretations have recognized reproductive choice as an essential component of personal liberty[7]; however, the implementation continues to privilege medical discretion over individual agency. This paper critically analyses the systemic challenges faced by women with disabilities, including coerced abortions and sterilizations, inadequate access to appropriate medical care, and structural barriers to reproductive health services. Its further advocates for a rights-based framework that promotes informed consent, reinforces the autonomy of women with disabilities, and calls for enhanced legal safeguards and accountability mechanisms to ensure the realization of their reproductive rights.

Research Methodology

This paper employs a doctrinal research methodology, critically analysing primary and secondary legal sources at both national and international levels. Primary legal sources include international conventions, such as the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), and national statutes, notably the Rights of Persons with Disabilities Act, 2016, the Mental Healthcare Act, 2017, and the Medical Termination of Pregnancy (Amendment) Act, 2021. The paper extensively examines judicial precedents from the Supreme Court of India, High Courts, and select international judicial decisions to understand evolving interpretations of reproductive autonomy and consent. A critical paradigm guides this analysis, questioning underlying assumptions, norms, and the effectiveness of current legal frameworks concerning women with intellectual and developmental disabilities. Additionally, the paper adopts a comparative perspective by referencing key international cases to contextualize India's legal stance within global human rights discourses. Although primarily doctrinal, this research incorporates insights from existing academic literature, reports from human rights bodies, and policy analyses to comprehensively address the socio-legal dimensions of reproductive rights for women with disabilities.

Definition of Disability

The Preamble of the Convention on The Rights of Persons With Disabilities (CRPD), 2006, adopted by the United Nations, describes disability by stating that, “Disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others.”[8] The World Report on Disability, 2011, by the World Health Organisation (WHO) and the World Bank, presents two primary models of disability. The first is medical model, according to these disabilities lies with the person with restriction of activity by birth or

[6] Supra 1.
[7] Justice K. S. Puttaswamy (Retd.) v. Union of India, 2015 SC 1640.
[8] Anup Prasad, PERSON WITH DISABILITY (DIVYANGJAN) IN INDIA A STATISTICAL PROFILE 2021, https://Ndfdc.Nic.In/Upload/Nhfdc/Persons_Disabilities_31mar21.Pdf, Visited on March 15, 2025.

any medical health problem. The second is the social model, which views disability as a result of societal imposed restriction on individuals with disability. However, disability should not be viewed exclusively through one model; a balanced approach is always needed. Considering the most broadly accepted definition under section 2(s) of The Rights of Persons With Disability Act, 2016 is "person with disability means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others."[9] Another legislation addressed and defines disability with mental illness, in section 2(s) "mental illness defined as a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by sub normality of intelligence."[10] This section reflect how mental illness is different from mental retardation and gives right based approach towards person with "mental illness".

Intellectual And Developmental Disabilities

The Rights of Persons with Disabilities 2016[11] broadly, defined as "a condition characterized by significant limitation both in intellectual functioning (reasoning, learning, problem-solving) and in adaptive behaviour which covers a range of every day social and practical skills including specific learning disabilities and autism spectrum disorders". The term "Developmental Disabilities" encompasses a variety of conditions involving deficits in processing language, spoken or written, difficulty in comprehension, speaking, reading, writing, spelling, or mathematical. However, any mental problem other than mental retardation is considered a mental illness. Conversely, mental illness is a more general word that includes a variety of mental diseases, some of which are treatable and may be transient or episodic.

Consent

Capacity to consent means both "legal capacity and mental capacity to consent". The committee of United Nation Convention on Rights of Persons with Disabilities interpreted Article 12 highlighted that the" legal capacity" and "mental capacity" are not the same. The legal capacity is to exercise their rights whereas mental capacity is ability to take decision. There are four important concepts of consent

(1) comprehension,

(2) communication of choice,

(3) carrying risk and benefits of procedure,

(4) retention of information.

According to these parameters the medical practitioner and psychiatrist identifies the case of "complete capacity to consent", "absence of consent" or "limited capacity to consent". The Rights of

[9] The Rights of Persons with Disabilities Act, 2016.
[10] The Mental Health Care Act 2017.
[11] Section 2(s), "person with disability means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others".

Persons with Disabilities Act 2016 section 10(2)[12], explicitly states that no individual with a disability shall undergo any medical procedure which result in infertility without their "free" and "informed consent" but the act does not define informed consent. The informed consent is defined by Mental Health Care Act,2017 "consent given without any force, undue influence, fraud, threat, specific intervention". Informed consent involves more than just signing a form it is a communicative exchange between the healthcare provider and the patient. This process is intended to ensure the patient is thoroughly aware of the procedure or treatment, including its purpose, possible risks and benefits[13] A woman with moderate to severe intellectual disabilities might be able to express her desires, but she may lack the practical capacity such as the ability to physically care for a child. Whereas women with severe or profound intellectual disabilities may not be in a position to make complex decisions including giving informed consent for medical or surgical interventions.[14] It is a fundamental aspect of reproductive autonomy, is frequently denied or deemed invalid for women with Intellectual and developmental disability, based on assumptions about their mental capacity that they are not capable to give consent to carry a child. The judiciary takes opinion of psychiatrists and medical doctors regarding the "capacity to consent" of a Women with Disability for medical termination of pregnancy and permanent sterilisation. Assessments of "mental health" and "intelligence quotient (IQ)" are conducted by mental health professionals in addition to physical and obstetric exams functional approach for accessing the mental capacity of Women with moderate to severe mental disability to give consent for termination of her pregnancy or sterilisation.

Autonomy is a core ethical principle it means the right to make one's own choices. Substitute decision-making undermines this right, especially when the woman is excluded from decision-making altogether which has been misused for coercive sterilizations, especially targeting women with disabilities. Even women with limited capacity may still understand their preferences if supported properly. Concerns regarding potential abuse and the desire to limit the reproductive capacity of women with disabilities are often rooted in the widespread belief that they are incapable of making decisions for themselves. This belief typically leads to the assumption that caregivers or parents are better suited to determine what is in their "best interests."[15]

Rights of Intellectual and Developmental Disability Under Indian and International Perspective

Article 25 of Convention on the Rights of Persons with Disabilities (CRPD)[16] also obligates signatory countries to guarantee equal access to health services, including those related to sexual and reproductive health, as well as broader public health initiatives. Under Section 92 of the Rights of Persons with Disabilities (RPWD) Act[17], forcing a woman with a disability to undergo an abortion is punishable

[12] Section 10(2), 'states that no person shall undergo any medical procedure resulting in infertility without their free and informed consent'.
[13] Parth Shah, et al. INFORMED CONSENT, https://www.ncbi.nlm.nih.gov/books/NBK430827/, (Visited on April 17,2025.
[14] Sundarnag,Gajekar etal.,"Reproductive rights of women with Intellectual Disability in India," INDIAN JOURNAL OF MEDICAL ETHICS,2022, P.7.
[15]Willene Holness, "Empowering women for gender equity", GENDER & HUMAN RIGHTS BIOLOGY & BODY, Vol27, No.4 (98)2013, p.39.
[16]Article 25 emphasizes that healthcare for persons with disabilities must be provided based on their free and informed consent.
[17] Section 92(f), 'performs, conducts or directs any medical procedure to be performed on a woman with disability which leads to or is likely to lead to termination of pregnancy without her express consent except in cases where medical procedure for

with imprisonment ranging from six months to five years. The distinction between mild and severe disabilities is also reflected in RPWD[18]. The Act does not clearly define what constitutes a 'severe disability' and thus it remains uncertain how courts will interpret and distinguish between mild and severe disabilities in actual cases. However, in cases of 'severe disability,' abortion is allowed with the guardian's consent provided a medical professional's opinion is obtained. For the first time, obligations were established by Two UN human rights committees, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Committee on the Rights of the Child (CRC), to tackle harmful practices against women and girls. "A number of significant sexual and reproductive health resolutions were adopted at 27th session of UN human rights council in 2014 which included safe abortion and reproductive rights"[19]. Several United Nations inter-agency bodies, including the Office of the High Commissioner for Human Rights (OHCHR), UN Women, the United Nations Development Programme (UNDP), and the World Health Organization (WHO), have issued joint statements condemning the practice of involuntary sterilization and abortion. These agencies unequivocally affirm that individuals with disabilities are frequently subjected to sterilization procedures without their full, free, and informed consent. Moreover, they highlight the heightened vulnerability of persons with disabilities, particularly women and girls, to coercive reproductive interventions, which constitute serious violations of their bodily integrity, autonomy, and fundamental human rights.[20]

The UNCRPD and RPWD acknowledge the heightened vulnerability of women and include specific provisions (Article 6[21] of UNCRPD and Section 4 of RPWD[22]) to ensure that they can fully exercise their rights on an equal basis with others.

The United States Supreme Court, in Roe v. Wade[23], acknowledged that abortion in the early stages of pregnancy may pose health risks to the pregnant individual. However, such framing diverges from prevailing international human rights standards, which emphasize autonomy, non-discrimination, and the right to make informed decisions regarding one's body. In particular, the United Nations Convention on the Rights of Persons with Disabilities (CRPD) explicitly rejects substituted decision-making models and instead advocates for supported decision-making frameworks that uphold individual autonomy. Article 12[24] of the CRPD affirms that all persons, irrespective of disability, possess equal legal capacity and are entitled to participate fully in decisions affecting their lives. Nevertheless, in practice, decisions involving

termination of pregnancy is done in severe cases of disability and with the opinion of a registered medical practitioner and also with the consent of the guardian of the woman with disability, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine'.

[18] The Rights of Persons with Disabilities Act, 2016.

[19] The Law, the Courts, and Sexual and Reproductive Rights, *REPRODUCTIVE HEALTH MATTERS*, vol. 22. No.44, 2014, p2, *JSTOR*, http://www.jstor.org/stable/43288383 Accessed 15 Apr. 2025.

[20] World Health Organization. Eliminating forced, coercive and otherwise involuntary sterilization: an interagency statement: OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO. Geneva: World Health /13691058.2014.930180. Organization,2014. http://www.who.int/iris/bitstream/10665/ 12848/1/9789241507325_eng.pdf?ua=1

[21] Article 6 states "parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard, shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms."

[22] Section 4, states "that the government and local authorities shall take measures to ensure that women and children with disabilities enjoy their rights equally with others."

[23] 410US113 (1973).

[24] Article12(1), states "parties reaffirm that the person with disabilities have the right to recognition everywhere as persons before the law." and Article 12(2), "state shall recognize that the person with disabilities enjoy legal capacity on equal basis in all aspects of life."

women and girls with severe intellectual disabilities are often predicated on paternalistic assumptions about their incapacity to understand or engage with the implications of pregnancy. This not only undermines their agency but also perpetuates discriminatory practices that are incompatible with the CRPD's principles of dignity, equality, and respect for individual will and preferences.

Reproductive Choice of Women with Intellectual Disability and Challenges.

The global development of legal jurisprudence surrounding reproductive rights is grounded in two fundamental pillars:

(a) The right to access reproductive healthcare, and

(b) The right to make autonomous decisions regarding one's reproductive choices**.**

The freedom to make choices regarding one's own body, such as whether to have children, access to contraception, and defend against forced sterilisation, is referred to as reproductive rights[25]. Furthermore, caregivers and guardians face dilemma and may avoid enabling procreation or motherhood for women with disabilities, regardless of the women willingness to carry child irrespective it's a shelter home or staying with her parents[26]. Reproductive choices include decisions around Contraception, Marriage and sexual relations, Pregnancy and childbirth, Abortion, Sterilization. Women with disabilities in India experience numerous forms of discrimination. Reproductive rights are among their essential rights that are frequently disregarded, which results in systematic disparities in autonomy, decision-making, and access to healthcare.

In the Preamble to the Convention on Rights of Persons with Disabilities (2007) of United Nations, Para (q)[27] states intellectual Disable women are frequently at heightened risk of experiencing violence of sexual harassment and assault compared with non-disabled women. Reproductive Rights and sexual health encompass the right to life[28] accessibility without discrimination. The scarcity of data and research further complicates efforts to fully grasp the seriousness of these challenges.[29]. The absence of legislative coherence between the Medical Termination of Pregnancy (Amendment) Act, 2021—India's principal statute regulating abortion—and other key legal instruments, such as the Mental Healthcare Act, 2017 and the Rights of Persons with Disabilities (RPWD) Act, 2016, has resulted in significant legal and procedural ambiguities. This lack of alignment not only generates interpretative inconsistencies but also exacerbates barriers to accessing safe and lawful abortion services, particularly for women with psychosocial and intellectual disabilities. The fragmented statutory framework thus hinders the realization of reproductive rights and contributes to an environment where healthcare providers and guardians operate in legal uncertainty, often to the detriment of the individual's autonomy and well-being.

[25] Poreddi V et al, HUMAN RIGHTS VOILATION AMONG ECONOMICALLY DISADVANTAGED WOMEN WITH MENTAL ILLNESSS, https://journals.lww.com/indianjpsychiatry/pages/currenttoc.aspx (visited on 16 April,2025).

[26] Mary Jo Deegan And Nancy, A Brook (eds.), WOMEN AND DISABILITY: THE DOUBLE HANDICAPPED,1st ed.1985, p.277.

[27] Paragraph(q) "Recognizing that women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation".

[28]Article21, No person shall be deprived of his life or personal liberty except according to the procedure established by law.

[29]Shreya Raman, INDIA'S LAWS FAIL TO UPHOLD ABORTION RIGHTS OF WOMWN WITH DISABILITIES, https://behanbox.com/2021/11/11/indias-laws-fail-to-uphold-abortion-rights-of-women-with-disabilities ,(Visited on April,2025).

In many cases the service providers, staffs, and guards are perpetrators of sexual abuse and moreover, such abuses go unreported. The challenges and dilemmas faced by Women with Intellectual Disabilities (WID) and their caregivers emerge in various contexts, including menstrual hygiene education, sex education, decisions around marriage and childbearing, contraception, antenatal care, obtaining consent for caesarean sections, breastfeeding guidance, understanding maternal roles and responsibilities, ensuring child safety, and considering permanent sterilization. The issues include their questions regarding their parenthood and the obstacles to accessing appropriate and competent reproductive health information and services. Often, parenthood is denied solely based on disability.

Forced sterilization and Abortion

In the United States, the Supreme Court decided Buck v. Bell [30] upheld the forced sterilization of disabled people and people with "perceived" disabilities, validating a Virginia law that permitted women to be forcibly sterilized.[31] Forced abortion is a form of reproductive coercion where a woman is compelled to terminate a pregnancy without her consent or against her will. It results from various external influences, when someone exploits a situation where a pregnant individual is unable to provide consent or when consent is compromised due to coercion or pressure. The issue of parenthood or motherhood, especially in cases involving intellectual disabilities, is often determined by guardians, care takers, or state-run shelters who have taken responsibility for these women. Cases of forcer hysterectomies came to be reported from the state-run shelters.[32]

1. Lack of awareness, knowledge, and understanding.
2. Excluding persons with disabilities from decision-making.
3. Physical and attitudinal barriers to health services.

Judicial Role in Protecting Reproductive Rights

Abortion and Reproductive Autonomy

The subject of sexual reproductive autonomy of disable women was taken into consideration in case Suchita Srivastava v. Chandigarh Administration & Ors (2009)[33] stands as a significant ruling by the Supreme Court of India, highlighting the delicate balance between reproductive rights, mental disability, and the role of the state. The matter originated from a petition concerning a woman with mental disabilities who became pregnant while living in a government-run care facility. The question before the court was whether the state, assuming the role of her guardian, had the authority to mandate an abortion, despite her clear desire to carry the pregnancy, or whether her right to make decisions should prevail. The High Court's

[30]274 U.S. 200 (1927).

[31]Bridget winker, "*Abortion Bans Are Undermining Disabled People's Decision-Making and Autonomy*," NATIONAL WOMEN'S LAW CEMTER CAPITAL, https://nwlc.org/abortion-bans-are-undermining-disabled-peoples-decision-making-and-autonomy/, (Visited on March 20, 2025).

[32]Aarushi Malik, "*Her Disability, Her Decision: Is Women's Reproductive Autonomy a Universal Right, or is its Application Disability-Qualified*," RGNUL RESEARCH REVIEW, https://www.rsrr.in/post/her-disability-her-decision-is-women-s-reproductive-autonomy-a-universal-right-or-is-its-applicat,
(Visited on March 23, 2025).

[33] AIR 2010 SC 235.

ruling mandated that the woman have a medical termination of pregnancy (MTP), stating that this was in her best interests.

The Supreme Court of India has unequivocally recognized reproductive autonomy as an integral facet of the fundamental right to personal liberty enshrined under Article 21 of the Constitution. This encompasses a woman's right to make autonomous decisions regarding her reproductive health, including the choice to continue or terminate a pregnancy. In its jurisprudence, the Court has emphasized that a diagnosis of mental disability, in and of itself, does not equate to a lack of cognitive capacity to comprehend, articulate preferences, or make informed reproductive choices. The Court firmly rejected the application of the "best interests" standard as a basis to override a woman's explicit and informed consent, reaffirming that individual autonomy must prevail, even in contexts involving mental or intellectual disability. This position marks a critical affirmation of legal capacity and decisional agency, aligning domestic constitutional principles with international human rights obligations.

The victim 19-year-old orphan lady became pregnant after being sexually abused at a government facility. Writ petition filed by the Chandigarh government, the Supreme Court stayed the ruling of a division bench of the Punjab and Haryana High Court on July 21, 2009, the Chandigarh administration had requested directions The administration contended that, due to the woman's intellectual disability and the lack of support from a parent or guardian for both herself and the potential child, terminating the pregnancy was the most viable option.

The two test was done by the court to exercise doctrine of parents' patria. The best interest test conducted by careful enquiry of medical opinion on feasibility of pregnancy of victim. The expert body and medical opinion indicated though she was not aware about sexual act having limited idea of pregnancy but as per findings of expert, she expressed her willingness to carry bear child and that she was physically capable experts found she is mild mentally ill that means she is not entirely incapable for taking her decision for herself. There is no indication that child born may have any kind of cognitive defects. In substituted judgement test court step into the shoes of person mentally incapable and then make decision if she was competent to do so.

Despite the victim expressing her desire to carry the pregnancy, the division bench of the High Court ordered the termination. The second concern was the girl was 19 weeks pregnant at the time of order which was almost close to 20 weeks upper limit of abortion and terminating the pregnancy at this stage can cause harm to physical health of women. The Supreme Court reversed the High Court's ruling, stating that the right to reproduction flows from the right to liberty under constitution[34] and hence the pregnancy could not be terminated without the consent of the woman with an intellectual disability.

Court Further declared that it will not weaken the Medical Termination of Pregnancy Act's provisions in this specific instance. "No pregnancy of a woman who has not attained the age of eighteen years or having attained the age of eighteen years, is a mentally ill person", shall be terminated except with the written consent of her guardian under Section 3(4)A of the Maternity Benefit (Amendment) Act 2017[35].

[34] Supra 1.

[35] Section3(4)A, "No pregnancy of women, who has attained the age of eighteen years or which having attained age of eighteen years is mentally ill shall be terminated except the consent in writing of her guardian."

The court held that the victim is the only person who is capable of giving consent for the termination of her pregnancy because she is a mentally retarded lady (not mentally ill) who is older than 18.[36] Best-in-class medical facilities must be made available to ensure appropriate care and supervision during pregnancy, along with postnatal care and child care assistance.

In case Pratibha Gaur v. Government of NCT of Delhi & Ors 2021 SCC. The Delhi High Court held that the 'right to fertility' and motherhood should be given to the women. Court observed pregnancy was of 28 weeks, which was beyond 24 weeks permissible under section 3(2)(b)(i) of Medical Termination of Pregnancy Act 2021[37],which says grave injury to mental health is legal ground to seek medical termination of pregnancy of maximum period of 24 weeks. Court referred to Bombay high court judgement in XYZ V. State of Maharashtra 2021 SCC court allowed the termination applying liberal interpretation of the Act to uphold women's reproductive autonomy.

In case Z v. State of Bihar and others 2018[38]. The court dealt with case of mentally retarded rape victim 23 weeks pregnant with HIV positive. High court relied on the Doctrine of "Parens Partriae" and "compelling state intrest" declined the medical termination of pregnancy. Further the supreme court said the High court approach was inaccurate and revised the verdict allowed the medical termination of pregnancy caused by rape which further leads to grave injury to mental health of pregnant women according to section 3(2)(b) of amended MTP ACT 2021.

The Bombay High Court, in the case of X v. Union of India 2017 SCC[39], allowed termination of pregnancy based on the decision of the guardian of the rape victim with intellectual disability. The Court made observations to the effect that she is not even able to take care of herself and questioned her ability to care for the child. The Court allowed termination, deferring to the decision of her guardian, deemed to be in her "best interest."

X v. The Principal Secretary Health and Family Welfare Department & Anr AIR 2022.[40] In this case supreme court held that the right to autonomy means women including disable has right to choose the course of their lives. The court in this case while dealing with married and unmarried women said that the decision of abortion is born out circumstances which only women can understand and it's her body, she can choose her choice without any external interference without any consent or authorisation of any third party without any until unless its case of complete mental regardless without any coercion or violence. The court in terms of reproductive rights said they should have access to safe and legal abortion services select appropriate contraceptive methods and right to receive adequate reproductive health care. It is crucial for

[36] Divya Bhagianadh, "*Disability and the Medical Termination of Pregnancy Act*, 1972" INDIAN JOURNAL OF MEDICAL ETHICS,2010, p.1.
[37] Section 3(2)(b) "where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks in case of such category of woman as may be prescribed by rules made under this Act, if not less than two registered medical practitioners are, of the opinion, formed in good faith, that (i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health."
[38] (2018) 11 SCC 572.
[39] (2017) 3 SCC 458.
[40] AIR 2022 SC 4917.

the Supreme Court to unequivocally affirm that these rights apply equally to women with disabilities, especially those with intellectual disabilities.[41]

In case X V. State of Madhya Pradesh and others in Writ Petition No. 12155/2021[42]Madhya Pradesh High Court has recently, rightly and remarkably observed "Not permitting a rape victim, suffering from severe mental problems, to undergo Medical Termination of unwarranted pregnancy would be voilative of her bodily integrity which would not only aggravate her mental trauma but would also have devastating effect on her overall health including on psychological and mental aspects". The victim was found to have a mental age of approximately six years, belong to schedule tribe, undertaking the responsibilities of motherhood. The Court referred to the amended Section 3(2)(b) of the Medical Termination of Pregnancy Act,2021, which allows termination up to 24 weeks in cases involving certain vulnerable categories, including women with mental disabilities. The Division Bench of Chief Justice Mohammad Rafiq and Justice Vijay Kumar Shukla thus allowed the medical termination of the pregnancy, holding that the law must prioritize the dignity, autonomy, and mental health of the victim, especially in cases involving mentally ill rape survivors.

Conclusion

Under the Indian Constitution, every woman regardless of her intellectual capacity has the right to make reproductive choices, including the decision to conceive or not. Given the lack of explicit statutory guidelines specific to women with intellectual disabilities (WID), it is essential for treating psychiatrists to be familiar with key Supreme Court rulings that shape this area of law. India's judgment is undoubtedly commendable, particularly as it arrives at a time when sexual and reproductive rights are sparking intense global debate. This development positions India, along with the broader issue of women's rights within the country, on a promising trajectory toward greater progressiveness. Mental health professionals should rely on existing laws, judicial precedents, and ethical standards to guide their assessments ensuring both legal compliance and the protection of the reproductive rights of women with intellectual disabilities. Upholding the reproductive autonomy of women with disabilities is not just a matter of legal compliance it is a moral and ethical necessity in building an inclusive and just society. However, the practical enforcement of these rights remains inadequate, with continued instances of forced sterilization, coerced abortion, and exclusion from healthcare decisions. To align domestic law with international obligations under the UNCRPD, there must be a clear legal mandate ensuring that women with disabilities regardless of the degree of disability are provided with appropriate support to make autonomous reproductive decisions.

[41]Aarushi Malik, "Her disability, her decision: Is Women's Reproductive Autonomy A Universal Right or Its Disability Qualified". RGNLU RESEARCH REVIEW, Vol.10 No.2 2024, p1.
[42] Writ petition 12155 of 2021.

Suggestions

To effectively address the reproductive rights and healthcare challenges faced by women with intellectual and developmental disabilities, the following suggestions are proposed to ensure comprehensive policy improvements, healthcare accessibility, and societal awareness:

- National health surveys and hospital-based reporting systems should mandatorily include disability status as a standard demographic indicator. This will facilitate more accurate monitoring, targeted interventions, and informed policymaking.
- Include Women with Disabilities in Policy Development, Ensure accessibility and inclusion in reproductive health services. Develop supported decision-making frameworks that respect autonomy for women with intellectual or psychosocial disabilities.
- The Voluntary Sterilisation Act and similar laws often do not adequately protect the reproductive rights of persons with disabilities. These laws sometimes rely on paternalistic assumptions that caregivers or guardians are better suited to make reproductive decisions than the individuals themselves
- Comprehensive sensitization modules on disability-inclusive reproductive healthcare must be integrated into medical, nursing, and paramedical curricula. Special emphasis should be placed on rights-based, respectful maternity care and informed consent procedures to ensure ethical practices.
- Existing maternal health policies and programs such as Janani Suraksha Yojana and Pradhan Mantri Matru Vandana Yojana should explicitly incorporate provisions addressing the specific needs of women with disabilities. This includes ensuring access to assistive technologies, transportation support, accessible infrastructure, and specialized healthcare personnel trained in disability rights.
- Targeted public awareness campaigns should be conducted to challenge harmful stereotypes and social norms. These campaigns must clearly affirm and advocate for the reproductive autonomy and rights of women with disabilities. Community-level dialogues, workshops, and media engagement can significantly contribute to reducing stigma and discrimination.
- Clarify and harmonize legal definitions and guidelines within existing legislations such as the Medical Termination of Pregnancy Act, Rights of Persons with Disabilities Act, and Mental Healthcare Act to ensure coherence and accessibility of reproductive health services.
- Institutional frameworks should facilitate supported decision-making rather than substituted decision-making, emphasizing the autonomy and informed consent of women with intellectual and developmental disabilities. Mechanisms such as independent advocacy services and trained intermediaries should be established to assist women with disabilities in exercising their reproductive rights effectively.
- Establish independent monitoring bodies and grievance redressal mechanisms specifically tasked with overseeing the implementation of reproductive rights for women with disabilities. Periodic reviews and reporting can ensure compliance and promote accountability among healthcare providers and caregivers.