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EDITORIAL ANALYSIS

On Abortion, the Supreme Court Places the Woman at the Centre

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INTERVIEW ANGLE

"The Supreme Court has placed women's reproductive autonomy at the centre of abortion decisions. Does this represent judicial overreach into what should be a legislative domain, or is the Court filling a gap that Parliament has failed to address?"

THE EDITORIAL ARGUMENT

In placing the woman at the centre of abortion decisions — allowing a 15-year-old rape survivor to terminate a 30-week pregnancy — the Supreme Court has done more than resolve a single case. It has articulated a constitutional principle: that reproductive autonomy is not a privilege granted by the state to women, but a right that flows from their fundamental freedom under **Article 21** of the Constitution.

The ruling by Justices **B V Nagarathna** and **Ujjal Bhuyan** represents the most significant judicial statement on reproductive rights since the Supreme Court's own hesitant recognition of the issue in earlier decades. It also creates a legislative mandate: Parliament must amend the **Medical Termination of Pregnancy (MTP) Act** to extend gestational limits for rape survivors.

THE CONSTITUTIONAL FOUNDATION

Article 21 — the right to life and personal liberty — has been progressively expanded by the Supreme Court to encompass:

- Right to privacy (*K.S. Puttaswamy v. Union of India*, 2017) — including bodily autonomy
- Right to dignity — which the Court has repeatedly held includes the right to make intimate and personal decisions without state coercion
- Right to health — which the Court has read into Article 21 through *Paschim Banga Khet Mazdoor Samity v. State of WB* (1996)

The logical implication — that a woman has a constitutional right not to be forced to continue a pregnancy against her will, particularly when the pregnancy resulted from rape — flows from these precedents. The May 2026 ruling makes this explicit.

The editorial notes that the Court’s framing is deliberately **woman-centric**: the primary question is not foetal viability (a medico-legal standard), not the opinion of two registered medical practitioners (a procedural gatekeeping requirement), but **the woman’s health, autonomy, and welfare**. This is a **paradigm shift** from the MTP Act’s current architecture, which centres on medical opinion rather than the woman’s choice.

THE MTP ACT — CURRENT ARCHITECTURE AND ITS GAPS

Medical Termination of Pregnancy Act, 1971 (amended 2021):

GESTATIONAL LIMIT	CONDITION	REQUIREMENT
Up to 20 weeks	Any woman	Opinion of 1 registered medical practitioner (RMP)
20–24 weeks	“Vulnerable women” (rape survivors, minors, differently-abled, fetal abnormality)	Opinion of 2 RMPs
Beyond 24 weeks	Substantial fetal abnormality	State Medical Board approval

The gap the SC has identified: Rape survivors who discover their pregnancy late — a common occurrence when victims are in shock, denial, or lack access to healthcare — have no legal pathway for termination beyond 24 weeks (except via State Medical Board for fetal abnormality cases). The 15-year-old in this case was at 30 weeks — 6 weeks beyond the 24-week outer limit.

The editorial argues that this gap reflects a design failure: the MTP Act was conceived around medical practicality, not around the survivor’s right. A survivor’s discovery of pregnancy at 28 weeks is not a failure of diligence — it is often the consequence of trauma, shame, lack of menstrual regularity awareness, or inaccessibility of healthcare.

WHAT THE SC DIRECTED

- 1 Immediate relief:** Allowed the specific case — the 15-year-old rape survivor — to terminate the 30-week pregnancy, with medical support arranged
- 2 Legislative direction:** Directed Parliament to amend the MTP Act to extend gestational limits specifically for rape survivors — removing the current 24-week ceiling for this category

- 3 **Autonomy principle:** Affirmed that the woman’s assessment of her physical and mental health impact must be taken at face value by medical practitioners and courts — not second-guessed

THE BROADER SIGNIFICANCE

1. **Medicalisation vs constitutionalisation:** The MTP Act medicalises abortion — requiring doctor’s opinions, medical boards, hospital facilities. The SC’s ruling constitutionalises it — grounding the right in Article 21 and the woman’s autonomy, not in medical gatekeeping.
2. **Rape survivor-specific reform:** The ruling is specifically calibrated to the most vulnerable category — survivors of sexual violence who are pregnant against their will. It does not make a general argument for abortion on demand, but it lays the groundwork for recognising that forced continuation of a rape-resultant pregnancy is a form of continuing violence.
3. **Age factor:** The victim was 15 — a minor under POCSO. Her pregnancy resulted from a crime. The State has a heightened duty of care toward child victims of sexual violence; the ruling reflects this by creating a non-negotiable pathway for termination even beyond the standard limits.

PENDING ISSUES

The editorial acknowledges that the SC ruling alone does not solve:

- **Access in rural India:** Safe, legal abortion remains unavailable in many rural areas — shortage of trained providers, stigma, lack of awareness of rights
- **MTP Act amendment:** Parliament must act; until then, cases beyond 24 weeks will require individual SC/HC intervention
- **POCSO–MTP intersection:** Cases where a minor is pregnant from sexual abuse require a coordinated legal framework — POCSO (mandatory reporting) and MTP Act provisions can create contradictory obligations for medical providers

UPSC RELEVANCE

PAPER	ANGLE
GS2 — Polity	Article 21, MTP Act, Supreme Court jurisprudence, reproductive rights
GS2 — Governance	Women’s health policy, healthcare access, POCSO
GS4 — Ethics	Bodily autonomy, medical ethics, institutional duty of care

Mains Keywords: MTP Act 1971; Amendment 2021; Article 21; reproductive autonomy; K.S. Puttaswamy case; Justices Nagarathna and Bhuyan; rape survivor abortion; POCSO; State Medical Board; gestational limits; bodily autonomy; forced pregnancy as violence

Prelims Facts Corner

ITEM	FACT
MTP Act	1971; amended 2021
Limit for vulnerable women	Up to 24 weeks (2 RMP opinions)
Beyond 24 weeks	State Medical Board approval (only fetal abnormality cases)
SC ruling bench	Justices B V Nagarathna + Ujjal Bhuyan
Key Article	Article 21 — Right to life and personal liberty (includes reproductive autonomy)
K.S. Puttaswamy (2017)	SC 9-judge bench; right to privacy including bodily autonomy
SC direction	Amend MTP Act to extend limits for rape survivors beyond 24 weeks
POCSO	Protection of Children from Sexual Offences Act 2012; mandatory reporting for child victims

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