# Safeguarding Women's Reproductive Autonomy

***Mains:*** *GS II - Health*

## Why in News?

*Recently, the Karnataka High Court authorised a hysterectomy for a woman with severe intellectual and developmental disabilities, underscoring the court's application of the best-interests principle.*

## What is reproductive autonomy?

- **Reproductive Autonomy of a Woman –** The right to exercise control over reproductive choices, including decisions to conceive, continue a pregnancy, or undergo medical procedures.
- **Definition of Hysterectomy –** A hysterectomy is the surgical removal of the uterus, and may also include the cervix, ovaries, or fallopian tubes.
- Common types include total abdominal hysterectomy, vaginal hysterectomy, and laparoscopic hysterectomy.
- **Indications for Hysterectomy –** Hysterectomy may be indicated for severe medical conditions such as uterine fibroids, endometriosis, cancer, chronic pelvic pain, or uncontrollable bleeding.
- In cases involving intellectual disability, courts may authorise hysterectomy if menstrual hygiene cannot be managed and significant health risks are present, but only with strict safeguards to prevent misuse.

## Why court approval was necessary?

- **Limits on Parental and Medical Authority –** When an individual cannot provide informed consent due to severe intellectual disability, parents and medical professionals are not permitted to make these decisions independently. Legal authority remains limited in such cases.
- **Judicial Role under Parens Patriae –** In these situations, courts intervene under the doctrine of ***parens patriae***, acting in the individual's best interests and prioritizing health, dignity, and bodily integrity as the legal standard.

- **Consent Protection in Law –** Indian law prohibits permanent procedures affecting fertility without the individual's free and informed **consent**. Such procedures are legally impermissible.

## What are the legal safeguards against forced sterilisation?

- **Historical Abuse of Women with Disabilities –** Women with intellectual disabilities have historically faced forced sterilisation and other non-consensual medical procedures.
- **Legal Safeguards –** To prevent such abuse, *Section 10 of the Rights of Persons with Disabilities Act, 2016* bars medical procedures leading to infertility without free and informed consent.
- **Judicial Scrutiny of Irreversible Decisions –** Courts closely examine cases involving irreversible medical procedures to ensure compliance with consent requirements.

## What are the Supreme Court guidelines on hysterectomies?

- **Dr Narendra Gupta v. Union of India (2023) –** The Supreme Court addressed unnecessary hysterectomies performed on women, especially from vulnerable communities.
- The Court directed all states to implement the Health Ministry's 2022 guidelines.
- The Court ordered the establishment of monitoring committees at the national, state, and district levels.
- The Court called for measures against hospitals that perform unnecessary hysterectomies without medical necessity or informed consent.
- These rulings enhanced protections for women's reproductive rights under Article 21 of the Constitution.

## What is the legal distinction of abortion and intellectual disabilities?

- **Differential Treatment –** The ***Medical Termination of Pregnancy (MTP) Act, 1971,*** treats mental illness and intellectual disability differently.
- **Guardian Consent for Mental Illness –** If a pregnant woman has a mental illness, her guardian may consent to an abortion.
- **Personal Consent for Intellectual Disability –** However, in the case of women with intellectual disabilities, the law continues to require their personal consent, irrespective of the nature or severity of the disability.
- **Judicial Impact –** This legal distinction has influenced several significant Supreme Court decisions.

## What are the landmark Supreme Court cases?

- **Suchita Srivastava v. Chandigarh Administration (2009)**
  - **Case Context** – A woman with a mild intellectual disability became pregnant as a result of rape.
  - **Consent Issue** – Authorities pursued termination of pregnancy without obtaining her informed consent.
  - **Supreme Court Ruling** – The Court upheld her reproductive autonomy under Article 21 of the Constitution.
  - **Outcome** – The pregnancy was permitted to continue, and the government was directed to provide support for both mother and child.
- **Z v. State of Bihar (2017)**
  - **Case Context** – The case involved a rape survivor with a mild intellectual disability who was also living with HIV.
  - **Consent Barrier** – The hospital erroneously required approval from the husband or father for the procedure.
  - **Delay Consequence** – As a result of the delay, the pregnancy progressed beyond the legally permissible limit for abortion.
  - **Supreme Court Ruling** – The Court criticised the authorities, awarded compensation to the survivor, and reaffirmed the principle of reproductive autonomy.
- **Orissa High Court (2020)**
  - **Case Context** – A woman sought to terminate her pregnancy at 24 weeks of gestation.
  - **Medical Risk** – Medical professionals advised that the procedure would pose a significant risk to her life.
  - **Court Decision** – The Court denied the request for abortion, prioritising the woman's health and safety.
  - **Outcome** – The Court ordered financial compensation and mandated long-term support for the woman.
- **Gujarat High Court (2024)**
  - **Case Context** – The case involved a 15-year-old rape survivor with a mild intellectual disability who was 28 weeks pregnant.
  - **Medical Assessment** – Medical experts determined that continuing the pregnancy would pose severe risks to the individual's health.
  - **Court Decision** – The Court permitted a late-term abortion in light of the medical findings.
  - **Outcome** – The decision prioritised the individual's physical and psychological well-being.

## What are the ethical & human rights dimensions?

- **Balance of Autonomy vs Welfare –** Courts are required to balance the right to bodily integrity with considerations of medical necessity.
- **Risk of Abuse –** Safeguards are in place to prevent the misuse of hysterectomy as a measure of convenience.
- **Judicial Oversight –** Judicial review ensures that decisions are based on medical evidence and human rights principles, rather than being arbitrary.

## What lies ahead?

- Enforce safeguards by ensuring strict application of the RPwD Act to prevent misuse of sterilisation or hysterectomy.
- Implement judicial oversight by expediting medical board and court reviews to support evidence-based, rights-focused decisions.
- Promote accessible consent by developing tools and methods that enable women with intellectual disabilities to participate in consent processes.
- Enhance support and monitoring by providing caregiver assistance and establishing independent committees to ensure ethical compliance in hospitals.

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## Reference

**The Indian Express | Reproductive autonomy**

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