

NO DISCRIMINATION: THE HINDU EDITORIAL ON SUPREME COURT'S ABORTION RULING

Relevant for: Developmental Issues | Topic: Rights & Welfare of Women - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

The [Supreme Court's ruling holding that single and unmarried women have the same right to a medically safe abortion](#) as married women is a necessary intervention to set right an anomaly between the letter of the law and its practice. Anchored on the equality clause in the Constitution, as well as on the right to dignity, privacy and bodily autonomy of women, the Court has ruled that there is no rationale for excluding single or unmarried women from the categories of women who could seek abortion care after the completion of 20 weeks of pregnancy, but before 24 weeks. The Delhi High Court had declined to allow the termination of the pregnancy of a 25-year-old woman who was in a consensual relationship, but did not want to carry the pregnancy to term after her partner declined to marry her. The reason cited was that being unmarried, and the pregnancy having occurred consensually, she was not eligible for the benefit of the amendment under the rules. The High Court took a technical view, as Rule 3B, which listed the women eligible for termination of pregnancy — such as rape survivors, [minors](#), those with physical disabilities and mental illness — did not explicitly include single women who had become pregnant in a consensual relationship.

However, the Court has given a purposive meaning to the rules. “Change in marital status” as one of the reasons for which abortion during the extended upper limit of 24 weeks is permissible. As the rationale here is a possible change in the woman’s material circumstances, the Court has ruled that even abandonment by the partner could constitute a change in circumstances that could impact an earlier decision to carry on with the pregnancy. The legislature has allowed abortions up to the 24th week of pregnancy, if two registered medical practitioners are of the opinion that continuing the pregnancy would involve a risk to the woman’s life or cause grave injury to her health. Here too, the Court has taken a purposive view, laying down that an unwanted pregnancy affects a woman’s physical and mental health, rendering it quite important that she alone should decide on whether to undergo an abortion. On a question that did not directly arise in this case, the Court has said rape survivors who may legally seek an abortion in the extended period will also [include survivors of marital rape](#). This judicial view may prevent questions being raised as to whether pregnancy caused by marital rape, which is not a crime, could also be terminated under this rule. At a time when unsafe abortions remain a major cause of maternal mortality, it is [a significant verdict](#) that advances the cause of safe abortion services.

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