Reproductive Autonomy of Women with Intellectual Disabilities: Law, Consent and Court Decisions

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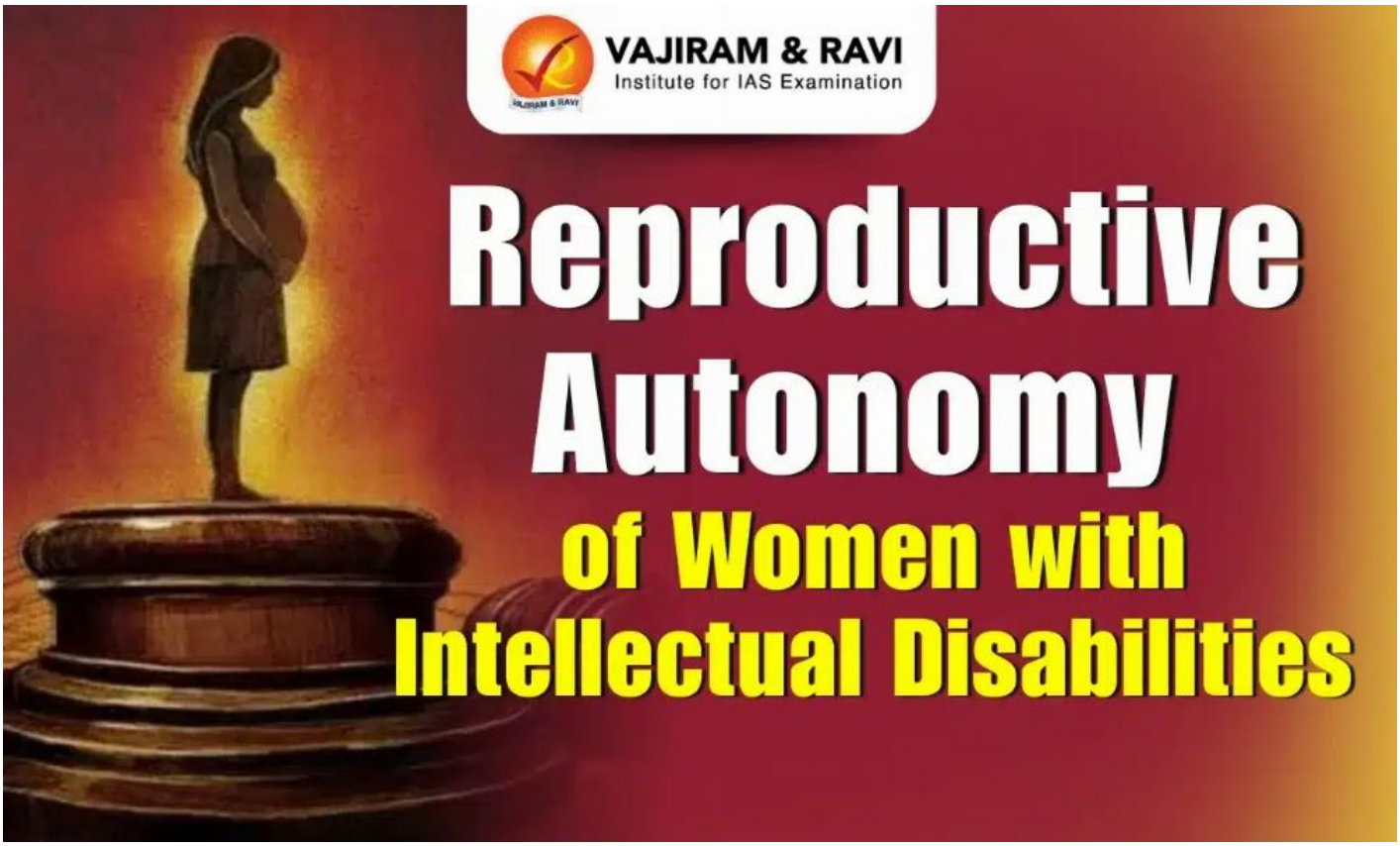

Reproductive Autonomy of Women with Intellectual Disabilities Latest News

- The Karnataka High Court recently permitted a **total abdominal hysterectomy** — surgical removal of the uterus — for a 23-year-old woman with severe intellectual and developmental disabilities.
- Her parents had approached the court arguing that their daughter's cognitive impairments made her incapable of understanding or managing menstrual hygiene, causing recurring infections and medical complications.
- A multidisciplinary medical board confirmed she lacked the capacity for informed consent and recommended the surgery. The court allowed the procedure.
- This judgment is part of a larger pattern of courts navigating the deeply sensitive intersection of **law, medicine, and human rights** for women with intellectual disabilities.

The Core Legal Problem: Consent and Intellectual Disability

- Informed consent is the cornerstone of medical ethics and law. Before any significant medical procedure, a patient must understand its nature, risks, and consequences — and agree to it voluntarily.
- A difficult situation arises when a person's intellectual disability is so severe that she cannot understand or give informed consent.
- Neither caregivers nor doctors can then take a unilateral decision. The law requires court intervention.
- In such cases, courts invoke the ***doctrine of parens patriae*** — a Latin term meaning "parent of the nation."
- Under this doctrine, the court steps into the role of a guardian for individuals who cannot care for themselves.
- The court does not simply impose its own judgment. It conducts an inquiry to determine what is in the "best interests" of the person — prioritising their health, dignity, and bodily integrity.

The Legal Framework Protecting Disabled Persons

- **Section 10** of the Rights of Persons with Disabilities Act, 2016 (RPwD Act 2016), is the key provision here.
- It explicitly prohibits subjecting any person with disability to a medical procedure leading to infertility without their free and informed consent.
- This was enacted precisely because women with intellectual disabilities have historically been vulnerable to forced sterilisations — often justified by caregivers as a matter of convenience or as protection from the consequences of sexual abuse.
- The law thus creates a strong presumption in favour of the disabled person's autonomy. Any deviation requires judicial scrutiny.

Supreme Court Guidelines on Hysterectomies (2023)

- In ***Dr Narendra Gupta v. Union of India*** (2023), a PIL brought to the Supreme Court highlighted that unnecessary hysterectomies were being performed on women — particularly from marginalised communities — under government health insurance schemes, often in private hospitals, without informed consent or disclosure of side-effects.
- The Supreme Court held this to be a serious violation of the fundamental right to health under Article 21.
- It directed all states and Union Territories to strictly implement the Union Health Ministry's 2022 Guidelines to Prevent Unnecessary Hysterectomies.
- It also mandated the formation of hysterectomy monitoring committees at national, state, and district levels, and directed the blacklisting of hospitals performing such procedures without medical necessity or consent.

The Abortion Dilemma: A Separate and Complicated Legal Terrain

- Most judicial decisions involving women with intellectual disabilities in India arise not from hysterectomy cases, but from pregnancies resulting from sexual assault.
- The Medical Termination of Pregnancy Act, 1971 (MTP Act) allows termination of pregnancy with the written consent of a guardian if the pregnant woman has a mental illness.
- However, this guardian-consent provision does not extend to women with intellectual disabilities.

- For them, their own consent remains an absolute legal requirement for abortion — regardless of their cognitive capacity. This creates a significant legal gap that courts have repeatedly had to navigate.

Landmark Cases: Reproductive Rights of Intellectually Disabled Women

- **Suchita Srivastava v. Chandigarh Administration (2009)** – A rape survivor with mild intellectual disability wished to keep her child. The Supreme Court upheld her choice, ruling reproductive decisions are protected under Article 21. Key distinction established: intellectual disability ≠ mental illness.
- **Z v. State of Bihar (2017)** – A disabled HIV-positive rape survivor sought abortion, but hospital demanded third-party consent — illegally. The pregnancy crossed the legal limit. The Supreme Court condemned this as negligence and awarded compensation.
- **Orissa High Court (2020)** – Termination of a 24-week pregnancy was denied on medical safety grounds. The court ordered state compensation and postnatal care instead.
- **Gujarat High Court (2024)** – A 28-week abortion was permitted for a 15-year-old tribal girl with intellectual disability, based on medical board findings of physical and psychological harm from continuing the pregnancy.

The Recurring Tension: Autonomy vs. Best Interests

- These cases reveal a fundamental tension in **law and ethics** — between two principles that are both important but can point in opposite directions.
- Reproductive autonomy holds that every woman — including one with a disability — has the right to make decisions about her own body.
- This principle is grounded in Article 21 and supported by international human rights law, including the UN Convention on the Rights of Persons with Disabilities (UNCRPD), to which India is a signatory.
- Best interests, on the other hand, is the principle courts apply when a person lacks the capacity to decide for themselves. It requires the court to act as a guardian and determine what would best serve the person’s health, dignity, and welfare.
- The courts have tried to balance both — giving maximum weight to the woman’s own expressed wishes where possible, and resorting to the best interests standard only when she truly cannot communicate a decision.

Source: IE
