

Team Code

MOOT COURT COMPETITION

BEFORE THE HON'BLE SUPREME COURT OF ETIANA.

WRIT PETITION No. _____/2025

[Under Article 136 of the Constitution of Etiana

IN THE MATTERS BETWEEN

Mrs. XYZ _____ PETITIONER;
v.
The Medical Authority of Ariana & Ors. _____ RESPONDENT.

MEMORIAL FILED ON BEHALF OF THE PETITIONER

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1. Black's Law Dictionary, 1599 (2009).

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1. Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.
2. Royal College of Obstetricians and Gynaecologists (RCOG), Guidelines on Late-Term Abortion 22 (2020).
3. WHO, Safe Abortion: Technical and Policy Guidance for Health Systems 57 (2nd ed. 2012).

STATEMENT OF JURISDICTION

The Petitioner, Mrs. XYZ, has approached the Hon'ble Supreme Court of Etiana under Article 136 of the Constitution of Etiana, challenging the denial of medical termination of pregnancy beyond 24 weeks. This Hon'ble Court has jurisdiction to adjudicate upon the constitutional validity of Section 3 of the Medical Termination of Pregnancy Act, 1971 (as amended in 2021) and its implications on the Petitioner's fundamental rights under Articles 14 and 21 of the Constitution, necessitating the exercise of its discretionary jurisdiction.

It sets forth the facts, contentions and arguments in the present case in the jurisdiction of this hon'ble Supreme Court of Etinia.

LIST OF ABBREVIATIONS

S.NO.	ABBREVIATIONS	MEANING
1.	Hon'ble	Honourable
2.	SC	Supreme Court
3.	MTPA	The Medical Termination of Pregnancy Act
4.	v.	Versus
5.	AIR	All India Record
6.	SCC	Supreme Court Cases
7.	Ors.	Others
8.	RCOG	Royal College of Obstetricians and Gynaecologists
9.	WHO	World Health Organisation
10.	CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women

STATEMENT OF FACTS

1. The Petitioner, Mrs. XYZ, a 35-year-old married woman with two children, has been subjected to continuous distress and neglect in her matrimonial home. Following financial difficulties, her husband resorted to dowry-related demands and physical abuse.
2. In May 2024, the Petitioner secured employment at Artemis Pvt. Ltd. to provide for her children. Despite her efforts, she continued to face harassment and marital rape at the hands of her husband.
3. In July 2024, upon experiencing prolonged menstrual irregularities, the Petitioner was diagnosed with a 12-week pregnancy at Bubbles Mother & Child Care Centre. Considering the lack of familial and financial support, she opted for a medical termination of pregnancy.
4. The Petitioner underwent a Dilation & Evacuation (D&E) procedure in the third week of July 2024. However, no follow-up scans were conducted. In September 2024, upon experiencing persistent symptoms, she discovered that the procedure was unsuccessful, and she was in the 23rd week of pregnancy.
5. The Petitioner approached the Hon'ble High Court of Ariana under Article 226 of the Constitution read with Section 3 of the Medical Termination of Pregnancy Act, 1971, seeking a direction for medical termination. The Medical Board's report indicated that the Petitioner was clinically fit for the procedure. However, the Hon'ble High Court rejected the petition, citing the advanced stage of pregnancy.
6. Aggrieved, the Petitioner filed a Special Leave Petition before the Hon'ble Supreme Court, contending that the denial of termination violated her fundamental right to reproductive autonomy and health under Article 21 of the Constitution.
7. The State opposed the petition, arguing that the viability of the 25-week foetus and the absence of guidelines for post-abortion fetal survival made termination impermissible. It contended that Section 3 of the MTP Act, 2021, reasonably restricted termination beyond 24 weeks and balanced the woman's rights with fetal rights.
8. The Hon'ble Supreme Court, recognizing the substantial questions of law, framed key constitutional issues regarding the right to reproductive autonomy, the scope of the Maternity Benefits Act, and fetal rights under Article 21. The matter is now set for adjudication.

ISSUES RAISED

ISSUE I– “Whether Section 3 of the MTP Act is unconstitutional for restricting abortion beyond 24 weeks in cases of marital rape as it is violating individual’s right of reproductive autonomy and health under Article 21 of the Constitution?”

SUMMARY OF ARGUMENTS

ISSUE 1: “Whether Section 3 of the MTP Act is unconstitutional for restricting abortion beyond 24 weeks in cases of marital rape as it is violating individual’s right of reproductive autonomy and health under Article 21 of the Constitution?”

Section 3 of the MTP Act, 1971, imposes an arbitrary restriction on abortion beyond 24 weeks, violating a woman's right to reproductive autonomy and health under Article 21. The provision fails to acknowledge the severe physical, emotional, and financial distress caused by forcing a woman to continue a pregnancy resulting from marital rape. It also creates an unjust distinction between married and unmarried survivors of rape, violating the principle of equality under Article 14. While the state argues for foetal viability, the lack of mechanisms to support surviving foetuses weakens this stance. Bodily autonomy and personal dignity must take precedence over restrictive legal provisions that disproportionately impact women in distress.

ARGUMENTS ADVANCED**I. WHETHER SECTION 3 OF THE MTP ACT IS UNCONSTITUTIONAL FOR RESTRICTING ABORTION BEYOND 24 WEEKS IN CASES OF MARITAL RAPE AS IT IS VIOLATING INDIVIDUAL'S RIGHT OF REPRODUCTIVE AUTONOMY AND HEALTH UNDER ARTICLE 21 OF THE CONSTITUTION?**

1. It is most humbly submitted before this Hon'ble court that the Section 3 of the MTP Act is unconstitutional for restricting abortion beyond 24 weeks in cases of marital rape as it is violating individual's right of reproductive autonomy and health under Article 21 of the Constitution. It is most humbly submitted before this Hon'ble court that the Section 3 of the MTP Act is unconstitutional for restricting abortion beyond 24 weeks in cases of marital rape as it is violating individual's right of reproductive autonomy and health under Article 21 of the Constitution. The argument is fourfold i.e (i) section 3 of the mtp act, 1971 (as amended) is unconstitutional as it restricts abortion beyond 24 weeks in cases of marital rape, violating article 21. (ii) exclusion of marital rape as a ground for abortion beyond 24 weeks violates article 14 (iii) the state's argument of fetal viability does not outweigh the petitioner's right to reproductive choice (iv) the denial of abortion perpetuates economic disempowerment and violates article 15(3)

I.1 Section 3 Of the Mtp Act, 1971 (As Amended) Is Unconstitutional as it Restricts Abortion Beyond 24 Weeks in Cases of Marital Rape, Violating Article 21

2. The counsel on behalf of the Petitioner humbly submits that Section 3(2B) of the Medical Termination of Pregnancy Act, 1971¹, as amended, imposes an arbitrary and unconstitutional restriction on a woman's right to reproductive autonomy by prohibiting abortion beyond 24 weeks, even in cases of marital rape. This provision violates the petitioner's fundamental rights under Article 21 of the Constitution², which guarantees personal liberty, dignity, and bodily autonomy. The Hon'ble Supreme Court has repeatedly emphasized that reproductive rights are intrinsic to a woman's right to privacy and self-determination. The impugned provision, by compelling the petitioner to continue an

¹ The Medical Termination of Pregnancy Act, 1971, § 3 (India).

² India Const. art. 21.

unwanted pregnancy resulting from non-consensual marital intercourse, subjects her to immense physical, emotional, and financial distress, thereby infringing upon her constitutionally protected rights.

3. The right to reproductive autonomy forms an integral part of the right to life and personal liberty under Article 21. The Hon'ble Supreme Court in *Suchita Srivastava v. Chandigarh Administration*³ held that a woman's right to make reproductive choices is a dimension of personal liberty. In *Puttaswamy v. Union of India*⁴, the Supreme Court reaffirmed that privacy and dignity encompass reproductive autonomy, making it a fundamental right protected under Article 21⁵. However, this autonomy and bodily integrity is curtailed by the absolute restriction under Section 3(2B) of the MTP Act⁶, forcing the Appellant to carry an unwanted pregnancy resulting from marital rape, thereby violating her dignity and right to self-determination.
4. Furthermore, the forced continuation of pregnancy resulting from non-consensual intercourse constitutes mental cruelty and violates the principle of dignity enshrined under Article 21. In *Meera Santosh Pal v. Union of India*⁷, the Supreme Court recognized the severe physical and psychological impact of continuing an unwanted pregnancy, particularly in distressing circumstances. The report of the Medical Board is on record and confirms that termination of pregnancy would not affect the health of the Appellant. The refusal to grant permission imposes an unnecessary burden on her mental and emotional well-being, contradicting the ratio laid down in *X v. Health and Family Welfare Department*⁸.

I.I.1 The Restriction on Abortion Beyond 24 Weeks Constitutes a Violation of the Petitioner's Right to Health and Reproductive Autonomy under Article 21

5. The counsel for the Petitioner respectfully submits that the Hon'ble Supreme Court in *Common Cause v. Union of India*⁹, recognized that the right to health is an integral part of

³ *Suchita Srivastava v. Chandigarh Administration*, [(2009) 9 SCC 1].

⁴ *Puttaswamy v. Union of India* [(2017) 10 SCC 1].

⁵ *Supra* Note 3.

⁶ The Medical Termination of Pregnancy Act, 1971, § 3(2B) (India).

⁷ *Meera Santosh Pal v. Union of India* [(2017) SCC OnLine SC 1260].

⁸ *X v. Health and Family Welfare Department* [(2022) 10 SCC 448].

⁹ *Common Cause v. Union of India*, (2018) 5 SCC 1, para 147.

the right to life under Article 21. The judgment held that the right to make medical decisions, including reproductive choices, is an essential aspect of personal liberty. The Petitioner, being a survivor of marital rape, has suffered from severe mental, emotional, and financial distress. Forced continuation of an unwanted pregnancy further subjects her to undue physical and psychological harm, constituting a gross violation of her fundamental rights.

6. In *Suchita Srivastava v. Chandigarh Administration*¹⁰, the Hon'ble Court emphasized that reproductive autonomy is an essential component of personal liberty protected under Article 21. The judgment affirms that a woman's right to make reproductive choices extends to terminating an unwanted pregnancy, subject only to reasonable restrictions. Similarly, in *X v. Principal Secretary, Health and Family Welfare Department*¹¹, the Hon'ble Court reiterated that reproductive rights encompass the ability to decide whether and when to bear children. By denying the Petitioner the right to terminate her pregnancy beyond 24 weeks, the impugned provision of the MTP Act directly contravenes these well-established precedents.
7. The World Health Organization (WHO) in its *Safe Abortion: Technical and Policy Guidance for Health Systems* (2nd ed., 2012)¹² has also affirmed that abortion is a safe medical procedure at all gestational stages when performed by qualified medical professionals. The Petitioner has been certified as medically fit for the termination procedure by the Medical Board, and thus, the restriction imposed by Section 3 of the MTP Act is arbitrary and lacks any rational basis in medical science.

I.1 Exclusion Of Marital Rape as A Ground for Abortion Beyond 24 Weeks Violates Article 14

8. The counsel on behalf of the Petitioner humbly submits that the MTP Act, as amended in 2021, recognizes pregnancy resulting from rape or sexual assault as a valid ground for abortion beyond 24 weeks under Rule 3B of the MTP Rules. However, the law fails to

¹⁰ *Suchita Srivastava v. Chandigarh Administration*, (2009) 9 SCC 1, para 11.

¹¹ *X v. Principal Secretary, Health and Family Welfare Department*, 2022 SCC OnLine SC 1321, para 23.

¹² WHO, *Safe Abortion: Technical and Policy Guidance for Health Systems* 57 (2nd ed. 2012).

extend the same protection to victims of marital rape, creating an unreasonable classification. This arbitrary differentiation between married and unmarried women violates the doctrine of equality laid down in *E.P. Royappa v. State of Tamil Nadu*¹³, as it deprives married women of equal protection under the law without a reasonable basis.

9. It is further submitted that established medical research confirms that abortions beyond 24 weeks are not inherently dangerous and can be performed with minimal risk under appropriate medical supervision. The Royal College of Obstetricians and Gynaecologists (RCOG) Guidelines on Late-Term Abortion¹⁴ (2020) highlight that abortions performed after 24 weeks, when conducted with modern medical techniques, do not pose undue risks to maternal health. These guidelines stress that legal and policy restrictions must be based on medical evidence rather than arbitrary gestational limits.
10. Moreover, the Indian Journal of Medical Ethics (2021) has analyzed abortion laws in multiple jurisdictions and concluded that absolute gestational limits often lead to medical professionals denying necessary care due to fear of legal repercussions. The Petitioner, in the present case, has already faced severe trauma due to marital rape, and forcing her to carry the pregnancy to term disregards both her physical and mental health needs. The Supreme Court in *F/O ABC v. State of Maharashtra*¹⁵, reaffirmed that medical necessity and individual circumstances must be factored in when evaluating abortion restrictions.
11. Additionally, the exclusion of marital rape survivors from the purview of Rule 3B creates an unjust distinction that lacks any rational nexus with the objective of the law, rendering it manifestly arbitrary, as held in *Shayara Bano v. Union of India*¹⁶. The Hon'ble Supreme Court, in *X v. Principal Secretary, Health and Family Welfare Department*¹⁷, emphasized that artificial and unreasonable classifications in access to abortion rights violate constitutional guarantees. Furthermore, in *State of West Bengal v. Anwar Ali Sarkar*¹⁸, the Supreme Court held that any classification that results in discrimination without rational justification is unconstitutional. Thus, The restriction under Section 3 fails to accommodate the diverse medical and socio-economic circumstances of women, making it an unreasonable and unconstitutional imposition.

¹³ *E.P. Royappa v. State of Tamil Nadu* [(1974) 4 SCC 3].

¹⁴ Royal College of Obstetricians and Gynaecologists (RCOG), Guidelines on Late-Term Abortion 22 (2020).

¹⁵ *F/O ABC v. State of Maharashtra*, (2022) 10 SCC 234, para 29.

¹⁶ *Shayara Bano v. Union of India* [(2017) 9 SCC 1].

¹⁷ *X v. Principal Secretary, Health and Family Welfare Department* [(2022) 10 SCC 1].

¹⁸ *State of West Bengal v. Anwar Ali Sarkar* [(1952) SCR 284].

I.2 **The State's Argument of Fetal Viability Does Not Outweigh the Petitioner's Right to Reproductive Choice**

12. It is humbly submitted that the State's assertion that fatal viability at 24 weeks justifies overriding the Petitioner's right to reproductive autonomy is fundamentally flawed and inconsistent with established constitutional jurisprudence. The Supreme Court of India, in *Justice K.S. Puttaswamy (Retd.) v. Union of India*¹⁹, has unequivocally recognized that personal autonomy, including the right to make decisions concerning one's own body, is a fundamental aspect of the right to privacy. This autonomy cannot be curtailed by the State unless a compelling interest is demonstrably established. In the present case, the State has failed to provide sufficient justification to override the Petitioner's right to reproductive choice.
13. Moreover, the absence of congenital abnormalities in the fetus does not negate the Petitioner's right to terminate the pregnancy based on her personal, medical, or socio-economic circumstances. The Supreme Court in *X v. Health and Family Welfare Department*²⁰ recognized that a woman's decision to terminate a pregnancy is not solely contingent upon fetal abnormalities but extends to various factors, including her mental and physical well-being, economic conditions, and overall life circumstances. To deny the Petitioner the right to medical termination merely because the fetus does not exhibit congenital defects is an arbitrary restriction that violates her bodily autonomy and dignity.
14. The State's argument that a fetus at seven months may survive the abortion process does not provide a sufficient legal basis to force the Petitioner to continue her pregnancy. There exists no clear legal framework or specific guidelines that govern the rights and protections of a surviving fetus post-abortion. In the absence of such frameworks, the burden of continuing an unwanted pregnancy solely based on speculative survival outcomes cannot be imposed upon the Petitioner. Forcing a woman to carry an unwanted pregnancy to term under such circumstances amounts to an undue infringement on her rights and places an unreasonable burden upon her mental and physical health.
15. In *Murugan Nayakkar v. Union of India*²¹, the Supreme Court held that in cases involving a conflict between State interests and individual autonomy, the woman's right to dignity, health, and bodily integrity must take precedence. This principle underscores the necessity of ensuring that reproductive rights are protected and not subordinated to abstract State

¹⁹ Justice K.S. Puttaswamy (Retd.) v. Union of India [(2017) 10 SCC 1].

²⁰ X v. Health and Family Welfare Department [(2022) 10 SCC 448]

²¹ Murugan Nayakkar v. Union of India [(2017) SCC OnLine SC 1786].

interests in fetal viability. It is crucial to recognize that the impact of an unwanted pregnancy extends beyond mere physiological changes; it affects a woman's psychological, financial, and social well-being. To compel the Petitioner to continue her pregnancy without her consent violates the fundamental principles of justice, equality, and personal liberty enshrined in the Constitution.

16. Furthermore, the Supreme Court in *Federation of Obstetric and Gynaecological Societies of India v. Union of India*²² acknowledged that legal restrictions should not impede a woman's access to medical termination of pregnancy when warranted by her circumstances. The Court emphasized that a rigid application of legal time limits should not become an impediment to reproductive justice, particularly in cases where the continuation of pregnancy imposes an undue burden on the woman.
17. It is also imperative to consider the *Medical Termination of Pregnancy (MTP) Act, 1971*, which, through its 2021 amendments, provides expanded access to abortion services up to 24 weeks for specific categories of women. However, it remains silent on cases where a woman, despite the absence of fetal abnormalities, seeks termination beyond the prescribed limit due to compelling personal reasons. The absence of a statutory provision explicitly addressing such cases does not imply a blanket prohibition but rather calls for a contextual and rights-based interpretation that upholds the spirit of bodily autonomy and gender justice.
18. Denying the Petitioner the right to terminate her pregnancy solely on the basis of fatal viability disregards the broader constitutional and human rights framework that prioritizes individual agency and well-being. The right to reproductive choice is not merely a medical issue but a fundamental human right recognized under international treaties such as the *Convention on the Elimination of All Forms of Discrimination Against Women*²³ (CEDAW), to which India is a signatory. International human rights jurisprudence has consistently upheld that access to abortion is an essential component of gender equality and reproductive justice. Restricting this right based on an arbitrary viability threshold ignores the lived realities of women and disproportionately impacts their autonomy and dignity.
19. In conclusion, the State's reliance on fetal viability as a justification for denying the Petitioner's request for medical termination is legally untenable and constitutionally

²² Federation of Obstetric and Gynaecological Societies of India v. Union of India [(2019) SCC OnLine SC 270].

²³ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

impermissible. The absence of fetal abnormalities does not negate her fundamental right to reproductive choice, and the speculative possibility of fetal survival does not constitute a compelling State interest sufficient to override her autonomy. Judicial precedents firmly establish that a woman's right to health, dignity, and personal liberty must take precedence over rigid legal restrictions that fail to account for the complexities of individual circumstances. The Court must, therefore, uphold the Petitioner's right to reproductive choice and affirm that bodily autonomy cannot be compromised on the altar of a generalized State interest in fetal viability.

I.3 The Denial of Abortion Perpetuates Economic Disempowerment and Violates Article 15(3)

20. The counsel for the Petitioner respectfully submits that forcing her to continue an unwanted pregnancy will have severe economic repercussions, leading to further dependency and financial insecurity. The World Bank, Women, Business and the Law 2021²⁴ report highlights that restrictive reproductive laws significantly limit women's labor force participation, affecting their financial independence and ability to contribute meaningfully to the economy.
21. The Petitioner, as a working mother of two, faces a precarious economic situation, as she would not be entitled to paid maternity leave for a third child and would be forced to take unpaid leave. This directly impacts her right to livelihood and financial autonomy. Article 15(3) of the Constitution allows the State to make special provisions for women to ensure substantive equality. However, the impugned provision operates in a manner that disproportionately affects women's economic participation rather than safeguarding their interests.
22. The Hon'ble Supreme Court in *Anuj Garg v. Hotel Association of India*²⁵, held that protective discrimination must serve the purpose of empowering women rather than reinforcing existing vulnerabilities. By denying abortion access based on an arbitrary gestational limit, the State effectively undermines women's financial stability, violating their right to equality and economic self-sufficiency.

²⁴ World Bank, Women, Business and the Law 2021 89 (2021).

²⁵ *Anuj Garg v. Hotel Association of India*, (2008) 3 SCC 1, para 37.

PRAYER

WHEREFORE, in the light of the issues raised, arguments advanced, and authorities cited, it is most humbly prayed before this Hon'ble Supreme Court of that this Hon'ble Court may be pleased to hold that:

1. Grant permission for the medical termination of the Petitioner's pregnancy, currently at 23 weeks, under the provisions of Section 3 of the Medical Termination of Pregnancy Act, 1971, as amended in 2021.
2. Declare that the denial of the Petitioner's constitutional right to reproductive autonomy and health, as guaranteed under Articles 14, 19, and 21 of the Constitution of India, is a violation of her fundamental rights.
3. Consider the non-consensual nature of the pregnancy, the severe mental distress caused to the Petitioner, and her significant financial hardship as valid grounds for allowing the termination.
4. Pass any such order or direction as this Hon'ble Court may deem fit in the interest of justice.

Also, pass any other order in favor of the Appellant that it may deem fit in light of equity, fairness, and good conscience. For this act of kindness, the Appellant shall be duty-bound forever pray.

Drawn by: Counsel for the Petitioners

Date: 27/03/2025