

Medical Termination of Pregnancy Act: Its Recent Advances

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ABSTRACT

The objective of the Medical Termination of Pregnancy (MTP) Act 1971 was to enhance maternal health by facilitating women's access to safe abortion services. In 1964, the Ministry of Health and Family Welfare established the Shanti Lal Shah Committee to investigate the reasons behind the growing number of abortion cases. Following the committee's recommendations in 1970, the MTP Bill was proposed and subsequently enacted in August 1971 as the MTP Act. Recently, the Medical Termination of Pregnancy (Amendment) Act 2021 was passed to expand the availability of legal and safe abortion services for eugenic, therapeutic, social, and humanitarian reasons, ensuring universal access to comprehensive care. The updated MTP Act acknowledges the reproductive autonomy of each pregnant woman, allowing her to make informed decisions regarding medical interventions for terminating her pregnancy.

Keywords: Abortion rights, Marital rate, Medical termination pregnancy, The protection of children from Sexual Offences Act 2012, Registered medical practitioners.

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INTRODUCTION

The primary objective of the Medical Termination of Pregnancy (MTP) Act 1971 was to enhance maternal health by ensuring the provision of safe abortion services for women. This act not only offered protection to medical practitioners but also decriminalized individuals seeking abortion. Complications arising from both spontaneous and induced abortions are significant health concerns and contribute significantly to maternal morbidity and mortality.¹ In 1964, the Ministry of Health and Family Welfare established the Shanti Lal Shah Committee to investigate the factors leading to the rising number of abortion cases. Subsequently, in 1970, the committee recommended the MTP Bill, which was eventually passed in August 1971 and became known as the MTP Act.² The MTP Act of 1971 provided access to legal and safe abortion services based on eugenic, therapeutic, social, and humanitarian grounds.³ It is important to note that in all types of abortions, including medical abortion, supervision by trained healthcare providers and a medical prescription is always recommended.

MEDICAL TERMINATION OF PREGNANCY (AMENDMENT) ACT 2021

With the continuous advancements in technology and the availability of new modalities in the field of medical science and healthcare, the MTP Act, 2021 (MTP Act) was enacted. This significant step was taken to introduce safer abortion techniques and ensure universal access to reproductive health services. India amended the MTP Act in 2021, aiming to empower women by providing them with comprehensive abortion care, marking a historic milestone in reproductive healthcare.³

- According to the revised Act, if a pregnancy occurs due to the failure of a contraceptive method or device, it is now permissible for both married and unmarried women to terminate the pregnancy up to a gestational age of 20 weeks.
- Requirement of Medical Opinion for Pregnancy Termination:
 - (a) Up to 20 weeks of gestation, termination of pregnancy

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requires the opinion of a single Registered Medical Practitioner (RMP). (b) For pregnancies between 20 to 24 weeks of gestation, the termination necessitates the opinion of two Registered Medical Practitioners. (c) In cases of substantial fetal abnormalities, if the pregnancy needs to be terminated after 24 weeks of gestation, the opinion of a State-level medical board is mandatory. This medical board consists of a gynecologist, a sinologist, or radiologist, a pediatrician, and any additional members as notified by the respective state government.

- Special Categories and Upper Gestation Limit for Pregnancy Termination: In special categories, which encompass women, such as victims of incest, survivors of rape, minors, and differently abled women, there is an extended upper gestation limit for pregnancy termination. These circumstances allow for the termination of pregnancy beyond the usual gestational age limit.
- Confidentiality in Termination of Pregnancy: The confidentiality of information, including the identity of the woman whose pregnancy has been terminated, must be strictly maintained, except when authorized by the prevailing law. Failure to adhere to this directive may result in a punishment of imprisonment for 1 year, with or without a fine, as specified.

Significance: This updated legislation plays a crucial role in eliminating avoidable maternal mortality and aligns with the Sustainable Development Goals (SDGs) related to reducing the maternal mortality ratio and ensuring access to sexual health and reproductive rights. The amended act will undeniably improve females' access to safe abortion services, thereby safeguarding their confidentiality, autonomy, and justice when seeking pregnancy termination.

Issues related to Medical Termination of Pregnancy (Amendment) Act 2021:

- **Diverse Perspectives on Pregnancy Termination:** There are varying viewpoints regarding the termination of pregnancy. One perspective argues that it is the pregnant woman's decision and falls within the realm of reproductive rights. Conversely, another viewpoint asserts that the state bears the responsibility of safeguarding life, and consequently, should prioritize the protection of the fetus.
- The Act permits abortion beyond 24 weeks of gestation solely in specific instances involving substantial fetal abnormalities, as determined by the Medical Board. Consequently, in cases where a woman seeks abortion due to rape and surpasses the 24-week gestation limit, pursuing a Writ Petition remains the sole recourse available.
- The establishment of Medical Boards in different states falls within the jurisdiction of respective State governments, without any defined plan of action. This additional bureaucratic layer poses a potential obstacle to accessing abortion care, further complicating the process of terminating such pregnancies.
- According to the Act, abortions must be conducted exclusively by doctors specializing in gynecology or obstetrics. However, there is a significant deficit of such doctors, amounting to a 75% shortage in community health centers located in rural areas. This shortage poses a significant challenge for pregnant women in accessing facilities that provide safe abortion services.
- It is worth highlighting that the bill does not specifically address the inclusion of transgender individuals, despite the recognition of transgender persons as a separate gender under India's Transgender Persons Act. Consequently, it remains uncertain whether the bill provides protection for transgender individuals, as its scope appears to be limited to the termination of pregnancies for women.⁴

MEDICAL TERMINATION OF PREGNANCY (AMENDMENT) ACT 2022

In a significant ruling on September 29, 2022, the Supreme Court bench comprising Justices A.S. Bopanna, D.Y. Chandrachud, and J.B. Pardiwala declared that the Medical Termination of Pregnancy Act recognizes the reproductive rights of pregnant women, granting them the right to choose medical intervention for terminating

pregnancies. The court emphasized that all women, regardless of marital status, are entitled to access legal and safe abortions up to 24 weeks of gestation.

- **Expansion of Abortion Rights for Unmarried Women—**In its ruling, the bench affirmed that the right to reproductive choice for women is encompassed within Article 21 of the Indian Constitution, which guarantees personal liberty. The judgment concluded by stating that under Article 21, single women possess the right to exercise choice regarding whether or not to proceed with a pregnancy, similar to married women in similar circumstances. The rights of reproductive autonomy, privacy, and dignity outlined in Article 21 extend to both married and unmarried women.
- **Incorporation of Marital Rape in the MTP Act—**The Supreme Court bench emphasized that the exception allowing abortions between 20 and 24 weeks of gestation should extend to married women, as it is not implausible for them to become pregnant as a result of marital rape. This ruling holds significance as it represents the initial legal acknowledgment of marital rape within the Indian constitution, albeit solely within the specific context of abortion under the MTP Act and its accompanying rules and regulations.
- **Exemption for Medical Practitioners in Disclosing the Identity of Minors—**The Protection of Children from Sexual Offences Act 2012 (POCSO) criminalizes any sexual activity involving individuals below the age of 18. The honorable court recognized that minors under the age of 18 engaging in consensual sexual activity should also have access to safe abortions provided by registered medical practitioners (RMPs). Section 19(1) of POCSO imposes a mandatory obligation on RMPs to report to the investigation team when approached by a minor seeking an abortion. However, the Supreme Court clarified that the MTP Act recognizes minors as a distinct category eligible for abortion up to 24 weeks. Therefore, it was specified that RMPs, only upon the request of the minor and the guardian, are not required to disclose the minor's identity or other personal details in the information provided under Section 19(1) of the POCSO Act.⁵

REFERENCES

1. ACOG. Misoprostol for Postabortion Care: ACOG Committee Opinion. The American College of Obstetricians and Gynecologists. Report No: 427 November 2009.
2. Gaur KD. Abortion and the Law in India. Cochin Univ Law Rev 1991; 15:123–143.
3. https://legislative.gov.in/sites/default/files/A1971-34_1.pdf.
4. The Gazette of India: The Medical Termination of Pregnancy (Amendment) Act, 2021.pdf.
5. 621-x-v-principal-secretary-health-family-welfare-department-21-july-2022-426996.pdf.