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Editorial Article

Medical Termination of Pregnancy Act 1971 and its Recent Amendments

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ABSTRACT

The Medical Termination of Pregnancy (MTP) Act of 1971 is a critical piece of legislation in India that legalizes abortions up to 20 weeks of gestation in certain circumstances. The act has undergone several amendments since its inception, with the most recent being in 2021. This article provides a comprehensive overview of the MTP Act and its recent amendments with current rules. The amendments introduced in 2021 include extending the upper limit for abortions from 20 to 24 weeks and beyond for specific indications as approved by medical board constituted under the act, redefining the pool of medical professionals who can perform abortions depending upon length of pregnancy, legalizing the MTP in any women due to contraceptive failure with her partner till 20 weeks, removing the requirement for a second medical opinion from 12 to 20 weeks of pregnancy, and strengthening the confidentiality and privacy of women seeking MTP. Beyond 24 weeks, the MTP was allowed by medical board in cases of severe foetal abnormalities. This change was made in response to the increasing demand for abortions beyond 20 weeks, particularly in cases where the foetus has severe abnormalities that are detected late in pregnancy. This editorial article discusses the implications of these amendments and their potential effect on the health and well-being of women in India. These changes are expected to have a positive effect on the health & well-being of women in India.

Keywords: Medical termination of pregnancy, Rape, Abortion

INTRODUCTION

The Medical Termination of Pregnancy (MTP) Act was passed in India in 1971 to provide women with safe and legal access to abortion services. The act defines the conditions under which a pregnancy can be terminated by a registered medical practitioner and aims to reduce the incidence of unsafe abortions, which can result in serious health complications and even death.

Under the MTP Act 1971, a pregnancy can be terminated up to 20 weeks gestation in certain circumstances, ^[1] including:

1. If the continuance of the pregnancy would endanger the life of the pregnant woman or cause her physical or mental harm.
2. If there is a substantial risk that the child, if born, would suffer from physical or mental abnormalities

that would be a significant burden on the woman or her family.

3. If the pregnancy resulted from sexual assault, rape, incest.
4. If the pregnancy occurred due to a failure of contraception in a married woman.

After the MTP amendment Act 2021, a pregnancy can be terminated up to 20 weeks, if the pregnancy occurred due to a failure of contraception used by any women with her partner to limit number of children or pregnancy in contrast to allowed to married couples before amendment. The amendment act also removes the requirement for the opinion of a second medical practitioner for abortions up to 20 weeks of gestation.^[2] This change may be made to reduce the delay and cost associated with seeking a second opinion, which can be a barrier for women seeking abortions.

The MTP amendment Act 2021 has also allowed MTP from 20 to 24 weeks ^[2] in pregnancies due to rape or incest, in minors, in pregnant women's who status changed to divorcee or widowhood, mentally ill women including mentally retarded, if suspect foetal abnormality incompatible with life or the child born will have seriously handicapped physical and mental abnormality and humanitarian, disaster or emergency situation as notified by the Government. ^[3] The opinion of two registered medical practitioners is required in the form specified in the act for termination of pregnancy from 20 to 24 weeks along with its termination by them.

The MTP amendment Act 2021 ^[2] has also allowed MTP beyond 24 weeks by the medical board constituted under this act. The medical board consist of (1) a gynaecologist, (2) a paediatrician, (3) a radiologist/sonologist and (4) a member notified by the Government as per the act. The medical board can allow the medical termination in pregnancies where there is substantial foetal malformation provided the procedure is safe for the pregnant women. The opinion is given by the medical

board in the form specified in the act for termination of pregnancy and termination was done by two registered medical practitioners. As per the act, medical board has to give opinion within 3 days of receipt of application for MTP beyond 24 weeks along with all relevant reports as desired by them and documents. After approval and request for medical termination by the medical board, the needful should be done by two RMP's within 5 days in accordance with the act and its rules.

The MTP Act requires that the procedure be performed by a registered medical practitioner in a registered medical facility. Registered medical practitioner under the act is one who is having medical qualification under Indian medical council act 1956 (now will be National Medical Commission 2019) and having following experience:

1. If he/she is registered in the state medical council and has undergone practice for 3 months in obstetrics and gynaecology in any hospital or had performed 10 MTP with medical methods under the supervision of registered medical practitioner as per the act. This experience is valid for MTP up to 9 weeks with medical methods only.^[4]
2. If he/she is registered in the state medical council and has assisted the registered medical practitioner in 25 MTP's and out of which 5 is done independently in the hospital/training institute approved under the act. This experience is also valid for MTP by medical methods up to 9 weeks of pregnancy and by surgical methods up to 12 weeks of pregnancy ^[4].
3. If he/she is registered in state before the enactment of the act, that is, the MTP act 1971. This experience is also valid for MTP by medical methods up to 9 weeks of pregnancy and by surgical methods at any length of pregnancy as allowed by the act ^[3].

4. If he/she is registered in the state medical council and has done 6 months house job/surgency or 1 year practice in obstetrics and gynaecology. This experience is also valid for MTP by medical methods up to 9 weeks of pregnancy and by surgical methods at any length of pregnancy as allowed by the act.
5. If he/she is registered in the state medical council and has done recognized diploma and post-graduation in obstetrics and gynaecology by virtue of his/her training. This experience is also valid for MTP by medical methods up to 9 weeks of pregnancy and by surgical methods at any length of pregnancy as allowed by the act.

The registered medical facility under the act is a hospital established or maintained by the government or any hospital approved by the government or district-level committee under the chairpersonship of chief medical officer of the district. The committee can inspect/issue/suspend/revoke the status of approved registered facility if it lacks facilities as per the act. The MTP amendment rules 2021 also required facility for ultrasound-guided procedures along with other facilities for termination of pregnancy beyond 24 weeks [3].

As per the act, a registered medical practitioner based on his opinion formed in good faith can perform the termination of a pregnancy in immediately necessary situation to save the life of the pregnant woman at any length of pregnancy and without two RMP opinions in emergency situation [1].

The act also outlines the informed consent process, which requires the practitioner to inform the woman of the nature of the procedure, the risks involved, and the available alternatives. The consent will be given by pregnant women and, in minors and mentally ill persons, consent should to be taken from guardians [1].

The amendment act includes provisions to strengthen the confidentiality and privacy of women seeking

abortions. It prohibits the disclosure of the identity of a woman who has undergone an abortion except in certain circumstances, such as if required by a court of law [1].

The termination of pregnancy not done as per provisions of the act and their rules are known as illegal. The act also sets out penalties for illegal abortions, which can result in imprisonment from minimum 2 years to 7 years' rigorous imprisonment and fines [1-4].

The act also protects registered medical practitioner from any type of legal suits or other legal proceeding due to any damage caused or likely to be caused by anything which is done or intended to be done in good faith under this act.[1]

Overall, the amendments aimed to expand access to safe and legal abortion services for women in India and reduce the incidence of unsafe abortions, which can lead to serious health complications and even death.

CONCLUSION

The MTP Act of 1971 has played a critical role in ensuring safe and legal abortions in India. The recent amendments introduced by the MTP (Amendment) Act of 2021 are a significant step forward in expanding access to safe and legal abortions for women in the country. These amendments have extended the upper limit for abortions up to 24 weeks and beyond, expanded the pool of medical professionals who can perform abortions, removed the requirement for a second medical opinion up to 20 weeks of pregnancy, and strengthened the confidentiality and privacy of women seeking abortions. These changes are expected to have a positive effect on the health and well-being of women in India.

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