

# Protecting Women's Health: Understanding the 2021 Amendments to India's MTP Act and Comprehensive Abortion Care - A Review

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**Abstract-** In 1971, the Medical Termination of Pregnancy (MTP) Act was implemented to deal with unsafe abortions, fetal complications, and maternal mortality. In India, Pregnancy can be terminated till 20 weeks under Medical Termination of Pregnancy Act, 1971. After 20 weeks, women are often forced to seek illegal abortions or continue with unwanted pregnancies. While women have the right to abortion, the 20-week limit imposes significant restrictions, leading to serious social, legal, and reproductive health issues, particularly concerning their right to safe abortion. Abortion services should be available to all women and girls to the fullest extent that the law allows Universal Declaration of Human Rights 1948 considered Reproductive Rights as one of the basic Human Rights. In India, it is estimated that more than half of all abortions are unsafe leading to infection, hemorrhages, injury to internal organs, and sometimes maternal death. To address these issues, the MTP Act was amended in 2021 to promote uniformity, accessibility, availability, affordability, and quality of MTP services with appropriate management in case of any adverse event. This paper will concentrate on the reproductive health issues faced by women, particularly situations where abortion is necessary to safeguard her health and ensure the welfare of her family. It aims to raise awareness regarding the amendments made in the 2021 MTP Act, emphasizing their importance in promoting the wellbeing of women and their families.

**Keywords:** Women, MTP, Abortion, contraception, comprehensive abortion care, amendment, nurse's role.

## INTRODUCTION

Unwanted pregnancies and unsafe abortions are prevalent in regions where women and adolescent girls have unmet contraceptive needs. Globally, about 25 million unsafe abortions take place every year (1), unsafe abortion accounts for 8% of maternal deaths in

India; this is because of complexities arising from risky fetus removal. Inaccessibility to information and adequate health services to termination of pregnancy superimposed with gender bias and low-socioeconomic status are major factors that lead these women to adopt unsafe methods for abortion/pregnancy termination (2).

WHO defines unsafe abortion as a procedure for termination of a pregnancy done by an individual who does not have the necessary training or in an environment not conforming to minimal medical standards [3]. Before 1971, abortion was criminalized under Section 312 of the Indian Penal Code, 1860. It was in the 1960s, when abortion was legal in 15 countries (3). The Medical Termination of Pregnancy (MTP) Act 1971, was amended in 2002 to facilitate better implementation and increase access for women especially in the private health sector (5), The MTP rules 2003, define composition of the committee stating that one member of the committee should be a gynecologist/surgeon/anesthetist and other members should be from the local medical profession, non-government organizations, and Panchayati Raj Institution of the district and one member of the committee should be a woman and provide specific guidelines pertaining to equipment, facilities, drugs, and referral linkages to higher facilities, The MTP Rules 2003 state that an approved can be inspected by the Chief Medical Officer (CMO) (6). In 2014, MoHFW shared the Medical Termination of Pregnancy Amendment Bill 2014 in the public domain. The proposed amendments to the MTP Act were primarily based on increasing the availability of safe and legal abortion services for women in the country: Expanding the provider base, increasing the

upper gestation limit for legal MTPs, Increasing access to legal abortion services for women, increasing clarity of the MTP law (7). A woman gets a pregnancy terminated voluntarily from a service providers, it is called induced abortion (8). Spontaneous abortion is the loss of a woman's pregnancy before the 20th week that can be both physically and emotionally painful. In common language, it is called a miscarriage (9). Around 73 million induced abortions take place worldwide each year. Six out of 10 (61%) of all unintended pregnancies, and 3 out of 10 (29%) of all pregnancies, end in induced abortion. Global estimates from 2010-2014 demonstrate that 45% of all induced abortions are unsafe (10). Of all unsafe abortions, one third were performed under the least safe conditions, i.e., by untrained persons using dangerous and invasive methods. Each year, 4.7- 13.2% of maternal deaths can be attributed to unsafe abortion, in developed regions, it is estimated that 30 women die for every 100 000 unsafe abortions. In developing regions, number rises to 220 deaths per 100 000 unsafe abortions (11).

#### MEDICAL TERMINATION OF PREGNANCY ACT

The Medical Termination of Pregnancy Act, 1971 "MTP Act" was passed due to the progress made in the field of medical science with respect to safer abortions (12). The Medical Termination of Pregnancy (Amendment) Bill, 2020 was introduced in Lok Sabha on March 2, 2020 and passed on March 17, 2020. It amends the Act to increase the upper limit for termination from 20 to 24 weeks for certain categories of women, removes this limit in the case of substantial foetal abnormalities, and constitutes Medical Boards at the state-level (13). In 2021, MTP Amendment Act 2021 was passed with certain amendments in the MTP Act including all women being allowed to seek safe abortion services on grounds of contraceptive failure, increase in gestation limit to 24 weeks for special categories of women, and opinion of one provider required up to 20 weeks of gestation. Comprehensive abortion care (CAC) is included in the list of essential health care services. CAC includes the provision of information, abortion management and post- abortion care (15). It encompasses care related to miscarriage, induced abortion, incomplete abortion as well as fetal death. There are various factors contributing to unsafe

abortions include social factors. An estimated 56 million women seek abortions each year, nurses and midwives are commonly involved in their care (16).

#### THE PREMEDICAL TERMINATION OF PREGNANCY ACT PERIOD

In 1860, the British government passed a law that prohibited any form of pregnancy termination. The penalty was to be waived only if the termination had been done to save the life of the woman. In 1967, this law was changed in England, but not in India. An incalculable number of women died because of dangerous unlawful early terminations because of the presence of this reformatory code, compelled the public authority to reform this regulation in 1971 (17).

#### MEDICAL TERMINATION OF PREGNANCY ACT 1971

Access to safe and legal abortion services to all was provided by the introduction of the Medical Termination of Pregnancy (MTP) Act in 1971. The MTP Act, in 1971, expressed that "a pregnancy might be terminated on the counsel of one registered medical practitioner (RMP) on the condition that the duration of the pregnancy is in no <12 weeks or on the exhortation of two clinical experts on the off chance that the duration of the pregnancy is in the middle of between 12 and 20 weeks." This Act laid out the conditions in which the termination of pregnancy is to be allowed, the criteria of the medical center, where the said procedure is to be done, has to meet and the license of the individual performing the procedure (2). Amendments of the Act in 2002 gave clear instructions that any center where medical termination is to be done has to get an approval of the district authority. Stringent actions would be taken if MTP was done in an unauthorized place or by unauthorized persons (18). In addition, this amendment allowed the use of oral drugs for the termination of pregnancies within 7 weeks of gestation.

In 2003, the law permitted licensed medical practitioners to prescribe oral drugs for termination of pregnancy outside the approved facility on the condition that facilities of emergency services were available in the approved facilities (20). In 2015, around 56% of total numbers of abortions were unsafe, 22% of total numbers of abortions were done in health

facilities, and 73% were medical abortions done outside the health facilities. Around 5% of early terminations were finished with presumably dangerous techniques (19).

The Medical Termination of Pregnancy (MTP) Act, 1971 provides the legal framework for making comprehensive abortion care services available in India. Termination of pregnancy is permitted for a broad range of conditions up to 20 weeks of gestation as detailed below:

- When risk to the life of a pregnant woman
- When there is substantial risk that the child
- When pregnancy is caused due to rape
- When pregnancy is caused due to failure of contraceptives
- When the socio-economic condition of the family is poor and the couple already has 2-3 children (21).

#### MEDICAL TERMINATION OF PREGNANCY AMENDMENT ACT, 2021

The mandate to safe and lawful early termination on remedial, compassionate, and social grounds is given by the MTP Amendment Act 2021 contributing toward finishing avertable maternal mortality to help meet the Manageable Improvement Objectives (SDGs) 3.1, 3.7, and 5.6 (22).

The new rules as per the amendments were announced by the government on October 12. The key modifications include (22, 23):

- Permissible gestational age for termination pregnancy was extended from 20 weeks to 24 weeks for females under circumstances such as sexual assault, incest, or if the female is differently abled or a minor.
- Consultation of one RMP is necessary to evaluate till the gestational age of 20 weeks. Consultation of two RMP is required if a pregnancy of 20–24 weeks has to be terminated.
- In the event of significant fetal irregularities found past 24 weeks, early termination can be completed by consent of a state-level clinical board comprising an obstetrician, pediatrician, and radiologist. There could be no constraint of gestational age for congenital anomalies.

- Confidentiality statement: name and personal details of a female whose pregnancy has been terminated will not be uncovered but only to an individual approved by law giving enough security and secrecy to the beneficiaries to access this service
- Access to the MTP facility has been stretched out to unmarried females under the clause of failure of contraception
- RMP with 3 months of experience in obstetrics and gynecology or trained with the execution of 10 MTP cases under the guidance of an RMP in an MTP-approved center will be considered eligible to perform MTP of pregnancies under 9 weeks of gestation. Such RMPs are recognized as medical methods of abortion (MMA) only providers.
- The requirement of consultation of only one RMP for 20 weeks of pregnancy and the availability of MMA-only providers have made the MTP services available in the remotest primary health centers and referral centers. Now, females from distant regions can approach safe abortion services.
- Females under vulnerable circumstances can avail of MTP services between 20 and 24 weeks. These circumstances include if a female is minor, widowed or divorced, physically disabled, mentally deranged, survivors of sexual assault, rape, or incest. Pregnant females with fetus having malformations or pregnancy in disaster or emergency settings are included in this clause.
- A state level medical board will determine the request for termination of a pregnancy longer than 24 weeks in case of fetal abnormalities (23).

The Medical Board shall consist of the following:

1. Gynecologist;
2. Pediatrician;
3. Radiologist or Sonologist; and
4. Other members notified by the State Government or Union territory (24).

Key Provisions of the Medical Termination of Pregnancy Amendment Act, 2021

*Termination due to Failure of Contraceptive Method or Device:*

Where the length of the pregnancy does not exceed 20 weeks, if such medical practitioner under the Act, failure of any device or method used by any woman or her partner. It allows unmarried women to also terminate a pregnancy for this reason.

*Upper Gestation Limit for Special Categories:*

Where the length of the pregnancy exceeds 20 weeks but does not exceed twenty-four weeks in case of such category of woman as may be prescribed by rules made under this Act.

- The continuance of the pregnancy would involve a risk to the life of the pregnant \
- There is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality.
- Where any pregnancy is alleged by the pregnant woman to have been caused by rape, victims of incest and other vulnerable women (13).

Opinion Needed for Termination of Pregnancy

- Opinion of one Registered Medical Practitioner (RMP) for termination of pregnancy up to 20 weeks of gestation.
- Opinion of two RMPs for termination of pregnancy of 20-24 weeks of gestation.
- Opinion of the State-level medical board is essential for a pregnancy to be terminated after 24 weeks in case of substantial foetal abnormalities.

Table-1: Indications of the MTP Act, 1971 and MTP Act Amendments 2021:

Indications	MTP Act, 1971	MTP Act 2021
Contraceptive failure	Only applies to married women	Unmarried women are also covered
Gestational Age Limit	20 weeks for all indications	- 24 weeks for rape survivors - Beyond 24 weeks for substantial Fetal abnormalities
Medical practitioner opinions required before termination	- 01 RMP till 12 weeks - 02 RMPs till 20 weeks	One RMP till 20 weeks Two RMPs 20-24 weeks Medical Board approval after 24 weeks
Breach of the woman's Confidentiality	5 Fine up to Rs 1000	Fine and/or Imprisonment of 1 year

Who may terminate a pregnancy?

As per the MTP Act, pregnancy can be terminated only by a registered medical practitioner (RMP) who meets the following requirements:

Up to 12 weeks gestation: A practitioner who has assisted a registered medical practitioner in the performance of 25 cases of MTP, of which at least five have been done independently in a hospital that has been established or maintained by the Government or at a training institute approved for this purpose by the Government.

Up to 20 weeks gestation: A practitioner who holds a post- graduate degree or diploma in obstetrics and gynecology or a practitioner who has completed six months of house surgency in obstetrics and gynecology or A practitioner who has at least one year experience in the practice of obstetrics and gynecology at any hospital that has all facilities (25).

Where a Pregnancy can be terminated: MTP can be performed at the following places:

1. A hospital established Government or maintained by the Government
2. A place approved by the Government or a District Level Committee (DLC) constituted by that Government with the Chief Medical Officer (CMO) as the Chairperson of the Committee (26).

Documentation & Maintenance of MTP records:

It is mandatory to fill and record information for abortion cases, performed by any technique, in the following forms: Consent Form, RMP Opinion Form, Monthly Reporting Form (to be sent to the district authorities), Admission Register for case records, the details of the admissions or women for the termination of their pregnancies and keep such register for a period of five years from the end of the calendar year it relates to. Entries in the admission register shall be made by the serial number for each calendar year (27, 28).

COMPREHENSION ABORTION CARE (CAC)

Comprehensive abortion care (CAC): Woman-centered approach Abortion care services should be transformed from being just a medical procedure into a woman centered CAC approach. This implies providing safe and legal abortion services, taking into account different factors influencing a woman's physical and mental health need, her personal

circumstances and the ability to access abortion services (29).

It was first presented in India in 2000 by IPAS (an international and nongovernmental organization) recommending that early termination administrations ought to have a graceful approach (30).

- Choice: giving woman the options to choose from the methods for the termination of pregnancy and post-abortion contraception (14). She should not be forced to choose against her consent (31).
- Access: making services available near her home (14). Early termination of pregnancy ought to be made accessible close to her home so that time and expenditure are reduced. They ought to be given information that it is socially suitable and different social boundaries ought to be eliminated (31).
- Quality: care provided with all the standard norms followed as under high quality of care, some of which are: Provision of adequate time for counseling, maintenance of privacy and confidentiality, use of internationally recommended technologies with appropriate clinical standards and protocols for infection prevention, pain management, complications management and other clinical components of care. And also there should be provision of post-abortion contraceptive services, including emergency contraception, reproductive and other health services, such as RTI/STIs and counseling on sexual behavior (14).

Important steps taken to establish CAC services are:

- Provision of funds to states/union territories for the operationalization of CAC services including drugs equipment, at health facilities.
- Capacity building of medical officers in safe MTP techniques, Training ANMs, ASHAs to provide confidential counseling for CAC and promoting post-abortion care and contraception, Certification of private and NGO sector facilities through District Level Committees (DLCs)

The greatest obstacle to giving safe early pregnancy termination in Indian settings is over-the-counter accessibility of drugs and self-admission of MTP pills. The significant reasons contributing to this might be lack of education, obliviousness about the available contraceptives, inaccessibility to centers with MTP services, and fear of lack of privacy, as abortion is considered a social taboo (31).

## CONCLUSION

The amendments introduced to the Medical Termination of Pregnancy Act in 2021 mark a significant step forward in advancing women's reproductive rights and health in our society. By expanding access to safe and legal abortion services, addressing outdated provisions, and aligning the law with contemporary medical practices, these amendments have the potential to improve the lives of countless women across the country. In moving forward, it is essential that we continue to prioritize women's reproductive rights and health.

"Every woman has the right to enjoy their Reproductive rights, as its woman who has to carry her pregnancy not the government"

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