
LETTER TO EDITOR**Medical Termination of Pregnancy (Amendment) Act, 2021: A Deeper Introspection into the Various Reforms**

Anita Yadav¹, Jyoti Baghel^{1*}, Avinash Prakash², Rajneesh Rawat³

¹Department of Obstetrics and Gynecology, ²Department of Anesthesiology, All India Institute of Medical Sciences Nagpur-441108 (Maharashtra) India, ³Department of General Surgery, Government Medical College, Nagpur-440003 (Maharashtra) India

Dear Editor,

Abortion is not merely a medico-technical issue but it displays a wider spectrum of ideological struggle. Policies regarding safe abortion are framed in such a manner so that they respect, protect and fulfil the human rights of women [1]. There is the legalization of induced abortion in India [Medical Termination of Pregnancy (MTP Act) of 1971]. Originally, this Act was introduced to thrash out an exception to Sections 312 and 313 of the Indian Penal Code, which forbids abortion by criminalizing intentionally. The Lok Sabha of the Indian Parliament passed the MTP Amendment Bill 2020 on 17th March which proposed changes to this existing decades old law. This actually came in the Centre's response to a Public Interest Litigation (PIL) filed in 2019 in the Supreme Court seeking modification in abortion laws [2].

One of the major changes is an increase in the permissible gestational age of undergoing a termination, without an order from the court concerned, from 20 weeks to 24 weeks of gestation. Contrary to the prior existing law (opinion of two doctors was required), now only opinion of one doctor is needed up to 20 weeks gestation for women who seek termination in the second trimester. It is a welcome change as it reduces the mental, physical and financial agony of the women.

The amendment has brought a change in Section 3 of the Act such that it has now been extended to include unmarried women also. As compared to previously, using the term 'married woman and her husband,' the new amendment replaces it with the term 'woman and her partner.' Hence, under the act now an unmarried woman can also avail termination of pregnancy within the gestational limits. It is a welcome amendment that places an unmarried woman and her partner at par with a married woman and her husband. This change will help in access to safe abortion facilities and will end the statutory discrimination against unmarried women.

The MTP (Amendment) Act, 2021 guarantees women confidentiality which is of utmost importance for a woman who seeks abortion care. The Act now includes the introduction of Section 5A which penalizes medical practitioners who fail to protect the privacy and confidentiality of women seeking an abortion. Despite laying a strong jurisprudence on reproductive rights and the privacy of a woman, the act does not transform into a fundamental shift in power from the doctor to the woman seeking an MTP. Thus, abortion remains hitched to the state-sanctioned conditionalities and does not contribute to the rights of the woman.

The recent amendments require the termination to be performed only by obstetricians and gynaecologists. As contrary to the World Health Organisation (WHO) recommendation of a 1:1000 ratio, India has one government doctor for every 10,189 people [3]. Additionally, the All-India Rural Health Statistics (2018-19) shows that there are a total of 1,351 obstetricians and gynaecologists in community health clinics in rural areas [4]. Such a shortage of qualified medical professionals restricts women's access to safe abortion services. The need of the hour is to increase the provider base which can include AYUSH doctors, staff nurses and midwives for first trimester abortions as per guidelines of WHO. Hence, the current laws have missed this opportunity of making abortion services safe and easily available especially in rural areas.

The decision to remove the upper gestation limit in cases of substantial foetal abnormalities is indeed appreciated, but it comes with a rider. Medical Boards with at least five experts (whose composition, functions and other details to be prescribed subsequently in Rules under the Act.) will decide whether a woman can undergo

abortion on this ground. It moves the decision-making power from the woman and her doctor to a 'medical board' comprising of multiple members. This mandates third-party authorization for abortion beyond 24 weeks. It also doesn't provide a time frame within which the medical board must examine and give its decision and thus may result in delayed decisions for the pregnant woman. This Act allows "pregnant women" to terminate pregnancies under various conditions. The Transgender Persons (Protection and Rights) Act, 2019, recognizes transgender as an additional gender in India. Some medical studies have shown that transgender can become pregnant even after receiving hormone therapy to transition from female to male, and may require termination services [5-6]. Hence, this time also the Act has excluded transgender, intersex and gender diverse people. To summarise, the MTP Act is progressive legislation in India, which imparts reproductive rights and autonomy to women. Despite of various constraints and lacunae, the MTP (Amendment) Act, 2021 can be viewed as an attempt to liberalize and expand the existing laws concerned with medical termination of pregnancy.

References

1. Johnson BR Jr, Lavelanet AF, Schlitt S. Global abortion policies database: a new approach to strengthening knowledge on laws, policies, and human rights standards. *BMC Int Health Hum Rights* 2018; 18(1):35.
2. Grover V. The amendments in the MTP Act bill are flawed analysis. *Hindustan Times*. 2020 Feb 28. Available from: <https://www.hindustantimes.com/analysis/the-amendments-in-the-mtp-act-bill-are-flawed-analysis/story-H0DZJUAWWopQZKPzbLXyJL.html>.
3. Bharati K, Garg A, Das S. Challenges in Delivering Optimal Healthcare to COVID-19 Patients: Focus on Delhi, India. *J Clin Diagn Res* 2020;14(9):AB01-AB03.
4. Government of India, Ministry of Health and Family Welfare Statistics Division Rural Health Statistics. 2018-19. Table 25, page no. 164.

-
5. Jones RK, Witwer E, Jerman J. Transgender abortion patients and the provision of transgender-specific care at non-hospital facilities that provide abortions. *Contracept X* 2020;2:100019.
 6. Moseson H, Fix L, Ragosta S, Forsberg H, Hastings J, Stoeffler A, et al. Abortion experiences and preferences of transgender, nonbinary, and gender-expansive people in the United States. *Am J Obstet Gynecol* 2021; 224(4):376.e1-376.e11.
-

***Author for Correspondence:**

Dr Jyoti Baghel, Department of Obstetrics & Gynecology, All India Institute of Medical Sciences, Nagpur, Plot No. 2, Sector - 20, MIHAN, Nagpur-441108 Email: bagheljyoti@aiimsnagpur.edu.in Cell: 9585895803

How to cite this article:

Yadav A, Baghel J, Prakash A, Rawat R. Analysis of the Medical Termination of Pregnancy (Amendment) Act, 2021. *J Krishna Inst Med Sci Univ* 2021; 10(3): 118-120.

■ Submitted: 21-Mar-2021 Accepted: 25-May-2021 Published: 01-Jul-2021 ■
