



drishti

Medical Termination of Pregnancy (MTP) Amendment Act, 2021

 drishtiias.com/printpdf/medical-termination-of-pregnancy-mtp-amendment-act-2021

Why in News

Recently, the **Delhi High Court** has **allowed the medical termination of pregnancy** of a woman who had **completed 22 weeks of gestation** as the foetus was suffering from multiple abnormalities.

- **Gestation is the foetal development period** from the time of conception until birth.
- In India, the **Medical Termination of Pregnancy (MTP) Act stipulates a ceiling of 20 weeks**, for termination of pregnancy, beyond which abortion of a foetus is statutorily impermissible.

Key Points

About MTP 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.
- In a historic move to provide universal access reproductive health services, **India amended the MTP Act 1971** to further empower women by providing comprehensive abortion care to all.
- The **new Medical Termination of Pregnancy (Amendment) Act 2021** expands the access to safe and legal abortion services on therapeutic, eugenic, humanitarian and social grounds to ensure universal access to comprehensive care.

The MTP Act 1971 and The MTP Act Amendments 2021

	MTP Act 1971	The MTP Amendment Act 2021
Indications (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	One RMP till 12 weeks Two 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	Fine up to Rs 1000	Fine and/or Imprisonment of 1 year

- **Key Provisions of the MTP Amendment Act, 2021:**

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

Under the Act, a **pregnancy may be terminated up to 20 weeks** by a married woman in the case of failure of contraceptive method or device. It **allows unmarried women** to also terminate a pregnancy for this reason.

- **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.

- **Upper Gestation Limit for Special Categories:**

Increases the upper gestation limit from 20 to 24 weeks for special categories of women, including **survivors of rape, victims of incest and other vulnerable women** (differently abled women, minors, among others).

- **Confidentiality:**

The “name and other particulars of a woman whose pregnancy has been terminated shall not be revealed”, except to a person authorised in any law that is currently in force.

- **Significance:**
 - The new law **will contribute towards ending preventable maternal mortality** to help **meet the Sustainable Development Goals (SDGs) 3.1, 3.7 and 5.6**
SDG 3.1 pertains to **reducing maternal mortality ratio** whereas **SDGs 3.7 and 5.6** pertain to **universal access to sexual and reproductive health and rights**.
 - The amendments **will increase the ambit and access of women to safe abortion services** and will ensure dignity, autonomy, confidentiality and justice for women who need to terminate pregnancy.
- **Issues:**
 - **Different opinions on Termination:**
 - One opinion is that terminating a **pregnancy is the choice of the pregnant woman** and a part of her reproductive rights while the other is that the **state has an obligation to protect life, and hence should provide for the protection of the foetus**.
 - Across the world, countries set varying conditions and time limits for allowing abortions, based on foetal health, and risk to the pregnant woman.
 - **Not allowed beyond 24-weeks:**
 - The Act allows **abortion after 24 weeks only** in cases where a **Medical Board diagnoses substantial foetal abnormalities**.
 - This implies that for a case requiring abortion due to rape, that exceeds 24-weeks, the only recourse remains through a **Writ Petition**.
 - **Abortion to be performed by doctors:**
The Act require **abortion to be performed only by doctors with specialisation in gynaecology or obstetrics**.
As there is a 75% shortage of such doctors in community health centers in rural areas, pregnant women may continue to find it difficult to access facilities for safe abortions.

Way Forward

- It is commendable that the **Central Government has taken such a bold stand** while balancing the diverse cultures, traditions and schools of thought that our country maintains, however the amendment **still leaves women with various conditionalities**, which in many cases become **an impediment in access to safe abortion**.
In *Justice K.S. Puttaswamy (Retd.) vs. the Union Of India And Others (2017)*, the court **recognized the constitutional right of women to make reproductive choices, as a part of personal liberty under Article 21 of the Indian Constitution**, which, despite laying a robust jurisprudence on reproductive rights and the privacy of a woman, does not translate into a fundamental shift in power from the doctor to the woman seeking an abortion.

- The government **needs to ensure that all norms and standardised protocols** in clinical practice to facilitate abortions are followed in health care institutions across the country.
- Along with that, the **question of abortion needs to be decided** on the basis of **human rights, the principles of solid science, and in step with advancements in technology.**
- Since it has now become an act, one can be assured that the **country is on the road to advancement, addressing women issues more fiercely than ever.**

Source: TH