

MEDICAL TERMINATION OF PREGNANCY ACT 1971

- ❖ “An Act to provide for the Termination of certain pregnancies by registered medical practitioners & for matters connected therewith & incidental thereto”
- ❖ Legislated by the Parliament on August 10th , 1971
- ❖ And the Act was enforced Nationwide from April 1st , 1972
- ❖ Adopted by Kashmir & Mizoram- 1980

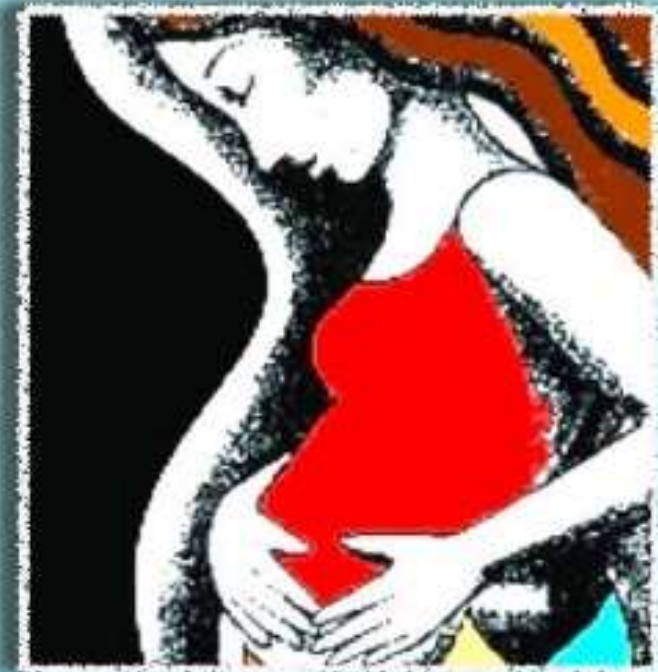
MTP Act, Rules & Regulations

- **MTP Act** Is an Act of **Parliament** providing an Overview of Safe abortions and delegating authority to Central & State government
- **Rules** are framed by the **Central Government** BUT must be ratified by each house of Parliament
- **Regulations** are framed by the **State Government** & relate to issues involving Opinions , reporting and maintaining secrecy



Legal Framework

- ◇ MTP Act
- ◇ Rules
- ◇ Regulation



Circumstances for termination of Pregnancy by RMP

1. Pregnancy is not more than 12 weeks old:

Conditions:

a-Serious injury to physical or mental health of the woman and

b- Child to be born would be seriously handicapped.

2. More than 12 weeks but less than 20 weeks:

If pregnancy caused because of rape or as a result of failure of any contraceptive device used by any married woman or her husband for the purpose of family planning, it may presumed to constitute a grave injury to the mental health of pregnant woman

- **Woman with 18 years or more:** with her written consent
- **Woman with less than 18 years:** lunatic with written consent of her guardian

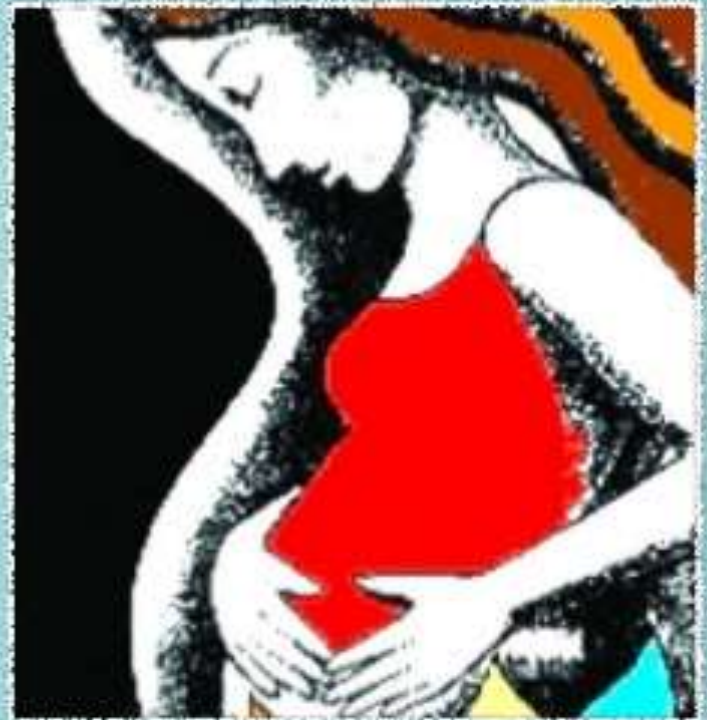
1. Indications :- When pregnancy can be terminated.. ???

- Continuation of pregnancy is a **risk to the life** of pregnant woman or it can cause grave injury to her physical and mental health
- Substantial **risk that the child**, if born, would be seriously handicapped due to physical or mental abnormalities
- Pregnancy caused by **rape**
- Failure of contraceptive** in married woman



2. Who can terminate the pregnancy???

- A Registered Medical practitioner (RMP)who has a recognized Medical qualification as defined in clause (b) of Sec 2 of indian Medical Counsel Act, 1956
- Whose name is registered in a state Medical register
- Who has training experience as per MTP rules



Experience of RMP - Up to 12 wks of gestation only

- Before the commencement of act experience minimum 3yrs
- Who is registered in state medical register ---6months of house surgeon-ship in gynaecology
- Or experience of working in department of gynaecology -1yr
- A Practitioner who has assisted RMP in 25 cases of Medical termination of pregnancies, at least 5 of which have been performed independently in a hospital established or maintained by government or a training institute approved for this purpose by the Government.

Experience and Training Required by a RMP - up to 20 wks

- PG Degree or Diploma in OBG
- Completed 6 months as House Surgeon in OBG
- At least one yr experience in dept of OBG at any hospital that has all facilities.



Places for Pregnancy Termination

- Should have approval from government.
- Termination of pregnancies may be done under safe and hygienic conditions
- Facilities required: Operation table, instruments, anesthetics equipment, resuscitation equipment, sterilization equipment, Drugs and parenteral fluids for emergency use.

Violation of The ACT

- Any person doing MTP and not a RMP can be punished with rigorous imprisonment for 2-7 yrs.
- If terminating at a place which is not approved can be punished 2-7 yrs rigorous imprisonment.
- The owner of unapproved place, performing termination can also be punished with rigorous imprisonment 2-7 yrs.



[The Medical Termination of Pregnancy \(Amendment\) Bill, 2020](#)

Currently, abortion requires the opinion of one doctor if it is done within 12 weeks of conception and two doctors if it is done between 12 and 20 weeks. The Bill allows abortion to be done on the advice of one doctor up to 20 weeks, and two doctors in the case of certain categories of women between 20 and 24 weeks.

The Bill sets up state level Medical Boards to decide if a pregnancy may be terminated after 24 weeks in cases of substantial foetal abnormalities.

Changes proposed in conditions for terminating a pregnancy at different gestational periods

Time since conception	Requirement for terminating pregnancy	
	MTP Act , 1971	MTP (Amendment) Bill, 2020
Up to 12 weeks	Advice of one doctor	Advice of one doctor
12 to 20 weeks	Advice of two doctors	Advice of one doctor
20 to 24 weeks	Not allowed	Two doctors for some categories of pregnant women
More than 24 weeks	Not allowed	Medical Board in case of substantial foetal abnormality
Any time during the pregnancy		One doctor, if immediately necessary to save pregnant woman's life

Women, know these 5 facts about abortion in India! (and what's wrong with the act)

Despite almost 50 years of the incorporation of the MTP act and the vindication of women's right to abort, abortion still remains a hotly debated and taboo issue in India. The half-a-decade old law is probably the most liberal in the world but is still not free from fallacies. Sadly, it has only turned out to serve a cold shoulder when women are facing killing issues. As per the Abortion Assessment Project (one of the most extensive Indian studies on abortion that lasted from 2000 to 2004), of the total abortions that took place in India, 56 per cent were unsafe! Statistically, of the 6.4 million annual abortions, 3.6 million were unsafe. The mortality from these unsafe abortions contributed to up to 13 per cent of maternal deaths in the country! So, on Mother's Day 2018, let us talk about women and their right to choose abortion.

As disheartening as this may sound, there are clauses in the act which has helped women destigmatise abortion to some extent. If you are yet not aware of how the capital L supports women's right to seek abortion, you must know the following conditions which must be met.

It is legal

How many ever shady adboards you must have read till now that were captioned "Abortion karaye", know that abortion is not illegal. It surely is legal in India since 1971. The Medical Termination of Pregnancy Act, 1971, is responsible for the legalisation of abortion. However, legally, it can only be performed up to 20 weeks of conception.

Abortion can be performed only under four conditions

The idea of terminating your pregnancy cannot originate by choice and is purely circumstantial. There are four situations under which a legal abortion is performed:

- If continuation of the pregnancy poses any risks to the life of the mother or to her physical or mental health

- If the foetus has any severe abnormalities
- If pregnancy occurred as a result of failure of contraception (but this is only applicable to married women)
- If pregnancy is a result of sexual assault or rape

You can't choose to abort; only the doctor gets to decide

It is solely at the discretion of the doctor that a woman may or may not undergo abortion. It is not a right that every woman can exercise solely by her decision. Also, if the abortion is to take place within the first trimester (up to 12 weeks of conception), the woman only needs one doctor to sign off. However, if she exceeds the 12-week bar (from 12 to 20 weeks), she needs two doctors to sign-off.

If you are an adult, you do not need your family's or husband's consent

Often, especially in a country like ours, women are asked to have the consent of their husbands or families before they get to the operative table. However, the MTP Act gives adult women the autonomy to decide for themselves. A doctor cannot ask for anybody's consent except for the mother's.

The Right to Privacy applies to abortion

Yes, that's true. In a benchmark judgement, the Supreme Court of India said, "A woman's freedom of choice whether to bear a child or abort her pregnancy are areas which fall in the realm of privacy".

OUR SURVEY

Times Health conducted a survey where we asked people if they think that women should be given the choice over their bodies to decide if they want an abortion. We got the following results.

While over 80 per cent think that women should absolutely be given that right, 6 per cent of the participants did not agree. There was a miniscule percentage

(8.6 per cent) which was against the idea of abortion at any cost.

THE PREVAILING PROBLEMS

Looking at the provisions of the liberal law and comparing it to countries like Vatican city and Chile where abortion for any reason is illegal does give a sense of progress. Also, it is a secular law that does not prescribe to any religious faiths or schools of thought.

However, it is imperative to recognize how even in India, the idea of 'choice' is completely omitted from the act. The liberal act only recognizes situational reasons as valid for abortions and they are limiting in nature to only qualifying women. Women have still not been given the autonomy over their own bodies and in doing so, denied being individuals. They do not hold what can be called the 'right to choose abortion'.

WHY THE 20-WEEK BAR?

As per the MTP Act, abortions can only be carried out till 20 weeks of conception. This rule, when it was incorporated, was put in place in order to prevent the gender prediction testing and hence, sex-selective abortions, which then could only be done post the 20-week mark.

However, what the MTP Act fails to realize now is that with the advancement in technology, this test can now be performed much before. The sex of the baby can be determined as early as seven weeks of pregnancy through a new blood test. It can be predicted around the 10th to 12th week through chorionic villus sampling (CVS). It can also be determined between 15 to 20 weeks by amniocentesis.

WHAT ABOUT ABORTIONS REQUIRED POST THE 20-WEEK BAR?

There are certain situations where any foetal abnormalities or risks to mother's life come to light after 20 weeks of pregnancy. In such cases, the MTP Act requires the mother seeking abortion to get an approval from the court.

However, there have been many cases where the courts give judgement in the negative despite the family wanting the abortion. In February last year, a case was turned down by the supreme court despite the risk of the 26-week-old foetus to be born with Down syndrome. Similarly, a case of another 26-week-old was turned down despite the heart defects that were diagnosed.

Also, in cases involving child assault and underage rape victims, the condition of pregnancy may come to light quite late, usually only when the child develops symptoms. In such cases, a thing that the act failed to take into account, the 20-week ceiling may be close or well past. Such cases are no rarity and in fact are rampant, such as the case of the 10-year-old who had to deliver her rapist's child in Chandigarh last year.

GRINDING MACHINERY

Also, what becomes a problem with this provision is the slow and drawn out law proceedings. One case that deserves mention with regard to this problem is the case of a 14-year-old from UP who was raped but denied abortion because the law proceedings took entire eight weeks, leading her to the stage of 'advanced pregnancy' (about 33 weeks). Sadly, the girl had to marry her rapist, following ostracization from the family and society.

WHAT CAN BE DONE

When we talk strictly medical, doctors say that aborting till 24 weeks of pregnancy is now absolutely safe, owing to scientific advancement. Many doctors even say that abortions today are safe even till much beyond. The law needs to realize this and make the much needed changes that suit the times and technology we live in.

Also, besides the extension of the legal abortion period limit, many doctors also believe that because abortion is strictly a medical and a personal issue, at any point of pregnancy, termination should solely be at the discretion of the doctors and not the law. Doctors should be the ones who weigh in and if many qualified doctors opine that it is okay to terminate, so be it. In fact, a medical committee can be set up which solely looks into exceptional cases of such nature. This will prevent the many cases of lags that occur due to our grinding legal machinery. A humanitarian approach is more suitable to the subject than a hard-binding writ.

THE MTP ACT AMENDMENT DRAFT

An amendment was proposed in the MTP Act by Ministry of Health and Family Welfare in October 2014. The bill proposed certain very valid propositions, such as extension of the legal abortion limit to 24 weeks, giving the right to legal abortion to every woman despite her marital status, elimination of the need of a second doctor's sign-off beyond 12 weeks and so on. The primary objective of the bill was not just to empower women but to reduce the number of unsafe abortions that are carried out in India (which were sadly more than the number of legal abortions as per the Abortion Assessment Project in 2000 to 2004). The draft did some rounds in the cabinets and to the Prime Minister's office, but was stalled.

What we need today is a stronger recognition of women's agency. While 20 weeks pregnant, it is not just insensible to expect women to flock to court but also insensitive and a denial to them of the right to their own bodies.