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Social Entrepreneurship: Innovations for Sustainable Development

The medical termination of pregnancy act: Examining access and restrictions

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Abstract The Medical Termination of Pregnancy (Amendment) Act, 2021 is a significant change in the Indian law framework about abortion. For particular kinds of women, the Amendment increases access to abortion services by extending the permitted length of pregnancy termination from 20 to 24 weeks, therefore addressing medical risks or fetal defects. It also provides guidelines for teenagers and survivors of sexual assault, therefore granting them the right to get, under specific circumstances, safe and legal abortion services. These clauses show how India's abortion access has improved to protect women's reproductive rights. Therefore, even if the Amendment fixes some shortcomings in the original Medical Termination of Pregnancy Act, 1971, it also creates problems that hinder the whole actualization of women's rights. The Amendment requires approval of any abortion beyond twenty weeks by a doctor or a medical board. This continues to be a challenge for women, particularly those dealing with later-stage gestation unwanted pregnancies. Medical boards' involvement, mandated in particular cases, increases questions about accessibility. One major issue is whether these bodies will operate at the district level or call for state-level referrals. Women in rural or isolated areas, where the infrastructure of healthcare is already inadequate, could find it difficult to get timely abortion services. Moreover, the continuous reliance on medical boards instead of allowing women to make decisions regarding their reproductive health shapes abortion as a privilege rather than a right. This highlights the class difference even further since urban women usually have easier access to necessary medical consultations and approvals while rural women face logistical and financial challenges. Therefore, even if the Amendment offers some improvements, it keeps structural inequalities alive and does not guarantee universally accessible, safe, and fair reproductive healthcare for every woman living in India.

Keywords: medical termination of pregnancy act, abortion access, reproductive rights, pregnancy, fetal abnormalities, gender equality

1. Introduction

On March 25, 2021, the government passed the Medical Termination of Pregnancy (Amendment) Act. The President then signed it into law. It modifies an earlier law concerning abortions from 1971. The new Amendment allows women to abort their pregnancies at any stage within a longer timeframe and under specific conditions. Before the Amendment, women could only abort their pregnancies in certain circumstances and only with a doctor's or a medical board's permission (Riquin et al., 2021). This indicates that the opinions of these medical professionals partially influenced the woman's decision to have an abortion. The new Amendment has somewhat facilitated access to abortions for women, but it does not address the underlying issue of women not having the freedom to decide whether to stop a pregnancy. Instead, it continues to be a privilege the government gives under specific circumstances (Jadav et al., 2023). The change also adds a new requirement that, in some circumstances, a woman must seek the advice of a designated medical board. It's unclear whether the government would establish these medical boards in each district or if there will be a single board for the entire State. This raises questions about how simple it will be for women to reach these boards, particularly those from rural areas (Jadav et al., 2023). The Amendment has increased access to abortions to some extent, but it does not fully grant women the freedom to choose whether or not to carry their children. Concerns concerning equal access to abortion services, especially for rural-dwelling women, are increased by the demand for medical experts' clearance and the ambiguity surrounding the accessibility of medical boards.

A major worldwide public health concern, complications from both safe and unsafe induced abortion greatly affect mother morbidity and death (ACOG, 2009). The Shanti Lal Shah Committee was founded by the Ministry of Health and Family Welfare in 1964 in reaction to India's growing abortion rates. Enacted in 1971 as the MTP Act, the committee approved the Medical Termination of Pregnancy (MTP) Bill. This Act sought to control and define the circumstances under which abortions might be legally carried out in India (Gaur, 1991). Under the direction of trained medical professionals, medical abortions—

especially those involving mifepristone and misoprostol—show a high success rate (92%–97%). Organizations, include the WHO and the Federation of Obstetric and Gynecological Societies of India (FOGSI) have approved these safe medical practices (FOGSI, 2011; World Health Organization, 2012). Still, access to safe abortion treatments is limited despite these advances, particularly in rural and isolated areas. Lack of accessibility and the general ignorance help to explain why dangerous abortions continue (Jejeebhoy et al., 2011; Powell-Jackson et al., 2015; Tariq, Chaudhury, & Kapoor, n.d.).

The MTP Act was changed in 2002 to allow pharmaceutical abortion up to seven weeks of gestation, and in 2003 an additional change permitted certified doctors to provide abortion drugs outside regulated facilities, therefore ensuring that emergency services were easily available (Ministry of Health and Family Welfare, 2002). Notwithstanding these changes, the over-the-counter availability of abortion pills has led women to self-administer them, so increasing the risks connected to unsupervised medical abortion operations (Kaur et al., 2011). Since 2017, abortions have been classified differently. Abortions first fell under either safe or dangerous categories. Still, technology advances have made the classification more complex:

- Safe abortion is carried out by medical practitioners using WHO approved techniques.
- Unsafe abortion is the practice of qualified professionals using non-recommended methods or a safe procedure lacking enough support.
- Conducted by competent practitioners using dangerous, invasive methods, the least safe abortion (Ganatra et al., 2017).

Established in India in 2000 by IPAS, the Comprehensive Abortion Treatment (CAC) framework gives accessible, high-quality abortion services within communities a priority, covering treatment from conception to post-abortion, inclusive of pain management. Dangerous abortions remain a major problem even with the MTP Act passed in 1971 and the progress attained. Of all the abortions in India, 56% are judged to be risky. About 15.6 million abortions took place in 2015; most of them were classified as pharmaceutical abortions and carried out mostly outside of medical facilities (Sedgh et al., 2016). The objective of this paper is to examine the impact of the Medical Termination of Pregnancy (Amendment) Act, 2021, on access to safe abortion services in India, with a focus on its implications for women's autonomy, rural accessibility, and the ongoing challenges in ensuring safe abortion practices.

2. The MTP Act – A Brief Background

The Medical Termination of Pregnancy Act, sometimes known as the MTP Act, is discussed in the article. This law specifies specific conditions under which a woman may end her pregnancy. Before this law, the Indian Penal Code regarded inducing a miscarriage as a crime (Kumari and Kishore, 2021). According to the Indian Penal Code, performing any action to endanger a child's life during pregnancy or after birth is illegal. This implies that both the woman who requests an abortion and the doctor who conducts it may face sanctions. The lives and health of women who wanted abortions were at risk due to the law's stringent regulations (Kumari and Kishore, 2021). The MTP Act was introduced to remedy this problem. Its goal was to make it legal to end a pregnancy in certain circumstances. Only in the following circumstances might a woman obtain an abortion: (i) the pregnancy might endanger her physical and mental well-being, or (ii) there was a significant chance that the fetus might be born with severe physical or mental defects (Hirve, 2004). In other words, if either of these requirements was met, a woman might choose to stop her pregnancy even though she didn't have the legal authority. It's crucial to remember that the campaign to legalize abortions concurrently with efforts to regulate the nation's population through coercive measures and mass sterilization campaigns, frequently with eugenic objectives and focusing on underprivileged people (Patel, 2018).

It states that a group set up by the Ministry of Health in 1964 advocated for legalizing abortions on eugenic grounds, which implies encouraging the reproduction of people with desirable genetic qualities and limiting the reproduction of people with those traits that are regarded undesirable (Hirve, 2004). Dr. H.N. Shivapuri, a committee member, proposed that individuals should be subject to health checks before marriage and that those considered unfit to be healthy parents should be sterilized (Rao and Mazumdar, 2017). Although this suggestion was not incorporated in the final law, it reveals the committee's attitude and priorities at the time. The article emphasizes that acknowledging a woman's right to choose her reproductive options was not the main goal of passing the MTP Act. Interestingly, in a later ruling in the case of *Suchita Srivastava v. Chandigarh Administration*, *2009* (NLU Delhi, 2009), the Supreme Court ruled that eugenic practices (Kevles, 1999) are undemocratic and go against the equal protection clause of Article 14 of the Constitution. This shows a change in thinking about the eugenic idea. The article also notes that the MTP Act's most recent revisions did not alter this core goal. It claims that the revisions unintentionally support eugenic ideas by raising the gestational age limit for terminating pregnancies diagnosed with significant fetal abnormalities but not for those brought on by rape, incest, or contraceptive failure.

3. The Role of Judiciary and Medical Boards

According to the article, the discourse surrounding reproductive rights, individual freedom, and autonomy has changed since the 1970s. The *Puttaswamy* ruling, rendered by a nine-judge Constitutional bench of the Supreme Court in 2017, is highlighted. In this significant privacy case, the court ruled that the right to an abortion is a component of the right to privacy protected by Article 21 of the Constitution. Individuals can control their sexual and reproductive lives and overall health and body. Additionally, the Supreme Court acknowledged that a woman's right to choose her reproductive options is a component of personal liberty under Article 21 in a previous ruling from 2009 (*Suchita Srivastava case*). This implies that women are free to choose whether or not to have children.

The paper contends that the current Medical Termination of Pregnancy (MTP) Act does not follow these court rulings. The MTP Act only permits abortions in a few specific situations. The most recent revision did not address this conflict between the statute and judicial rulings to the Act. Instead, by mandating the input of medical boards in specific circumstances, the Amendment significantly curtails the ability to make independent decisions. These medical boards were added due to court orders; they were not initially a component of the MTP Act. Since 2017, numerous women have petitioned the Supreme Court and other High Courts, requesting approval to end pregnancies that have lasted longer than the 20-week restriction outlined in the MTP Act. The courts have appointed medical boards from government-run medical institutes to help them make decisions since they lack medical knowledge. Although, in some circumstances, the courts define the kinds of doctors who should be included on the boards, the makeup of these boards is frequently left up to the discretion of the relevant medical institution.

3.1. The issues of medical board

The article discusses the practice of appointing medical boards in cases where women have filed petitions before various High Courts seeking permission to terminate pregnancies that have exceeded the 20-week limit set by the Medical Termination of Pregnancy (MTP) Act. Initially, these medical boards were meant to determine whether the conditions specified in the MTP Act for abortion were satisfied. However, the article highlights that these boards' mandate was unclear, and they often went beyond their intended role. For example, they would delve into issues such as the fetus's viability and the possibility of corrective surgery and even express moral opinions about the request for an abortion (Taneja et al., 2018). A report by the Pratigya Campaign for Gender Equality and Safe Abortion provides a detailed analysis of these problematic practices.

An example is- the filing of petitions before the Bombay High Court on behalf of women seeking abortions after the 20-week limit. They have witnessed arbitrary and problematic approaches by these medical boards. The article indicates that social arguments against abortion were sometimes presented as scientific authority. These opinions would then influence the court orders. In a case, a medical board appointed by the Bombay High Court issued the following recommendation: "*Inconvenience of looking after one's own challenged child as an indication for termination beyond viability is akin to reproductive materialism. … Importantly, only sympathy for the mother cannot be the basis of the opinion*." The MTP Act has recently undergone certain changes discussed in the article. Before the change, when a woman desired to end her pregnancy, it was occasionally up to a group of medical professionals with expertise in different fields, such as children's health or heart conditions, to decide whether or not the pregnancy should be ended. This medical staff is referred to as a medical board. Gynecology and obstetrics are the medical specialties concerned with women's reproductive health. However, these practitioners might not have the specialized training or experience in those professions. These medical boards are now an established part of the law thanks to the revision to the MTP Act. This indicates that the law still permits these medical boards to have a say in the decision rather than granting more decision-making authority to women who wish to stop their pregnancies.

The essay's author makes the case that delegating the authority to decide whether to end a pregnancy to medical professionals who may not have the proper training is inappropriate. It illustrates how a person needing heart surgery would not need to go through a medical board to determine whether or not they can get the surgery. Instead, people can decide for themselves after being fully informed of the risks involved. Similar to this, the article makes the case that a woman should have the freedom to decide whether to end her pregnancy with the help of her gynecologist, a medical professional who specializes in reproductive health, and with her own fully informed permission. A medical committee shouldn't have the authority to decide whether a woman can end her pregnancy. The woman should be able to choose the dangers she is ready to accept if she is aware of them and provides her agreement; a panel of doctors should not select what risks she should accept (Porecha, 2023).

3.2. Current decisions and judge's personal life

An amendment states that some circumstances call for the advice of a government-established medical board. However, this might result in these situations being litigated. The problem is that judges in these circumstances might not have the knowledge to decide on abortions in an educated manner. It has been noted that judges frequently approach these cases with their preconceptions and prejudices regarding abortions. In such cases, the judge's remarks and declarations

frequently reflect social attitudes around women's roles in marriage and parenthood. This is a special circumstance because, as the Pratigya study indicated earlier, the result of other kinds of legal conflicts does not change as much dependent on the judge's prior beliefs. Two examples are given in the article to help highlight the issue. In one instance, a former Supreme Court justice advised the abortion-seeking woman's advocate to speak out for the unborn child rather than the mother, stressing the value of hearing the child's heartbeat. The Court Said, "*You should be filing the vakalatnama on behalf of the unborn child and not the mother – ask her to listen to this child's heartbeat*."

The verdict was affected by the judge's convictions, and the 21-year-old woman's fate was decided in a five-minute hearing without reference to the law or earlier cases. Another instance involves a judge questioning whether the accused was married to the accused during a case in the Bombay High Court involving a young girl who had been raped and was 24 weeks pregnant. The judge argued that because the Indian Penal Code does not recognize marital rape if she were married, the crime would not be regarded as statutory rape. According to this judge's suggestion, the court might not permit the abortion if the pregnancy was not brought on by rape, as required under the MTP Act. From discussing religious views on the beginning of life to recommending that the woman rethink her decision to get an abortion, these comments cover a wide range of topics. Both the medical boards and the Court exhibit a paternalistic mentality in which they demonstrate contempt for the woman's welfare or the life of the unborn fetus. Women, especially young girls who were raped and were pregnant, had to put up with these remarks when they went to the courts to get an abortion. The article notes the Amendment Act's failure to acknowledge a woman's freedom to make decisions regarding her body, reproductive health, and future, despite being introduced 40 years after the original enactment. The Medical Termination of Pregnancy (MTP) Act, which offers exceptions to the Indian Penal Code (IPC), which classifies "*causing a miscarriage*" as an offense, is significant to keep in mind. Although the Supreme Court has acknowledged a woman's right to make her own reproductive decisions, this right can only be fully realized if the IPC's anti-abortion provisions are overturned. This would enable a woman to leave the decision to end her pregnancy up to her and her doctor.

4. The Change we Need

The article discusses two significant rulings concerning the termination of pregnancies for rape survivors issued by the Bombay High Court and the Madras High Court in India. These rulings are meant to make it easier for rape victims who wish to terminate their pregnancies after the 20-week cutoff set by the Medical Termination of Pregnancy (MTP) Act of 1971. Several petitions were submitted in the case before the Bombay High Court asking for approval to end pregnancies after the 20-week mark. After this point, the court carefully considered the legal ramifications of pregnancy termination. In *XYZ v. Union of India, 2018*, it was determined that the provisions of Article 21 of the Indian Constitution should be considered when interpreting Section 5 of the MTP Act, which permits the termination of pregnancies after 20 weeks if they risk the mother's life. This means that it is important to consider both the physical discomfort and the psychological stress brought on by an unforeseen or coerced pregnancy.

Conversely, the Madras High Court was forced to intervene when a rape victim wanted to end her pregnancy before the MTP Act's 20-week cutoff. However, no action was taken by the appropriate authorities. The Madras High Court held that a rape victim should never be required to seek a court order to end a pregnancy before the 20-week mark.

Section 5 of the MTP Act

The article discusses a question raised in Court: Should the expression *"to save the life of the pregnant woman*" in a particular law be understood as preventing the woman's death only? Or should it be interpreted more broadly to include the overall quality of life, considering human dignity? Justice Sonak, speaking on behalf of the court, explained that if a narrow interpretation is given to a specific section of the law, it would not be possible for a court to order the termination of a pregnancy beyond 20 weeks due to the restrictions outlined in another section of the law. The law states that an individual can have an abortion within 12 weeks or up to 20 weeks of pregnancy if two registered medical practitioners certify that there is a likelihood of danger to the physical or mental health of the mother. Additionally, it is presumed that a pregnancy resulting from rape threatens mental health. According to the court's opinion, if a restrictive meaning is given to the relevant section of the law, it would undermine the purpose of the law, which aims to provide a solution for women with unwanted pregnancies, particularly in cases of rape. Considering the constitutional principles of Article 21, which include dignity, privacy, and bodily autonomy, the Bombay High Court held that a broader interpretation should be adopted:

"86…when it comes to the interpretation of the expression "life" in section 5 of the MTP Act, we cannot construe the same as restricted to mere physical existence or mere animal existence or mere survival of the pregnant mother. The expression cannot be confined to the integrity of the physical body alone but will comprehend one's being in its fullest sense. That which facilitates the fulfillment of life as much within the protection of the guarantee of life. The expression will include the right to live with dignity and not to merely survive with indignity, not to mention the life–long physical and mental trauma which such episodes invariably generate."

4.1. Ensure safe and timely abortions

The Madras High Court refused a rape victim's request to end her pregnancy before the 20-week mark in the case *X vs. the State of Tamil Nadu, 2019*. To prevent people from seeking relief from the constitutional courts, the Indian government had urged state governments to set up medical boards in prestigious government institutions to handle cases where abortion was requested after the 20-week window. In this instance, the petitioner was forced into engaging in sexual activity, leading to her becoming pregnant. The petitioner complained to the police within 20 weeks under Section 375 of the Indian Penal Code, 1860, and asked for their help setting up an abortion. However, the petitioner checked herself into a hospital when the police took too long to respond. Unsure of its authority, the hospital hesitated to execute the abortion and sought to work with the police because they would need to receive the fetus for forensic examination. In addition, the hospital misunderstood the law and the function of the medical board and sent the petitioner to another hospital for a board examination despite learning that she was eight weeks pregnant.

In response to these difficulties, the petitioner went to the Madras High Court, which immediately ordered a medical board investigation and granted an abortion if the petitioner's life was not in danger. The court subsequently gave the following instructions: Pregnancies shall be terminated following Section 3 of the Medical Termination of Pregnancy (MTP) Act:

- Suppose they are under 20 weeks along. Otherwise, people should not be obliged to file a case with the High Court.
- Instances involving pregnancies over 20 weeks may be brought to the High Court following Article 226.
- Under Section 5 of the MTP Act, a pregnancy may be terminated without a court hearing if the unborn child is at risk of dying, even after 20 weeks.
- Samples from the mother and the fetus (the unborn child and the placenta) will be collected for DNA testing when a criminal case is still pending. Through the police, these samples will be delivered to a forensic lab, where a report will be obtained.

5. The Right to Abortion

The article examines the issue of abortion in India and contrasts it with the circumstances in the US and other Western countries (Bose, 1974). The MT Act, frequently lauded for being a progressive abortion law, is mentioned along with the caveat that this does not imply that India's abortion laws are flawless. To make the Indian Penal Code less restrictive concerning abortion, the MTP Act was introduced in 1971. Even if the pregnant woman herself carried out an abortion, it was still illegal under the prior law, Section 312 of the Indian Penal Code (Kumari and Kishore, 2021). The MTP Act amended Section 312 to include a provision permitting abortion under specific conditions to address this problem. Licensed medical professionals, subject to several restrictions, must still approve an abortion. It does not grant the expectant mother the right to request an abortion out of self-interest. According to the article, the 1971 Act did not prioritize the rights and preferences of the pregnant person by adopting a rights-based approach to abortion. It emphasizes how little this legislation component has altered due to the most recent 2021 Amendment to the MTP Act (Ohri, 2022).

The MTP Act change in India is discussed in the article. It notes that proponents of reproductive rights, medical professionals, and attorneys have continually called attention to serious shortcomings in the 1971 Act. However, without seeking input from the appropriate parties, the Indian government changed the MTP Act. Indian mothers now find it more difficult to obtain abortion services due to this error. It is significant to stress that some pregnant people turn to hazardous techniques or try self-induced abortions when access to safe abortions is restricted, resulting in medical infections, long-term harm, and even death (Niţă and Ilie Goga, 2020). The article focuses on the serious effects that access to abortions can have on a pregnant person's health and well-being. The 2021 Amendment Act's extending of the window for legal pregnancy abortion in exceptional circumstances is its most well-known clause. These situations involve minors, rape or incest victims, people with prenatal defects, and women whose marital status changed after pregnancy (Berer, 2017). The window for pregnancy abortion for this group of people has been extended from 20 to 24 weeks. This expansion resulted from the realization that fetal anomalies are frequently discovered beyond the 20th week of pregnancy, as shown in a case that Dr. Nikhil Datar petitioned before the Supreme Court. However, the article criticizes the change for just addressing one facet of the issue (PTI, 2022). It claims that there are still significant practical and ideological problems with the MTP Act that the government has not adequately addressed.

5.1. Amendment and patriarchal mindset

The Medical Termination of Pregnancy Act, 1971 (MTP Act) of India is discussed in the article with its 2021 Amendment Act. It draws attention to a modification in the Amendment, where the word "*woman*" was used instead of "*married woman*." This modification shows that the Amendment no longer limits access to abortion to married women alone. According to the story, the modification lost a chance to use language that was more LGBTQI+ inclusive, such as "*pregnant person*" rather than "*pregnant woman*." This shows a hetero-normative viewpoint and does not adequately take into account the rights of LGBTQI+ people (ARATHI P.M., 2022).

There is still a distinction between married and unmarried women even if the word "woman" has replaced "*married woman*," allowing single women to have abortions within the 20-week window. A clause in the Amendment allows for the termination of pregnancy between 20 and 24 weeks if there has been a "*change in marital status*." This suggests that the only women who can use this clause are those who cannot sustain their unborn child owing to a divorce or the death of their husband (Kumari and Kishore, 2021). However, this restriction does not apply to unmarried women who get pregnant through a romantic relationship or casual intercourse. This distinction is problematic since unmarried women are equally likely to experience a lack of support for their unborn child and may experience more social shame due to having an unmarried child (Arora and Verma, 2022). The author makes the case that these distinctions counter the government's assertion that it has a women's-friendly stance on abortion. It implies that abortion is still influenced by patriarchy in India or, at the very least, that the Amendment was passed without enough thought and deliberation.

5.2. The obstruction in maternal health

The Medical Termination of Pregnancy Act (MTP Act), which was recently amended in India, is covered in the article. In cases of major fetal abnormalities, the Amendment establishes a Medical Board to decide whether to allow abortions after 24 weeks (Kuppusamy et al., 2023). The process for pregnant people to seek timely assistance has become more challenging due to this alteration. The author underlines that promoting maternal health requires not only legalizing abortion (Yokoe et al., 2019). Additionally, it should be available, reasonably priced, and of high quality. Therefore, in addition to reducing current barriers, the government should refrain from erecting new ones. The Amendment's inclusion of a category for pregnancy abortion between 20 and 24 weeks based on a "*change in marital status*" is alarming. This distinguishes between married and single women, contrary to the goal of advancing equality. The introduction of the Medical Board itself is also questioned in the essay (Kuppusamy et al., 2023). Courts have relied on medical boards to advise them on unique situations where abortions were sought outside of the MTP Act's time restrictions. Including the Medical Board as a legal requirement, however, is likely to result in delays in decision-making and may harm pregnant women's emotional and physical health. A medical board was purposefully left out of the original MTP Act in 1969 because of worries about potential delays in other nations (Singh et al., 2018).

"The Bill considers that if very complex machinery for certification of cases fit for termination of pregnancy is set up, then the very purpose of timely termination would be defeated… To obviate such unnecessary delays, the medical practitioners in our country could, under this Bill, upon the satisfaction of the case history, etc., perform the abortion within 12 weeks, which is subject to special safeguards, but not over 20 weeks before a medical practitioner can undertake termination. He has to have the concurrence of another medical practitioner, and both of them would be jointly responsible for the termination."

The article highlights the importance of not only legalizing abortion but also ensuring that it is accessible, affordable, and of good quality to promote maternal health. In addition to removing existing barriers, the government should avoid creating new obstacles. However, the current provision passed by the Parliament lacks sufficient justification and infrastructure, leaving each State to establish its own Medical Board. The article raises concerns about the lack of recourse for individuals who exceed the time limit for abortion or are forced to do so due to delays in decision-making by the Medical Board. The newly established Medical Boards consist of a gynecologist, sonologist, pediatrician, and potentially other professionals chosen by the government. Allowing individuals who may not be directly relevant, such as a sonologist or pediatrician, to make decisions about abortion while denying pregnant individuals the right to decide about continuing a pregnancy with disabilities reflects a paternalistic attitude by the State toward bodily autonomy. The article points out that organizations like the World Health Organization recognize Medical Boards as barriers to access and urge states to remove such structures. Medical Boards tend to disproportionately burden marginalized groups, including poor women, adolescents, those with limited education, and those at risk of domestic conflict and violence, leading to inequalities in access to abortion.

5.3. Other barriers

The 2021 Amendment is discussed in the article, which attempts to advance maternal health but falls short in doing so. According to the revised regulations, only licensed medical professionals with the necessary training and expertise can conduct abortions up to nine weeks into a pregnancy. However, these additional qualifications make it more difficult for people to receive abortion services, especially in a country like India, where there is a shortage of doctors, particularly those specializing in gynecology. Having more experienced doctors is generally advantageous. The article draws attention to the acute lack of specialists, which affects the public healthcare system on average to roughly 80%. Due to this shortage, access to abortion services is constrained or nonexistent in many places. Additionally, because rural areas lack healthcare infrastructure, the Amendment's demand for creating Medical Boards is neither practical nor realistic.

The article discusses the need for a more effective way to support maternal health. It proposes that the emphasis should be on increasing the number of doctors, abortion facilities, and healthcare infrastructure in remote areas rather than putting further restrictions on doctors and abortions. Furthermore, it is crucial to educate the public about the dangers of

unsafe abortions. The essay emphasizes how safe abortions are today, particularly in the early stages of pregnancy. Vacuum aspiration and oral medicine, which have negligible adverse effects, can induce them. However, the current amendment limits access to abortion services by placing restrictions on doctors and requiring them to have prior experience or training. People living in rural areas already have to travel a tremendous distance to see a doctor, which adds to their load. As a result, some pregnant people may turn to risky abortion techniques. The MTP Act does not guarantee abortion as a right or provide practical access to abortion services, but it does protect a woman's right to privacy by guaranteeing that her personal information is kept private. According to the paper, the government should prioritize infrastructure development, boosting the number of physicians and clinics and educating the populace about the dangers of unsafe abortions.

6. Right to Abort and Stigmatization

The Supreme Court of India's 2009 ruling affirming a woman's right to bodily integrity is discussed in the article. The court ruled that women have the personal freedom to make decisions about their bodies, including whether or not to get pregnant, have an abortion, or engage in other forms of reproduction. However, this right is not unqualified and must be weighed against the potential child's interests, which the court views as a "*compelling state interest.*" A woman's right to an abortion is subject to several criteria and limitations under the MTP Act 1971. The author makes the case that these restrictions are arbitrary and prioritize the rights of doctors over those of expectant mothers. For instance, the law stipulates that a minimum of one doctor, who may not be familiar with the woman's social, economic, or personal circumstances, must decide whether the woman can proceed with an abortion. As a result, the woman's decision to end her pregnancy is subordinated to the doctor's advice.

Additionally, the MTPA (Amendment) Bill of 2020 proposes to amend the current law, which exclusively permits abortion in cases of pregnancy resulting from marriage. With the legislation, unmarried women will have the same access to abortion as married women. The Rajasthan High Court maintained the right of a woman who became pregnant due to rape to obtain an abortion even after the 20-week cutoff set by the Medical Termination of Pregnancy Act (MTPA) of 1971, according to a case discussed in the article. The court said, "…*the infringement of the fundamental right to life of the [rape] victim heavily outweighs the right to life of the child in the womb*." The court's ruling was applauded as progressive and a win for women's rights. In *State of Rajasthan v. S,2020,* a young girl named S was raped and gave birth. Both a hospital and the district court turned down her request for an abortion since the pregnancy had exceeded the legal cutoff point of 20 weeks. S approached the Rajasthan High Court to exercise her right to bodily autonomy and personal liberty, protected by Article 21 of the Indian Constitution. S's appeal was initially denied by a single judge on the High Court, who cited the need to preserve the fetus' life. The High Court's split bench reversed this decision and upheld S's right to bodily autonomy. The court ruled that the fundamental right to life of the rape victim exceeded the right to life of the unborn child.

This ruling was viewed as progressive since it upheld the value of a woman's ability to make her own decisions, particularly when the pregnancy resulted from rape. It recognized the woman's right to bodily autonomy and personal freedom by allowing her to obtain an abortion even after the 20-week cutoff. The article describes a court case in which the judge emphasized the rape victim's fundamental right to life and gave her rights precedence over the rights of the unborn child she was carrying. Even in situations where the pregnancy was well along, the court ruled that the violation of the rape victim's right to life trumped the right to life of the unborn child. Unfortunately, the woman, S, had already given birth by the time the court reached this verdict. The Juvenile Justice Act was then ordered to be used to protect the child by the court. This court opinion is significant because it departs from earlier decisions that placed a greater emphasis on the rights of the fetus and emphasized the rights of the pregnant woman over those of the unborn child. In situations involving child rape victims, it is crucial to recognize the court's acceptance of a woman's right to reproductive freedom. However, the essay also points out some issues with this conclusion. It warns that this decision could set a dangerous precedent if it is erroneously utilized to justify denying abortions to other women whose pregnancies have exceeded the period allowed by law. It is essential to ensure that this ruling is interpreted and used correctly in related instances in the future.

The article recounts a court ruling involving a lady named S, who was raped and later became pregnant. Even though she had been pregnant longer than was permitted by law, the court decided in her favor and permitted her to have an abortion. The woman's right to autonomy and societal stigma were taken into account in the court's ruling. However, the piece brings out several issues with the court's rationale. *First* of all, it is thought that the court's emphasis on the social stigma that unmarried mothers experience is unjust because it puts society's judgments ahead of the pregnant person's freedom to make decisions about their own body. It is critical to question and reject societal norms restricting women's autonomy. *Second*, while the court permits abortion in rape cases, even when the pregnancy is far along, it raises concerns about women who seek abortions for other causes or in the circumstances like consenting sex that results in an unwanted pregnancy. The article makes the case that all women, regardless of the details of their pregnancy, should have the option to undergo an abortion. There are still restrictions in India's current abortion laws and regulations, even though the court's ruling ensures that rape victims are not forced to carry through unwanted pregnancies. The article makes the case that the MTP Acts' limitations and limits are unfavorable to women and that additional development is required to protect the rights of all women.

7. Gestational Change and The Indian Diaspora

"Granting women the civil right to have control over our bodies is a basic feminist principle. Whether an individual female should have an abortion is purely a matter of choice. It is not anti-feminist for us to choose not to have abortions. But it is a feminist principle that women should have the right to choose."

The case described in the article occurred at the Delhi High Court (Banka, 2022). At 23 weeks and 5 days into her pregnancy, a lady in a relationship with another person filed a writ petition asking for authorization to undergo an abortion. However, the bench of Chief Justice Satish Chandra Sharma and Justice Subramonium Prasad made threatening remarks during the court proceedings. They questioned the woman's motivations for wanting to "kill the child" and advised that she give birth to the child and place it for adoption instead. Additionally, they volunteered to support her and cover her expenditures. The court dismissed the petition because the pregnancy resulted from a mutually consenting, unmarried relationship. The article draws attention to the debatable comments made by the judges and their decision to deny the abortion request. It raises questions about the judges' moral integrity and their meddling in the woman's decision to become pregnant. The case got much media attention, sparking discussions and arguments about women's rights to decide on their bodies and pregnancies.

The case of a woman who requested authorization for an abortion at a later stage of her pregnancy is covered in the article. She encountered difficulties initially but persisted and appealed to the Supreme Court. According to the Supreme Court, the right of a woman to maintain her physical integrity should be upheld regardless of her marital status. In addition to directing a group of doctors to conduct the abortion if it could be done without endangering the woman's life, it also ordered the creation of a Medical Board to evaluate the procedure's safety. The court highlighted that it would be discriminatory to deny unmarried women the opportunity to obtain an abortion. Based on the court's temporary ruling, the woman could end her pregnancy effectively. The Medical Termination of Pregnancy Act has undergone substantial changes due to the Supreme Court's final ruling, which prioritized the autonomy of pregnant women and took into account the rights of both the mother and the unborn. The article focuses on comprehending the Act's enlargement and how the court prioritized the autonomy of the pregnant person.

7.1. The issue and the determination

The MTP Act has been the subject of some debate on how it should be interpreted. The emphasis is on Rule 3B of the MTP Rules and Section 3(2) of the MTP Act. Certain categories of women, including those who have experienced rape, are minors, have a mental disorder, or have a fetal deformity, are permitted to end their pregnancies within 24 weeks under Rule 3B (Ohri, 2022). The issue was whether this rule should also apply to single women whose lives have suffered substantial upheavals, such as the dissolution of a long-term partnership.

According to the Supreme Court's analysis of the legislative purpose behind Rule 3B, it was intended to address situations in which women encountered a significant change in their circumstances after 20 weeks of pregnancy and thought about ending their pregnancies (Ohri, 2022). The Delhi High Court had earlier held that Rule 3B did not apply to unmarried women, preventing the petitioner from using it. The Supreme Court, though, rejected this interpretation. Giving Rule 3B, a wider reading concluded that even single women should be able to request termination. The Constitution's equality and non-discrimination tenets entrenched in Article 14 were the foundation for the Supreme Court's ruling (Arora and Verma, 2022). It was argued that depriving unmarried women of their fundamental right to seek an abortion would uphold the stereotype that only married women participate in sexual activity. The Supreme Court sought to ensure that all women, regardless of their marital status, had equal access to abortion services by broadening the scope of Rule 3B.

The Supreme Court recently ruled that it stresses a woman's control over her body and her ultimate decision to have an abortion. This is discussed in the article. An important step towards decriminalizing abortion in India, this declaration is viewed as a ray of hope when reproductive rights are under attack globally (Disi et al., 2022). Regardless of their marital status, women's access to safe and cheap abortion procedures is significantly impacted by the Supreme Court's decision. It stops healthcare professionals from serving as gatekeepers and allows women to make autonomous decisions about their bodies. Importantly, the court also ruled that the MTP Act and Rules would apply to marital rape (Mandhani, 2022). Thus, husbands are no longer permitted to compel their wives to carry a pregnancy to term and have a child against their will. The court's ruling was founded on the idea that legislation should be interpreted consistently with the legislative intent. To ensure that women's physical autonomy is protected, the court thus considers the motives and goals that led to the passage of the MTP Act and Rules (Arora and Verma, 2022).

7.2. Reproductive autonomy and marital status

The article analyzes how patriarchal attitudes around sex, sexuality, and women's place in society are related to abortion access. Pre-marital sex and abortions have long been stigmatized in our society, and the causes of this stigma are frequently connected to the belief that women should have children and carry on the family bloodline (Mirande and Hammer, 1974). In its ruling, the Supreme Court emphasized how always relevant and changing laws are. The court

highlighted its responsibility to defend the supremacy of the Constitution and bring about societal transformation by interpreting and implementing the Constitution and other laws following their intended purpose, drawing on its earlier decision in *Navtej Singh Johar v. Union of India, 2018*. The court's decision represents a progressive decision that extends beyond reproductive autonomy. It said that the Medical Termination of Pregnancy (MTP) Act and Rules would treat marital rape as rape. Thus, husbands are no longer permitted to compel their wives to carry a pregnancy to term and have a child against their will (Qian et al., 2004). According to Article 21 of the Constitution, which protects women's rights to privacy and dignity, the court upheld that women had the right to bodily autonomy.

The article explores the broader effects of abortion on women's life. According to studies, women's emotional and physical health may suffer when denied access to abortions. They might also experience financial difficulties, such as lower credit ratings and a higher likelihood of poverty (Lai and Choi, 2021). In the MTP Act, the court has acknowledged the significance of mental health, stating that the woman should be the only one to decide whether to have an abortion and that her perception of the situation should be the most important factor in determining whether the pregnancy should be terminated (Mandhani, 2022). It is essential to guarantee access to contraception, raise awareness of safe-sex practices and sexual health, and address the attitudes of *Registered Medical Practitioners* (RMPs) who can occasionally obstruct access to affect positive changes in attitudes toward abortion. Before, medical boards had a big say in abortion choices, but they took too long to form, which frequently resulted in late-term abortions and violated women's rights to bodily integrity. This ruling might make it possible to get rid of these boards.

However, the study raises questions about how safe and inexpensive abortion services will be implemented. It will be difficult to provide abortion treatment that is both affordable and accessible given the current trend toward privatization of district hospitals, which are frequently the only accessible healthcare facilities in rural areas(Håkansson et al., 2020). The poor and marginalized communities who rely on these hospitals may be disproportionately impacted by their privatization. A comprehensive strategy that addresses the attitudes of healthcare providers, access to contraception, and awareness campaigns are also necessary to change abortion views (Qian et al., 2004). Despite the difficulties, the text recognizes the victory of the abortion rights struggle and the intersectionality of this verdict. It celebrates this important step while highlighting the necessity of carrying forward the battle for accessible and safe abortion services.

8. Conclusions

The right of rape survivors to seek abortion is highlighted in the article by two recent rulings by the Bombay High Court in "*ABC v. State of Maharashtra, 2019*" and the Madras High Court (Bhate-Deosthali and Rege, 2019). The decision of the Bombay High Court in a particular instance has been viewed as a positive development and has already impacted another similar case, urging courts to consider rape survivors' rights. Similarly, the Madras High Court's decision serves as a warning to authorities to take prompt action to avoid circumstances in which the Supreme Court cannot permit the termination of a pregnancy at a later stage due to extreme risk to the mother's life. "*Z.v. State of Bihar, 2018,*" is one such case. The report also underlines the necessity for adjustments to abortion laws despite these encouraging improvements. The Bombay High Court did not go into great depth, but it did acknowledge that the State cannot put its interests ahead of the mother's emotional and physical health. The right to bodily autonomy, the problematic idea of a "*compelling state-interest doctrine*," and the requirement for equal treatment of married and unmarried couples are only significant issues that must be addressed (Mandhani, 2022). The Parliament should address these issues to provide appropriate legislation and preserve women's rights.

Ethical Considerations

The research adhered to ethical standards and guidelines throughout its execution. All participants were provided with clear, informed consent regarding their involvement in the study. Confidentiality and privacy were ensured for all individuals, and the research was conducted with full respect for participant autonomy and dignity. The study was reviewed and approved by an appropriate ethics committee to ensure that the research design and methods complied with ethical research practices.

Conflict of Interest

The authors declare no conflicts of interest.

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