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MEDICAL TERMINATION OF PREGNANCY ACT : BRIDGING THE GAP BETWEEN LEGAL RIGHTS AND PUBLIC AWARENESS

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INTRODUCTION

India is said to have one of the most progressive legal frameworks for reproductive choice and health in the current developing world. The Medical Termination of Pregnancy Act is one such constitutional framework that protects reproductive rights and provides bodily autonomy to women. The MTP Act was first enacted in 1971 and has recently been amended in 2021, which has shifted the focus of this Act to healthcare rights and safety.

Though this is a comprehensive legal framework on paper and provides the laws to make choices related to one's own body. In reality, it tells a different story. Many women, especially of the rural and socio-economically marginalized communities, are unaware of these rights. Almost 10% of maternal deaths in India are caused due to unsafe abortion practices. Many women practice unsafe methods to terminate their pregnancies due to inaccessibility of information and inadequate health services.

THE EVOLUTION OF THE LAW : FROM 1971 TO 2021

In 1971, the statutory framework was introduced with a population control mindset instead of a rights based approach. In 1860, the British Government passed a law that completely prohibited all forms of termination of pregnancy. This led to an incalculable number of deaths of women which, with the burden of rapid increase in population, compelled the government to make a

reformatory code. This code was the Medical Termination of Pregnancy Act of 1971. The downside of the 1971 Act was that it was limited to married women and the abortions were allowed only on the reason of failure of contraception. The Act also had the abortion limit set to 20 weeks of gestation. Though, it was a revolutionary Act in those times as it decriminalized abortions on humanitarian grounds.

The 2021 amendment ensured that women were given bodily autonomy, confidentiality and just and dignified treatment. The Amendment increased the limit of access to abortions from gestational age of 20 weeks to 24 weeks. It also removed the discrimination of abortion rights based on marital status. The increasing of the upper limit to perform abortions was necessary with the advancement of prenatal tests and diagnosis of fetal disorders.

There were two major cases that helped establish the provisions of the 2021 Amendment.
In *K S Puttaswamy v. Union of India,* the nine judge bench recognised right to privacy as a fundamental right under Article 21 of the Constitution. According to Justice Chelameshwar, “A woman's freedom of choice whether to bear a child or abort her pregnancy are areas which fall in the realm of privacy.”

In the case of *Suchita Srivastava v. Chandigarh Administration*, a three judge bench laid down that even a mentally retarded woman has the right to consent to the termination of her pregnancy. It was decided that a woman had the right to have an abortion, carry her pregnancy to term, give birth and raise her children. It included the option to either have or not have children as part of the right to reproductive choice.

TRANSLATION OF RIGHTS TO ACCESS : THE AWARENESS GAP

Even with such significant legislative advancements in India, a large percentage of abortions are still carried out in an unsafe manner, without medical interference. The main reason for this is lack of public awareness. Many women, especially in rural and marginalized areas, are unaware about their right to abortion.

Societal stigma is one such barrier of public awareness. Many people in India are not taught about birth control, pregnancies and abortions as it is considered a taboo. Even the pregnancies of unmarried women, survivors of sexual assault, disabled women or minors is concealed as it is believed to harm the reputation of the family due to social stigma. This fear of being judged by community members, family or even healthcare providers drives women toward unsafe and informal methods of termination of pregnancy.

Even when the 2021 Act has permitted the access to abortions up to 24 weeks of gestation period, the inaccessibility of a certified Registered Medical Practitioners (RMP) or a state approved clinic has made it difficult for women to exercise safe abortion techniques, despite the fact that they are aware of their rights.

BRIDGING THE GAP BETWEEN RIGHTS AND AWARENESS

To overcome this gap, a major step has to be taken by the authorities to educate the masses of their rights and also to make abortions more accessible. For beginners, sex education must be made mandatory for all young adults and they must be taught about safe sex practices and the use of contraception. Following this, the label of taboo shall be removed from abortion practices.

In rural regions, public campaigns must be set up to educate everyone about safe abortion practices, which may be performed up to 20 to 24 weeks of gestation. This education may be provided through nurses and midwives as they are a trustworthy source for rural women.

The registered medical practitioners must be made aware that women possess bodily autonomy and do not need the consent of her spouse or parents to go through with the termination of her pregnancy. The RPM also cannot refuse to perform an abortion based on their personal moral values.

It is very important for us to understand that abortion is healthcare. In many cases abortion is necessary to save lives, and if an abortion is denied, we may lose the lives we already have.

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