

Ensuring Reproductive Freedom: A Study of the MTP Act and Transgender Communities Access to Abortion

Raj Yadav¹, Aditi Jain²

¹Indore Institute of Law, Indore, MP, India

Mob: 9399735557

yadvraj782002[at]gmail.com

²Institute of Law Nirma University, Ahemdabad, Gujarat, India

Mob: 6260959050

aditi2004jain[at]gmail.com

Abstract: *This paper tries to dive into the complexities of the medical terminancy act, which was firstly introduced in 1971 and later amended in 2021 by the Indian government, this research paper also deals with new policy relating to the abortion laws in India, and the law conflict between the Pre - conception and Pre - natal Diagnostic Techniques (PCPNDT) Act of 1994, and the Protection of Children from Sexual Offenses (POCSO) Act of 2012. Later this paper deals with the economic challenges faced by the transgender in the country by various means relating to abortion talked about the children born to transgender parents also born transgender. The exposure to a larger variety of gender experiences and expressions that transgender children may experience may affect how they perceive and explore their own gender identity and then discussed the Rights given to transgender for safe and then demanded rights for the transgender community for the legal abortion as 2021 policy for the abortion of unmarried couples but there are no rights or law given to the transgender community for the abortion as all countries have their own laws for this community. Through this paper, the reader will be able to understand the Importance of transgender community their existence and their laws towards their development in equally in every field whether it is political, medical, social and all.*

Keywords: MTP, Abortion, New policy, Economic Problems, Rights of transgender

1. Introduction

Abortion rights for transgender people have been a contentious and confusing subject in India, owing to the country's legislation and social views toward the transgender population. India has a varied population, and the transgender community is recognized as a "third gender" in the country. Despite this acknowledgement, transgender people frequently experience prejudice and difficulties to accessing healthcare treatments, including safe abortion options. When it comes to receiving healthcare services, especially reproductive care, transgender people confront a unique set of problems. Despite the fact that the right to abortion is legally guaranteed, many transgender people experience hurdles and face discrimination in receiving these services. While India's Medical Termination of Pregnancy Act of 1971[1] allows abortions for any woman who is pregnant for up to 20 weeks, it does not expressly include transgender people neither it expressly includes them. Many health care professionals continue to discriminate against transgender people and refuse to provide them with safe and legal abortion services. In practice, however, healthcare personnel' lack of sensitivity and understanding frequently results in the denial of treatment to transgender people. There is also a shortage of knowledge and tools, making it harder for individuals to exercise their reproductive rights [2]. Furthermore, a lack of education and understanding about the rights of the transgender population has resulted in widespread stigma and discrimination, making it difficult for transgender people to receive crucial health care, especially abortion services. Furthermore, the stigma and prejudice

experienced by the transgender population frequently leads to unexpected pregnancies and an increased risk of unsafe abortions. This highlights the urgent need for comprehensive sexual and reproductive health education and services, specifically tailored to the needs of the transgender community. Despite these challenges and obstacles, there are a growing number of organizations and advocates working to improve the situation and ensure that all individuals, including transgender individuals, have access to safe and legal abortion services. In conclusion, while India recognizes the rights of the transgender community, there is still much work to be done to ensure that these rights are protected and upheld in practice. Access to safe and legal abortion services should be a fundamental right for all individuals, regardless of gender identity, and also efforts must be made to remove barriers for transgender people and promote inclusivity in abortion rights to them.

Medical Terminancy Act

A progressive abortion law exists in India that permits pregnancy termination in certain situations. In 1971 and 2002, amendments to the Medical Termination of Pregnancy (MTP) Act were made. This law permits abortions up to 20 weeks into a pregnancy under specific conditions. Despite the law's progressive character, getting access to abortion services still presents difficulties and restrictions. The Medical Termination of Pregnancy (MTP) Act of 1971 permits a registered medical professional to perform an abortion on a woman whose pregnancy is less than 12 weeks along if the professional has a "good faith opinion" that the woman's life, mental health, or physical well - being would be in danger if the pregnancy continued, or if there is a

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significant risk that the child would be born with “physical or mental abnormalities as to be seriously handicapped.” At least two doctors are required to reach this conclusion when a woman is less than 20 weeks pregnant but has been pregnant for longer than 12 weeks. Contrary to popular belief, women and girls are not required by the Act to request judicial authorization or approval from a court - appointed medical board, or from anyone else for that matter, after the 20 - week mark.

The current procedure, which calls for court involvement after 20 weeks, is the consequence of numerous judicial rulings. Similar to the 10 - year - old rape survivor case, where the Supreme Court ordered the establishment of permanent medical boards for abortions, prompting a swift response from the federal government in the form of a directive to states and union territories to do the same. The majority of these cases, however, have not made it clear whether women can immediately contact medical boards without first submitting a petition or whether medical board clearance is necessary in all situations longer than 20 weeks. However, a sizable portion of the LGBTQIA+ community [3], including transgender, non - binary (a gender identity that does not ascribe to the woman - man binary), and gender - diverse people who were assigned female or intersex at birth, are systemically excluded from India's abortion laws and healthcare infrastructure. These individuals also experience pregnancy and need access to safe abortions as well as sexual and reproductive health services.

2. Law Conflict

In the drafting of the MTP Act, the Pre - conception and Pre - natal Diagnostic Techniques (PCPNDT) Act of 1994, and the Protection of Children from Sexual Offenses (POCSO) Act of 2012, there is a major lack of understanding among stakeholders and contention. For instance, officials frequently crack down on MTP centers and gynecologists legally allowed performing abortions as part of their strict inspections to prevent sex determination under the PNDT. Similar circumstances apply to the POCSO Act [4], which requires that if a girl under the age of 18 requests an abortion, the provider of services files a report of sexual assault with the police. Given that between 45 and 47 per cent of girls gets married under 18 years of age in India, this turns out to be a barrier for young women seeking an abortion. Sneha Mukherjee, who is behind multiple PILs in this regard, explains that according to the PCPNDT Act, one can abort within 8 - 12 weeks, which she further said is what leads to sex - selective abortions. According to her, it should not be confused with the MTP Act as someone wishing to abort in general wouldn't wait for 20 weeks to find out if they want a baby boy or girl. “We must understand that the time period for two is different, but they don't necessarily have to overlap since someone who wants a sex - selective abortion would know from the very beginning and won't exactly wait for 20 weeks as is the case under the MTP Act,” Sneha explained, while adding that there are grey areas. Such grey zones lead to hazardous abortion services provided by unlicensed providers, which endangers the lives of numerous women and unborn children more than the denial of abortion.

According to newly performed data, around 15.6 million pregnancies are aborted in India each year, and 13 women perish there every day as a result of unsafe abortion - related difficulties. It further asserts that 80% of women are genuinely uninformed that abortion is legal, which reduces their ability to access secure abortion care. Therefore, one of the most important tasks to improve access to safe abortion services for women and ensure their health and human rights is to streamline the three laws.

New Policy

The Medical Termination of Pregnancy (Amendment) Act, 2021 was approved by the government, increasing the gestational limit for termination of a pregnancy in India from 20 to 24 weeks in certain circumstances. According to this Act, a state - level medical board would be established to decide if a pregnant woman in India wants to end the pregnancy between 20 and 24 weeks after reviewing her reports. The following women are covered under the Abortion Act under the new regulations, which were approved by Parliament in

March 2021: minors, survivors of sexual assault, rape, or incest, widows and divorcees, and those with physical disabilities. The government enacted the Medical Termination of Pregnancy (Amendment) Act, 2021, extending the gestational limit for termination of a pregnancy in India under certain conditions from 20 to 24 weeks. A state - level medical board will be constituted in accordance with this Act to determine if a pregnant woman in India want to terminate the pregnancy between 20 and 24 weeks after studying her findings. The new regulations, which were adopted by Parliament in March 2021, extend coverage under the Abortion Act to the following women: minors, those who have experienced sexual assault, rape, or incest, widows and divorcees, and those who are physically challenged. Bihar's medical officer and gynecologist spoke about this issue and said “This Act is very helpful to us, especially in cases where fetal abnormality is discovered later in pregnancy. Many parents are unable to give these exceptional children a healthy childhood because they cannot afford the child's postpartum care. The best course of action in these situations is to have the pregnancy medically terminated while taking the expectant woman's health into consideration.” In the past, if a pregnancy was terminated within the first 12 weeks of conception or between 12 and 20 weeks, one doctor's opinion was required. The effects of pregnancy and abortion on a woman's mental health are significant. This is a wise choice when you consider the effects of unintended pregnancy, which can result from rape victims, failure of the contraceptive method, congenital abnormalities, or other causes. In certain situations, trained and licensed professionals should perform the medical termination of the pregnancy. “The premature loss of the father frequently has a negative impact on the pregnancy and causes a number of financial problems. In these situations, medical abortion is a preferable choice, especially for those in economically disadvantaged groups of society. Speaking of the challenges faced by women during a government - declared emergency, he said, “Medical termination of pregnancy has been chosen as an option during a disaster or emergency declared by the government due to lack of medical facilities in the disaster - struck area or for families

who have lost everything in a disaster and are not in a position to take care of the newborn”

Abortion Rules in India

- In India, a state - level medical board will be established to decide whether or not a woman may abort her pregnancy between 20 and 24 weeks. [5]
- The board will look over all the reports of expectant mothers and determine whether or not they fit into the categories recognized by the government. .
- If she seeks a medical termination of her pregnancy and provides an opinion regarding the termination of the pregnancy or rejects a request for termination within three days of receiving the request,
- The medical board will review her reports. When they advise it, the medical board [6] will oversee the abortion process and determine whether all safety precautions and counselling were taken.

Economic Problems

People who identify as trans experience a variety of difficulties in their daily lives, such as prejudice, limited access to healthcare, and poverty. Many transgender people find it difficult to exercise their right to an abortion because these difficulties are made worse when trying to access safe and legal abortion providers. Discrimination and stigma are two significant obstacles that transgender people must overcome when attempting to get abortion services. Many medical professionals lack the training and resources necessary to treat transgender patients, and they may also be unaware of the unique medical requirements of this population. This may result in care that is insufficient or insensitive, or even a complete rejection of services. Particularly in conservative or rural places, where attitudes towards the LGBTQ+ population are less tolerant [7], this may be the case. In addition, many transgender people have financial obstacles while trying to get an abortion. They could not have enough money to pay for an abortion because they are struggling to make ends meet and living in poverty. As abortion services are frequently not covered by insurance plans, this is especially true for people who are uninsured or have inadequate insurance. Furthermore, many providers do not accept insurance for these operations even in places where abortion is permitted, so clients must cover the entire cost out of pocket. For individuals who are already having a difficult time making ends meet, this may represent an overwhelming financial burden. The absence of safe and legal abortion services is another issue transgender people must deal with. Access to these services is hampered in many states by severe abortion restrictions, which is made worse for transgender people who may encounter additional obstacles to receiving medical care. Lack of access to hormones or other gender - affirming treatments, a dearth of healthcare professionals trained to give transgender - specific care, and a lack of legal acknowledgment of their gender identity can all contribute to this. The law may occasionally be applied to prevent transgender people from accessing abortion services. For instance, in some places, in order to obtain certain services, including abortion, a person must provide a government - issued ID that accurately reflects their gender identification. For transgender people who have not yet been able to legally change their gender marker or who live in states where the process is challenging

or time - consuming, this can be a substantial hurdle [8]. Lack of privacy and secrecy is another issue transgender people encounter while seeking abortion services. Many people worry about the potential of discrimination or violence if their gender identity is discovered, as well as the sharing of their personal information without their agreement. This may make it difficult for some people to get the care they need since they may be reluctant to disclose their transgender identity in order to get an abortion. In conclusion, transgender people encounter a variety of intricate financial obstacles while accessing abortion care. These difficulties range from stigma and discrimination to limited access to healthcare, extreme poverty, and procedural hurdles. In order to guarantee that everyone, regardless of gender identity, has access to safe and legal abortion services, campaigners and policy makers must acknowledge and address these issues. We can strive towards a society where everyone has the ability to make educated decisions about their own bodies and their own health by standing up for the rights and needs of transgender people.

Abortion Related to Transgender

When accessing abortion services, transgender people have several difficulties and obstacles. Among the significant issues are:

- 1) **Inadequate access to care:** There is a global shortage of providers who are informed about and comfortable delivering abortion services to transgender people. This might make it challenging for transgender people to get the care they need, especially in conservative or rural locations where there might not be any physicians prepared to offer these services.
- 2) **Stigma and discrimination:** When attempting to obtain abortion services, transgender people frequently experience stigma and prejudice in healthcare settings. This can make the setting hostile and unwelcoming for transgender people, which will decrease their likelihood of seeking care.
- 3) **Absence of insurance:** Transgender people may find it difficult to pay the operation because many insurance policies do not cover abortion procedures. Those who are transgender and have poor incomes or no insurance may find this to be very difficult.
- 4) **Lack of education and training for healthcare professionals:** Many healthcare professionals lack the necessary knowledge of the special healthcare requirements of transgender people, notably those related to their reproductive health. This may result in a lack of awareness and consideration for transgender people, which could fuel more prejudice and stigma.
- 5) **Legal impediments:** In some places, parental consent laws or lengthy waiting periods prevent transgender people from accessing abortions. These restrictions may make it more challenging for transgender people to get medical care and may endanger their health and wellbeing.

Overall, these difficulties may make it difficult for transgender people to obtain abortion services, which may have detrimental effects on their health and general wellbeing. These concerns must be addressed in order to build a more accessible and inclusive healthcare system that

caters to everyone's needs, regardless of gender identification. When considering transgender fertility, abortion may not immediately come to mind, but transgender, non - binary, and gender non - conforming people who become pregnant may not always want to or may not be able to take their pregnancy to term. Some people think about having an abortion, also known as a pregnancy termination, in specific circumstances. What do we know about transgender people and abortion? In a 2019 study, approximately 1700 [9] members of the trans community were interviewed; 210 of the participants said they had at least one child. Of those, 67 reported having had at least one abortion. This indicates that many transgender and gender non - conforming individuals have chosen to have an abortion. There are numerous ways to end a pregnancy. The participants used three main strategies, according to the 2019 survey. The two most popular methods were medicinal (commonly known as "the abortion pill") and surgical (an out - patient procedure that occurs under general anesthesia or twilight sedation). Some interviewees admitted to trying natural, conventional, or DIY treatments. However, the majority of trans respondents said that if given the option, they would choose an oral medicine over a surgical method to abort their pregnancy. It is simple to understand why an at - home oral drug would be preferable to a clinical procedure when taking into account the high rates of medical trauma faced by members of the trans community. However, many Americans do not have easy access to prenatal care, including oral abortion medicine and pregnancy tests. As a result, pregnancies are often identified outside the 10 - week window required for a medical procedure, and surgical methods are more commonly performed. Abortion is a personal decision. For some, it can feel like a spiritual choice, while for others, it might feel more like a medical one. While some people struggle with the decision, others are adamant about their choice. Regardless of how difficult a decision it is for you to abort your pregnancy, many other trans individuals have walked this path before. There are various reasons why people decide to get abortions. Most women who have abortions are already mothers and fathers who lack the means and/or desire to expand their families. Some people aren't ready to start a family yet, but they eventually do and have families of varied sizes. Others are certain that they do not want biological children or are unsure of whether parenthood is appropriate for them. Any step of your reproductive journey, including pregnancy termination, can be approached in any way. At Trans Fertility Co., we'll keep looking for methods to help you at each stage of your journey. Watch this space for additional information on reproductive justice and care!

Children born to transgender parents also born transgender

It is difficult to say if children born to transgender parents will also grow up to be transgender because there are several variables at play, including biology, genetics, socialization, and personal identity. There is no one "correct" response, as each person's experience of gender identity is distinct and influenced by a multitude of factors. It's crucial to first recognize that gender identity is a highly personal component of one's personality that might manifest itself differently for every person. It is not entirely based on one's

genetic makeup or the gender of one's parents. While some individuals may be able to identify their gender from an early age, others may need more time to investigate and comprehend their gender identity. According to research, the emergence of transgender identity cannot be explained by a straightforward hereditary factor. Even while some studies have revealed a hereditary component to gender identity, the precise mechanisms are still not fully known, and it is likely that a combination of biological, environmental, and cultural factors all contribute to an individual's gender identity. There is no evidence to support the notion that children of transgender parents are more likely to identify as transgender people. Children of transgender parents, however, might be exposed to more nuanced discussions about gender and may be more inclined to explore their own gender identity at a younger age. It's important to take into account how socialization and cultural standards affect gender identification [10]. From a multitude of sources, including family, peers, the media, and their larger community, children learn about gender and gender norms. The exposure to a larger variety of gender experiences and expressions that transgender children may experience may affect how they perceive and explore their own gender identity. It's crucial to remember that merely having a transgender parent does not ensure that a child will eventually identify as non - binary or transgender. In the end, every person's perception of gender is distinct and influenced by a multitude of elements, such as their own biology, experiences, and personal investigation. In conclusion, there is no simple solution to the difficult topic of whether children of transgender parents are born transgender. However, it is possible that their experiences and exposure to other gender identities may influence how they understand and explore their own gender identity. There is no evidence to suggest that children of transgender parents are more likely to be transgender themselves. In the end, every person's experience of gender is distinct and influenced by a multitude of circumstances.

Rights given to transgender for the safe abortion

The assertion that a child born to a transgender parent will necessarily be transgender is unsupported by scientific research. The complex and multifaceted component of identity that is gender identity is influenced by a number of biological, psychological, and social variables. Furthermore, choosing to have an abortion is a very private and personal matter that can be impacted by a wide range of variables, such as personal beliefs, financial concerns, and health - related issues. It is unlikely that this decision is solely influenced by the gender identity of a possible child. It is crucial to keep in mind that everyone has the right to make choices regarding their own bodies and reproductive health, as well as the right to accurate information and safe, reasonably priced healthcare [11]. Compassion, respect for personal autonomy, and a dedication to provide universal access to high - quality healthcare should serve as the compass for discussions regarding abortion and reproductive health. It is crucial to remember that denying the transgender population access to abortion services constitutes a violation of their human rights. Like anybody else, they have the freedom to decide what to do with their own bodies. Additionally, restricting access to abortion care may have a serious negative effect on the transgender community's

mental health and general wellbeing. Particularly for people who lack access to secure and comforting medical care, pregnancy and delivery can be incredibly painful events. This may cause them to feel more stressed and anxious, which could harm their general health and well-being. It is crucial that the transgender community has unrestricted access to abortion services that is both free and equitable. Denying them access to these services would be a grave violation of their human rights and would have a negative impact on their health and welfare. Healthcare professionals must be properly trained to treat the transgender population with safety and respect, and they must be aware of the special difficulties that transgender people encounter in getting access to high-quality medical treatment. We can ensure that the transgender community has access to supportive and safe abortion services so that they can make decisions about their own bodies and live happy, healthy lives.

3. Conclusion

The physical, mental, and behavioral health of transgender individuals is profoundly impacted by prejudice, stigma, deprivation, and violence. These factors also contribute to inequities in access to proper care and health insurance. It is crucial to establish both strong anti-discrimination laws and in-practice guidelines that are affirming, inclusive, and culturally sensitive across all spheres in order to enhance these outcomes and the experiences of transgender people. These statistics significantly add to the body of knowledge regarding transgender, nonbinary, and gender-expansive individuals' personal experiences with and preferences for abortion treatment. This marginalized population's experiences can be better included in and validated in abortion care by adjusting it in light of the findings.

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