



Unveiling the Reproductive Rights of Women

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Abstract

The MTP Act underwent many important amendments recently considering societal attitudes and latest advancements in medical technology and need for greater access to safe legal abortion services. These major changes aim to enhance women reproductive rights to decrease the maternal mortality rates to ensure equitable access to comprehensive reproductive health care services.

In certain circumstances from 20 to 24 weeks is suggestible of the extension of the gestation limit these major change acknowledge the problems which arrives from the pregnancy and development of fetal allowing women to face the emergencies of the abnormalities to make inform decision about their reproductive health later in pregnancy. This helped in reducing the risk associated with unsafe procedures and unwanted suffering to access the safe legal abortion services when necessary by women. Further regardless of marital status the amended MTP Act expands the eligibility to abort beyond the married women taking into consideration of their reproductive needs and rights of women. This change brought gender equality and ensures that the women have the right and take decision about their bodies and futures without discrimination of stigma. It also addresses the problems faced by unmarried women in aborting and empowers them to protect the reproductive rights without fear of judgment. This amended act introduced the provisions to stream line the approval process of abortion and eliminated all the unnecessary hurdles. More facilities were provided including all the clinic and hospitals to improve access for legal abortion in urban and rural areas.

The MTP Act emphasizes the priority of post abortion care and counseling services in order to support women physical emotional and psychological and wellbeing throughout the process of abortion.

Overall the amendments to the MTP acts laid down the significant step forwarding in advance of women reproductive rights promoting good maternal health for safe and legal for all the women in both urban and rural areas.

By noting the gaps by adjusting legal frame work and comparing with international legal rights standards these changes contributes the realization of reproductive justice and gender equality of the India.

¹Medical Termination of Pregnancy Act, 1971

Both medicine and law interact and influence each other in many ways. Forensic medicine and medical malpractice law are the subjects of the study. In Egypt ion law capital punishment is imposed if the negligence of the doctor has been proved. Both law and medicine has been related since ancient times "Hammurabi" the oldest law code, the emperor of Babylon of 2200 BC included the rights and the duties to be performed by the medical men. Public health provisions are pure negligence of the doctor Egyptian law considered death as a serious offence and gave capital punishment. In between 384-322 BC Aristotle gave a fixed animation of fetus at the 40th day after conception which paved a great priority in induced abortions particularly whether it occurred before or after the time. He advocated population limitation by inducing abortion before the fetus gets life. He felt that there must be a law relating to prevent the rearing of deformed children.

At the period of Numapompilins in Rome in 600 BC, when the women during confinement should immediately open and save the Childs life from the womb.

In past two decades, the technology in the medicine has developed allot. There is a rapid growth in the advancement of medical field in the 20th century.

Test tube babies organ transplantations and genetic manipulations are made much easier and possible out of medical research.

Many researches were carried on, on the human embryo. The researchers led to the potential benefits for the improvement of techniques to alleviate infertility, and in -vitro fertilization in the development of improved contraception in detecting at early stage of genetic disorders.

The women's Natural Instinct is Motherhood. The birth of the child brings a sense of fulfillment and pride of procreating to the mother.

What are the reasons that are leading the mother and the society wish to eliminate children at their genesis?

The evil practice of dowry, illegal relationships made belief on patriarchal society are the reasons for killing their own bodies.

Instead of giving protection and equality status through laws, it has been futile due to lack of social will.

This evil practice of avoiding female children has been not stopped till date by whatever means possible.

India is meeting a population explosion many preventive measures are been taken to birth - control.

All the Family planning programs affected the laws relating to miscarriage. Thus abortion was liberalized.

The MPT act, 1971 eliminated the high incidence of illegal abortions envisaged to confer upon the woman the Right to privacy within 12 weeks or within 20 weeks of pregnancy a women can decide to abort her fetus under the MPT Act 1971 under certain grounds in the supervision of 2 medical practitioners.

Under section 3, the women can terminate her pregnancy on following grounds:-

¹ Medical Termination of Pregnancy Act, 1971

1. If there is a risk to the life of the pregnant woman.
2. If any injuries to the pregnant woman physically or mentally.
3. If any physical or mental abnormalities of the baby in the womb.
4. If the pregnancy caused due to rape.
5. Failure of any device by the couple to avoid pregnancy
6. On basing upon the actual or reasonable foreseeable environment the health of the pregnant woman will be at risk.

The people who wanted to discard their female children, easy abortions were made by the doctors, who are running lucrative business in performing this test.

It is well stated that the duty of the court is to examine the purpose and the policy of the Act and then to discover when the law is challenged and whether the classification is made by the law which has a reasonable relation to the object which the legislature seeks to obtain.

There is necessity to identify the two main driving forces behind the Act to understand the basis on which the MTP Act is premised.

1. The people who are aware of the legislation of abortion and following family planning and at the same time lowering the birth rate.
2. The non expertise people are non Medicos conducting abortions in all untrained and unhygienic way, the health factor.

Right of abortion vs child in mother's womb

Once upon a time female feticide is not considered as Yen issued at all which justice and established the fat that not evens a section either specifically and expressly deals with the act.

In order to provide safe and legal access abortion services for women in India, the medical practitioners have regulated the termination of pregnancies has the main object of Medical Termination of pregnancy Act, 1971.

A mother cannot be a beta noir of her own child that unbores child. Women can give birth also to man this distinct quality places her on both the advantages and disadvantages stance.

A women has right to produce a child and have Motherhood but here born of contention is whether she can abort her child who is yet to be born?

Section 312 of Indian penal code, 1860

312 causing Miscarriage: - If the abortion is done to a woman to protect her life with a good intention it is not punishable, but if it is not caused in good sense then it is punishable.

Amnio centesis is a prenatal embryo test where genetic defects can be identified along with the sex of the unborn child. The term “Amnio centesis” is derived from two Greek words “Amnion” or “The sac” containing fetus and kentesis or puncture. It is a new technique in order to withdrawn foetal material to study. The direct analysis of Amniotic fluid and the study of enzymes and to analysis DNA can be ascertain by a process Karyotling that is chromogol study. In order to detect the genetic disease of the embryo. In between 14 to 16 weeks of pregnancy this process will be performed. In 1988 the Maharashtra government passed “The Maharashtra Regulation of Prenatal Diagnostic technique Act in order to curtail look ratite business and to eradicate in discriminate termination of Pregnancies on the grounds of Amnio centesis. The Maharashtra Act, 1988 has allowed the prenatal test on the following grounds.

1. Congenital abnormalities.
2. Genetic metabolic diseases.
3. Sex linked genetic diseases.
4. Chromosomal abnormalities.
5. Haemo globlopathics.
6. Any other abnormalities which are identified by appropriate authority.

And this Maharashtra Act 1988 the husband or the family members of the women may have a defense of abortion.

- This act also specifies that the techniques of prenatal diagnostics can be performed if there is a family history of genetic diseases.
- If the women has more than two abortions or foetal loss.
- If the women is 35 years old
- If the women has habit of Teratogenic drugs or agents.
- Are if any other approved conditions ageists.

These prenatal diagnostic techniques cannot be used to identify the gender of a fetus and same cannot be advertising by the clinic to determine the sex.

In cehet and others vs Union of India, the judgment of first path breaking of the apex court which shown the way for the implementation of this act. A PIL under 32 of the constitution of the India by Center for enquiry allied themes (Cehat) a research organization, mahila sarvangin utkarsh Mandal(masum) which is a NGO and Dr.Shabu m Jorge who is member of civil society brought to the notice of the court that when the Act is prohibiting the determination of the sex which is passed by the central government in 1994 and rules which are framed in 1996 where the strict implementation of law were not taken up by either of the governments. Further it was emphasized that in Indian society the discrimination of girl child was universal. The mindset of the people did not change as the priority for male child is dominated. If we come across the census of 2001 revels the greater decline in child sex ratio from 0 to 6 years age group mainly in the states like Haryana, Punjab and Maharashtra which are having a sound financial background. The law which is aiming in prevention of sex determination is not being properly implemented in India has come into the notice of Supreme Court. The Supreme court passed various orders from time to time that is 4/5/2001 to 19/9/2001, 7/11/2001 and 11/12/2001and finally disposed a petition on 13/3/2001 giving various directions after observing the data and compliance reports for both central and state regarding the implementation of this Act. The directions are as given below as the central government.

Directions to the central government.

1. The Practice of sex selection and sex determination should be avoided create awareness to the public.
2. To implement this act with seal vigour.

Directions to the Central Supervisory board.

1. To monitor the implementation of the Act.
2. In order to ensure the due publication to be observed working under this act to lay down the code of conduct.
3. For the proper implementation of the working of the Act to call upon quarterly updates from both state and union territories and appropriate authorities.
4. Keeping in mind about the emerging technologies and practical problems in implementation of the act there is a necessity to examine in amending the Act.
5. At least once in 6 months to call for a meeting regarding implementation of the Act to monitor and review.

Directions to the State Government and Union Territory Administration.

1. In order to aid and advice to appropriate authorities they should appoint advisory committee.
2. In print and Electronic media to furnish a list of appropriate authorities.
3. Against the practice of sex selection of sex determination public awareness should be created.
4. To ensure the appropriate authorities to furnish the quarterly returns to the central supervisory board giving apt information on the enforcement and working of the Act.
5. To appoint through notification fully eligible authorities with at district and sub district levels.

Directions to Appropriate Authorities.

1. If any advertisement under violation of section 22 of the Act – to take prompt action against any person or body who issued an advertisement.
2. The bodies and the persons who are operating without genuine certificate of registration and the Act a prompt action against body or persons should be taken.
3. Since the Supreme Court taken the initiation to monitor and inspect the act the act would have remind merely a legislation on paper forever.
4. It is to be noted in the year 2003 if it is not amended to bring in its preview and the misuse of preconception techniques and was given the title Preconception and Prenatal Diagnostics contempt (Prohibition of sex selection) acts as a result of the order passed in the petition.

Satya Trilok Kesari @ Satyanaraya s/o Trilokchand Lohia vs. State of Maharashtra and Another

In this case the applicant has published the article in daily in newspaper – Hindustan of Amravati letting the people to know through neuropathy how to conceal a child. It is no way an offend under section 72 PCPNDT Act and it was a mere submission of research paper. The public Prosecutor argued that whether the article that is an advertisement in newspaper to invite the people to procure a male child. Therefore it is clearly stated that it false under the preview of the decision of miss chief as defined under section 22 of the act. The argument initiated against the applicant was proper the article published was framed skillfully in intuition of evading the article of section 22 of the act. Particularly and purposefully the article will written in small letters in some paragraphs and was also highlighted with selected words. In order to evade section 22(1) (2) of the act. Finally it was concluded in the article through neuropathy the male child can be procured. The High court opined and held that it is a prime of assays amounted to violation of subsection 22(1) (2) of the act. Hence the application for the quashing the prosecution was dismissed by the high court.

Conclusion:

Medical Termination of pregnancy Act, 1971 represents a significant of reproductive health care of women in India. In safe guarding the women rights and health the legal provision were established in termination of pregnancies. The act has evolved to address the societal needs and medical advancements ensuring the access to safe abortion services at the same time protecting the maternal wellbeing over the years. Challenges will definitely remain in the implementation and access highlighting the ongoing need for education awareness and the role of judiciary in protecting the reproductive right.

