Proposed amendments to the MTP Act
Summary Note

Background

The Medical Termination of Pregnancy (MTP) Act in India came into existence in 1971 based on the recommendations of the Shah Committee. The Act was amended in 2003 to facilitate better implementation and increase access for women especially in the private health sector. However, 38 years after the implementation of a liberal MTP Act, unsafe abortions still continue to outnumber safe and legal abortions in the country contributing to eight percent of the total maternal deaths in India. Given this background, and keeping in mind the recent medical advancements, the Ministry of Health and Family Welfare (MOHFW) decided to examine the MTP Act and amend it to enable increased access to safe abortion services in the country.

To broaden the amendment development process and gather inputs from various perspectives, MOHFW constituted an expert group committee consisting of a variety of stakeholders representing NGOs, academic institutions, state governments FOGSI, SOMI and lawyers.

The proposed amendments to the MTP Act are currently with the Ministry of Health and Family Welfare, government of India and are awaiting final approval for further process.

Proposed amendments

The proposed amendments to the MTP Act are primarily based on increasing the availability of safe and legal abortion services for women in the country. The recommendations can be broadly classified into the following:

- Expanding base of legal abortion providers
- Increasing access to legal abortion services for women
- Increasing the upper gestation limit for legal MTPs
- Increasing clarity of the MTP law

Below are the key recommendations that have been proposed for amendments to the MTP Act under the above classifications:

Expanding the base of legal abortion providers

In order to increase the availability of safe and legal abortion services, it has been recommended to increase the base of legal MTP providers by including medical practitioners with Bachelor’s degree in Unani, Ayurveda or Homeopathy. These categories of ISM practitioners have Obgyn training and abortion services as part of their undergraduate curriculum.

It has also been recommended to include nurses with a three and half year’s degree and registered with the Nursing Council of India, into the base of legal providers for medical methods of abortion only.

The training requirement, gestation period limits and any limitation on abortion technologies to be used by the new provider categories would be described in the Rules.
Increasing access to legal abortion services for women

The group made the following recommendations to remove some operational barriers in the current law that limit access to safe and legal abortion services.

- Remove the requirement for provider’s opinion for first trimester abortions.
- Reduce the condition of requirement of the opinion of two service providers for second trimester pregnancies to one service provider only, as this is seen as a hindrance in access to safe abortion services by women in situations where two providers are not available.
- Extend the indication of contraception failure to include unmarried women also.
- Distinguish between training for medical and surgical methods of MTP. Since the training required to provide only medical methods of abortion is significantly less than surgical abortions, it has been recommended to distinguish between the two trainings. This would enable more providers to be appropriately trained, thereby ensuring safe MTP services.

Increasing the upper gestation limit for legal MTP services

This recommendation has been made keeping in mind the latest technological and medical advancements which have made late abortions safer than before. It has been recommended to insert a sub-section which will allow termination of pregnancy where necessitated by the diagnosis of any of the substantial foetal abnormalities. Modalities like definition of “substantial foetal abnormalities”, list of foetal abnormalities, diagnostic modalities, record keeping and others will be enumerated in a notification issued by the government.

Increasing clarity on the MTP Act

- The expert group has also taken this opportunity to recommend the addition of some clauses to make the Act more comprehensive and clear. For this purpose, it has been recommended to add definitions of following terms:
  - Abortion
  - Medical termination of pregnancy
  - Methods of abortion
- It has been recommended to replace the term “registered medical practitioner” with “registered service provider”. This would cover the expanded provider base being suggested, by bringing in para-medicals (nurses) also, apart from Unani, Ayurvedic and Homoeopathic practitioners as legitimate providers of abortion service. This would also avoid confusion since RMP also commonly refers to a ‘rural medical practitioner’.
- It has been recommended to introduce a clause which clearly states that only the consent of a woman is required for an MTP procedure. This is suggested to address the common practice of insisting on consent of or notice to the woman’s husband/ partner, or of conditionally providing abortion service, on the condition of acceptance of contraception.