



Guide to Accessing Safe Abortions

As on the date of publication (March 24, 2021), the Medical Termination of Pregnancy (Amendment) Bill, 2020 is pending for notification in the Official Gazette. Once the Bill has been notified, we will update this Guide accordingly.

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The medical information on abortions in this guide has been provided by **Dr Tanaya Narendra, also popularly known as Dr. Cuterus**. More information on reproductive rights and sexual health can be found on her handle [here](#).

How can the guide help you?

The Nyaaya Guide to Accessing Safe Abortions aims to highlight the rights available to women accessing abortions and the processes to be followed for a safe and legal abortion.

As per the [2018 national Sample Registration System data](#), the total estimate of maternity-related deaths in the country was around 26,437. While the exact percentage of this number contributed by complications from unsafe abortions is difficult to pinpoint, it is an undisputed factor contributing to this death rate. The aim of this guide is to make you aware of your reproductive rights and various processes under Indian law, and to deter women from accessing unsafe abortions and avoiding complications like maternal and infant mortalities and related morbidities.



Data on Maternal Deaths:

17	2,500	7363
Number of points Maternal Mortality Ratio (MMR) has declined by ¹	Additional mothers saved annually ²	Estimated Annual Maternal Deaths avoided ³

¹ MMR dropped from 113/100,000 live births to 130/100,000 live births

² in 2018 as compared to 2016.

³ Between 2016-2018

What are the laws being discussed in the guide?

The primary law being dealt with is the [Medical Termination of Pregnancy Act, 1971](#) (MTP Act), and the associated Rules and Regulations. We have also referred to the Constitution of India, 1950 and the Indian Penal Code, 1960.

Are abortions legal in India?

Yes, abortions, or medical terminations of pregnancy, are legal in India.⁴ However, there are certain conditions prescribed for going ahead with an abortion.

'Abortion' is not the term used in law. While 'abortion' is the colloquially used term, the law refers to the process as a 'medical termination of pregnancy'.

In practice, this includes two methods - medical terminations and surgical terminations, which the World Health Organization recognises as the two safe methods of terminating a pregnancy.⁵ The Medical Termination of Pregnancy (Amendment) Bill, 2020, proposes to include a definition for the term 'medical termination of pregnancy' to include these two methods. However, the Bill is yet to become a law.

Do you have the right to demand an abortion?

While in principle you have a fundamental right to make reproductive choices, the final decision to grant you the abortion will depend upon the satisfaction of the authorised doctor.

Courts have linked the right to access abortions and other reproductive health services to the right to life and personal liberty under Article 21 of the Constitution, including the right to decisional privacy.⁶ However, doctors can only conduct an abortion if they are of the opinion that a case/request falls under one of the grounds listed in the law.

⁴ Medical Termination of Pregnancy Act, 1971.

⁵ Safe abortion: Technical and policy guidance for health systems, WHO, accessed at <https://apps.who.int/iris/bitstream/handle/10665/70914;jsessionid=9807BACDB3CB0B3D1B55BBD34D4AA3CE?sequence=1>

⁶ Suchita Srivastava v. Chandigarh Administration, AIR 2010 SC 235; Devika Biswas v. Union of India, AIR 2016 SC 4405.

Two different kinds of abortions

Doctors can perform two different kinds of abortions:

- Medical abortions
- Surgical abortions.

When you approach a doctor for an abortion, the first step is to do an ultrasound to ensure that the foetus is inside the uterus. Many times, it can be outside the uterus, for instance, in the fallopian tube. A pregnancy in the fallopian tube can cause a medical emergency and needs an operation.

What happens in a medical abortion?

- A medical abortion is done before 9 weeks of pregnancy by administering two kinds of pills, Mifepristone and Misoprostol.
- After the doctor has conducted your ultrasound and ensured that you are eligible for a medical abortion, the first type of pill, Mifepristone, will be given to you at the clinic. This pill acts against the progesterone in your body, i.e. cuts off the nutrition to the foetus.
- The second type of pill, Misoprostol, makes your cervix soft to ensure everything comes out like a period.
- The pills must be administered within 24 to 72 hours of each other. This is different depending on which doctor you go to. They can also be taken at home.
- You must visit the doctor again after taking all the medication to check that the abortion has been successfully carried out.
- These pills are only available with a doctor's prescription and should not be taken without consulting a doctor.
- It is also illegal for the pharmacist to sell these pills without prescription. It is a jailable [offence](#).

What happens in surgical abortions?

- Surgical abortions are done after 9 weeks of pregnancy.
- As the name suggests, a surgical abortion is a surgical procedure that [an authorised and experienced doctor](#) conducts on you.
- In this procedure, the doctor will give you a medicine that softens your cervix along with some anesthetic or sedative. Sedation or anesthesia is used to reduce pain and/or trauma during the procedure.
- Doctors use vacuum aspiration and go in through the vagina (outside of the vulva) and suck the contents of the uterus out.
- This is a very safe procedure but it must be done by someone with experience. If inexperienced persons do this, there can be complications like infertility in the long run.

When can an abortion be performed?

A woman can medically terminate her pregnancy if she is:

- Up to 12 weeks pregnant, with the permission of one registered medical practitioner.
- From 12 to 20 weeks, with the permission of two registered medical practitioners.
- Post 20 weeks, registered medical practitioners can terminate a pregnancy if they deem that the abortion is necessary to save the life of the pregnant woman.

Requesting an abortion after [finding out the sex of the fetus](#) is illegal in India. The law punishes those who request such abortions as well as medical practitioners partaking in identification of sex of the fetus.⁷ The punishment for both is jail time upto three years, along with a fine up to Rs. 50,000.⁸

For a doctor to legally terminate a pregnancy⁹, they must believe that there is:

- A risk to the life of the pregnant woman, or grave injury to her physical or mental health.
- A significant risk that if the abortion is not carried out, the child so born would suffer from physical or mental abnormalities and be seriously handicapped.

A pregnancy is considered injurious to the woman's mental health if it is caused by:

- Rape.
- Failure of contraceptives or preventive methods. This is applicable only to unwanted pregnancies of married women. Presently, there is a Bill pending before Parliament that seeks to make this provision available to both married and unmarried women. Until then, this presumption only applies to married women.

The doctor will consider the pregnant woman's actual and reasonably foreseeable environment while deciding whether continuation of a pregnancy would affect her mental or physical health.

⁷ Sections 3, 4 and 5, The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.

⁸ Section 23, The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.

⁹ Section 3, Medical Termination of Pregnancy Act, 1971.

Who can perform an abortion?

Only doctors who are **Registered Medical Practitioners** can administer abortions via the pill or surgery.¹⁰

Abortions conducted by unregistered or unauthorised practitioners or clinics can be unsafe for the woman and can cause severe medical complications contributing to maternal mortality and/or morbidities. Before approaching a clinic or a doctor, it is advisable to find out if they are registered as per law.

If you have reason to believe that the doctor who conducted your abortion or the clinic where it was performed was not authorised, please visit another doctor and/or hospital. You can file a complaint to the police and report such unauthorised persons or clinics as well. You can find the punishments for unauthorised persons and clinics conducting abortions [here](#).

Don't worry! The police and/or courts will not punish you for approaching an unregistered practitioner or an unauthorised clinic **if you did not know that they were not authorised** at the time of the abortion.

Do make sure you visit an authorised doctor at the earliest and get yourself checked. Medical complications from an unsafe abortion can be severe and cause further problems to your health.

REMEMBER: It is important to complain about such persons and/or clinics to prevent unsafe abortions.

In emergency situations, where a doctor who is not a registered medical practitioner needs to conduct an abortion to save the life of the pregnant woman, they can do so in good faith.

Whose consent is needed for an abortion?

A woman above the age of 18 seeking an abortion **does not require anyone else's consent or permission** to obtain it. Only her consent is required. To ensure proper consent is taken, the doctor/clinic will make the woman requesting an abortion sign Form C.

¹⁰ Section 3(2), Medical Termination of Pregnancy Act, 1971.

Consent form to be signed by woman requesting abortion

Form C

(See rule 8)

I _____ daughter/wife of _____ aged about _____ years of __ (here state the permanent address) __ at present residing at _____ do here by give my consent to the termination of my pregnancy at ____ (State the name of place where the pregnancy is to be terminated) __

Place:

Date:

Signature

(To be filled in by guardian where the woman is a mentally ill person or minor)

I _____ son/daughter/wife of _____ aged about _____ years of _____ at present residing at __ (Permanent address) ____ do hereby give my consent to the termination of the pregnancy of my ward _____ who is a minor/lunatic at ____ (place of termination of my pregnancy) __.

Place:

Date:

Some doctors will require another person to be there with you during and after the procedure. Having an abortion can be a traumatic experience, both physically and mentally. You need someone to help you as the effects of anesthesia take some time to wear off, and to be there for you in case you face anxiety or need any other form of support.

In case a pregnancy is requested for a minor, the consent of her parent or guardian is required. In cases of abortions requested for mentally ill persons, the consent of the guardian is required.

REMEMBER: Married women do not need the consent of their partner before terminating their pregnancy. Only the woman's consent is required. Doctors are **not required** to ask women to furnish their marriage certificate to conduct an abortion.

Abortion for Minors

All doctors are legally obligated to report a pregnancy of a minor in India. This is because the age of consent in India is 18 years, and a pregnancy of a woman below this age is considered a result of rape.

This is a mandatory requirement for all doctors, not just the ones conducting abortions. For instance, an ophthalmologist who conducted an eye exam on a pregnant minor was arrested for not reporting such a pregnancy.

This duty to report applies in cases of married minors too.

Where can an abortion be conducted?

- **All hospitals established/maintained by the Government** or hospitals approved by the Government to perform abortions are allowed to carry out procedures to terminate pregnancies.¹¹
- As for private facilities, **only those with a certificate** granted by a District Level Committee can perform abortions.¹²

SAFE ABORTION	UNSAFE ABORTION
Govt authorized hospitals and private facilities with a certificate to perform abortions	Illegal vans with mobile ultrasound units

There have been recent cases of illegal abortions being conducted in vans with mobile ultrasound units. According to rules under the PCPNDT Act, your ultrasound machine has to be registered, and remain in the authorised place and cannot be moved. In Uttar Pradesh, tracking devices are now being added to ultrasound machines so every single ultrasound you do will be tracked.

¹¹ Section 4, Medical Termination of Pregnancy Act, 1971.

¹² Rule 5, Medical Termination of Pregnancy Rules, 2003

Would you be punished for availing an abortion from an unauthorised place?

If the pregnancy is causing significant distress to your mental health, the MTP Act protects you from punishment in such a case.

How can you ensure the clinic or the doctor conducting your abortion is authorised to do so?

- You must ensure that the doctor conducting the abortion has an MBBS degree. Doctors with BAMS, BMS, BHMS degrees are not legally authorised to perform abortions.
- You can also check if your doctor has a postgraduate degree after the MBBS degree, such as an MS degree, in the field of gynaecology or obstetrics, but this is not an essential requirement. However you must ensure that they have a certification of a 6 months authorised course from a government approved centre.
- There is no combined list of authorised centres online, but you can check if you are at an authorised clinic by checking if the doctor is an MBBS doctor working in a gynaecology and obstetrics related setting.
- In a village or a rural area, ensure that the doctor has at least an MBBS degree, because even medical abortions can be life threatening.

What questions can the doctor ask you before conducting an abortion?

The doctor will ask you for the following details (probably as a form to be filled):

- Your age
- Your consent (Note: Nobody else's consent is required here)
- Previous medical condition, if any - like bleeding disorder, etc.
- Any previous children
- Any previous medical or surgical abortions conducted
- Any allergies to any of the medications they will administer during an abortion
- Date of your last period to calculate the age of the pregnancy.

Things that you don't need for an abortion:

- Disclosure of your marital status - If the pregnancy is having a significant impact on your mental health, you are within your rights to seek an abortion.
- Anybody else's consent - If you are above the age of 18 years and of sound mind, you do not need your partner's or parent/guardian's consent to get an abortion.

In some cases, the hospital/clinic may ask you to bring someone along with you for support after the abortion is done. **This does not mean that their consent is required for the procedure.**

Will the clinic keep your information private?

Yes, the head of the hospital will keep information related to the termination of pregnancy (including the consent form) in safe custody.

An admission register will contain the serial number given to the patient for the termination of pregnancy, and the register will be kept secret as well. The clinic will keep this register for 5 years, after which it will be destroyed. The details about the pregnant woman will not be disclosed to anybody, including family members, police or specific authorities mentioned in law.¹³

The Court can request to see this register in medico legal cases. In such cases, only the Court will have access to copies of the register and no one else.

Even where your doctor refers you to another doctor for a treatment related to your abortion, the details of your abortion must be kept private.

Can you get medical leave from work after an abortion?

Yes, if the woman asks for a certificate, the doctor can grant a certificate to the woman upon termination of her pregnancy for her to get medical leave from work. Once a certificate is submitted to the employer, they are prohibited from disclosing these details to anybody.¹⁴

At some workplaces, you can take a paid leave if you have an illness arising out of the abortion procedure you underwent. Such leave can be availed under the [maternity benefits law](#). To check if your workplace is covered under this law, [read this explainer](#).

¹³ Regulations 4 and 5, Medical Termination of Pregnancy Regulations, 2003.

¹⁴ MTP Regulations, 2003 (Clause 4-7)

Myths Around Medical Abortions

MYTH	FACT
Abortions cause infertility .	If performed correctly, abortions will not make you infertile . However, if you are given an abortion when you have had an ectopic pregnancy that causes you to lose one of your fallopian tubes, it will impair your fertility (it still won't make you infertile).
Abortion causes PCOS or breast cancer .	No , abortions don't cause either.
Safe abortions done by doctors do not cause any damage to the uterus .	If you get an abortion from an untrained doctor, there could be chances of complications .

Resources

Legislation:

[Medical Termination of Pregnancy Act, 1971](#)

[Medical Termination of Pregnancy Rules, 2003](#)

[Medical Termination of Pregnancy Regulations, 2003](#)

[The Pre-conception and Pre-natal Diagnostic Techniques \(Prohibition of Sex Selection\) Act, 1994](#)

Guidelines:

[Safe Abortions: Technical and Police Guidance for Safe Abortions](#), World Health Organisation

Case law:

[Suchita Srivastava & Anr vs Chandigarh Administration](#)

[Devika Biswas vs. Union of India](#)

Checklists

- Ensure you visit a doctor and have an ultrasound done before getting an abortion.
- Ensure the place or the doctor you are visiting to have the abortion is registered and authorised under law.
- Ensure you read Form C carefully before signing it. As an adult woman, only your consent is needed for the procedure.
- If someone is forcing you to get an abortion, please [file an FIR](#) with the police.

Sample Forms

Consent form to be signed by woman requesting abortion

Form C

(See rule 8)

I _____ daughter/wife of _____ aged about ____ years of __ (here state the permanent address) __ at present residing at _____

do hereby give my consent to the termination of my pregnancy at ____ (State the name of place where the pregnancy is to be terminated)___

Place:

Date:

Signature

(To be filled in by guardian where the woman is a mentally ill person or minor)

I _____ son/daughter/wife of _____ aged about _____ years of _____ at present residing at ____ (Permanent address) ____ do hereby give my consent to the termination of the pregnancy of my ward _____ who is a minor/lunatic at ____ (place of termination of my pregnancy)___.

Place:

Date:

Certificate Issued to Clinic/Hospital authorised to conduct abortions

Form B

(See sub-rule (6) of rule 5)

Certificate of approval.

The place described below is hereby approved for the purpose of the Medical termination of Pregnancy Act, 1971 (34 of 1971).

AS READ WITH IN UPTO-----WEEKS

Name of the Place

Address and other descriptions

Name of the owner

Place:

Date:

to the Government of the _____

Form available at

<https://main.mohfw.gov.in/acts-rules-and-standards-health-sector/acts/mtp-rules>