



drishti

Medical Termination of Pregnancy (Amendment) Bill, 2020

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This article is based on **“A deliverance: On pregnancy termination Bill”** which was published in The Hindu on 31/01/2020. It talks about the implications of extending the termination of pregnancy period from 20 months to 24 months.

Recently, the Union Cabinet has approved the **Medical Termination of Pregnancy (MTP) (Amendment) Bill, 2020**. The Bill seeks to extend the termination of pregnancy period from 20 months to 24 months, making it easier for women to safely and legally terminate an unwanted pregnancy.

What is the Need for the Amendment?

- Some women **realise the need to terminate pregnancy very late**. In such cases, the woman needs to seek the cumbersome legal recourse, if the pregnancy has gone over 20 weeks to terminate the pregnancy.
However, in India, the **judicial process is so slow** that the women seeking termination of pregnancy after 20 weeks crosses this legally allowed limit and she is unable to get the abortion done. **This denies the reproductive rights of women** (as abortion is considered an important aspect of the reproductive health of women).
- Obstetricians argue that this has **also spurred a cottage industry** (kind of informal industry) of places providing unsafe abortion services, even leading to the death of the mother.
As a result, a 2015 study in the **India Journal of Medical Ethics noted that 10-13% of maternal deaths in India are due to unsafe abortions**. This makes unsafe abortions to be the **third-highest cause of maternal deaths in India**.

- According to **Section 3 (2) of the MTP Act, 1971** a pregnancy may be terminated by a registered medical practitioner:
 - Where the length of the pregnancy **does not exceed twelve weeks**, or
 - Where the length of the pregnancy **exceeds twelve weeks but does not exceed twenty weeks**. In this case, the abortion will take place, if not less than two registered medical practitioners are of opinion, that the continuance of the pregnancy would involve a **risk to the life of the pregnant woman** (her physical or mental health); or there is a substantial risk that if the **child** were born, it would suffer from some physical or mental abnormalities to be seriously handicapped.

This delays the decision-making process for termination of pregnancy.

- One of the criticisms of the MTP Act, 1971 was that it failed to keep pace with advances in medical technology that allow for the removal of a foetus at a relatively advanced state of pregnancy.
- The original law states that, if a **minor** wants to terminate her pregnancy, written consent from the guardian is required. The proposed law has excluded this provision.
- Thereby, the extension of limit would ease the process for these women, allowing the mainstream system itself to take care of them, delivering quality medical attention.

Proposed Features of the Bill

- The Bill seeks to amend **Medical Termination of Pregnancy (MTP) Act, 1971**.
- The Bill proposes the requirement of the opinion of **one** registered medical practitioner (instead of two or more) for termination of pregnancy up to 20 weeks of gestation (foetal development period from the time of conception until birth).
- It introduces the requirement of the opinion of **two** registered medical practitioners **for termination of pregnancy of 20-24 weeks of gestation**.
- It has also enhanced the gestation limit for **'special categories' of women** which includes survivors of rape, victims of incest and other vulnerable women like differently-abled women and **minors**.
- It also states that the **"name and other particulars of a woman whose pregnancy has been terminated shall not be revealed"**, except to a person authorised in any law that is currently in force.

Note: Before 1971, **abortion was criminalized under Section 312** of the Indian Penal Code, 1860, describing it as **intentionally 'causing miscarriage'**.

Intended Benefits of this Extension

- A number of **foetus abnormalities are detected after the 20th week**, often turning a wanted pregnancy into an unwanted one.
 - Usually, the foetal anomaly scan is done during the 20th-21st week of pregnancy. If there is a delay in doing this scan, and it reveals a lethal anomaly in the foetus, 20 weeks period is limiting.
 - This extension would allow termination of pregnancy in cases where some anomaly in the foetus is reported after 20 weeks.
- The law will **help the rape victims, ill and under-age women** to terminate the unwanted pregnancy lawfully.
- Significantly, the Bill also **applies to unmarried women** and therefore, relaxes one of the regressive clauses of the 1971 Act, i.e., single women couldn't cite contraceptive failure as a reason for seeking an abortion.

Allowing unmarried women to medically terminate pregnancies and a provision to protect the privacy of the person seeking an abortion will bestow reproductive rights to the women.

Issues Related to the Extension

- A key aspect of the legality governing abortions has always been the **'viability' of the foetus**.
 - Viability implies the period from which a foetus is capable of living outside the womb.
 - As technology improves, with infrastructure up-gradation, and with skilful professionals driving medical care, this 'viability' naturally improves.
 - Currently, viability is usually placed at about seven months (28 weeks) but may occur earlier, even at 24 weeks.
 - Thus, late termination of pregnancy **may get in conflict with the viability of the foetus**.
- The **preference for a male child** keeps sex determination centres in business in spite of their illegal status. There are concerns that a more liberal abortion law can aggravate this state-of-affairs.
- According to 2017 data, 59 countries allowed elective abortions, of which **only seven permitted the procedure after 20 weeks** like Canada, China, the Netherlands, North Korea, Singapore, the United States, and Vietnam.

Conclusion

Though Medical Termination of Pregnancy (Amendment) Bill, 2020 is a step in the right direction, the government needs to ensure that all norms and standardised protocols in clinical practice to facilitate abortions are followed in health care institutions across the country.

Along with that, the question of abortion needs to be decided on the basis of human rights, the principles of solid science, and in step with advancements in technology.

Drishti Mains Question

Discuss how Medical Termination of Pregnancy (Amendment) Bill, 2020 strives to provide reproductive rights to women in India.