

Amendments of the Pregnancy Termination Act

Udita Sharma

Pregnancy is considered as the door to bring life on this blue planet, a way to build up family and society. From centuries, it is considered as a family topic and people believe that law has no right to intervene in this. India is a land where female foeticide and sex-selective abortion is still a reality. Especially in rural India, it's a matter of prestige when a woman gives birth to a male offspring. These social issues prevailing around pregnancy have affected society largely. Various acts and laws were passed, such as Female Infanticide Prevention Act 1870, The national Pre-Conception and Pre-Natal Diagnostics Techniques (PNDT) Act of 1994, implemented in 1996, banned sex-selective abortions in Indian States.

A family/women may decide to go for abortion for various reasons like lack of financial resources for upbringing, family issues, unwanted pregnancy, illegitimacy of the child etc.

The Medical Pregnancy Termination Act was passed in 1971, which sets a detailed guideline as to who under what circumstances can terminate pregnancy by whom. It permits termination of pregnancy in the time period of 12-20 weeks, when:

- Continuation of pregnancy is a risk to the life of the women or could cause grave injury to her physical and mental health
- When there is substantial risk that the child, if born or dead, would be seriously handicapped due to physical or mental abnormalities.
- Pregnancy is caused due to rape
- Pregnancy is caused due to failure of contraceptive methods.

After 5 decades of the Pregnancy Termination Act, in the year 2021, Rajya Sabha has passed an Amendment. It aims to increase the upper limit from 20 to 24 weeks on the advice of two doctors. The bill sets up state level medical boards to decide if a pregnancy may be terminated after 24 weeks.

ANALYSIS OF THE AMENDMENT

The amendment gives women the right to terminate pregnancy after 20 weeks, this reduces the cumbersome process a woman had to go through earlier. A number of foetal abnormalities are detected after the 20th week. This extension would allow termination of pregnancy in such cases. The bill also applies to unmarried women and gives provision of protecting the privacy of the person seeking an abortion. the limitation concerning the time period of pregnancy will not apply to the termination of pregnancy by the medical practitioner where such termination is necessitated by the diagnosis of any of the substantial foetal abnormalities diagnosed by a prescribed Medical Board.

Despite many pros of the bill, there are certain factors of ambiguity and disagreement. The bill suggests creation of a medical board, in case of termination above 24 weeks, but it does not give a time limit for the medical board to come up with a conclusion. This can make the process time consuming.

VIABILITY FACTOR

Viability of the foetus is the key aspect. Viability implies the period from which a foetus is capable of living outside the womb. At times, age of viability is around 24 weeks. Thus, late termination of pregnancy may conflict with the viability factor.

UNSAFE ABORTIONS

Abortion is considered safe if it is done with the method provided by World Health Organisation. The act requires abortion to be performed only by doctors specialised in gynaecology or obstetrics, whereas most of the rural community health centers have shortage of such health specialists. Unsafe abortions are among the most common causes of maternal deaths in India. In 2015, 1.56 crore abortions were accessed annually in India, according to a study in ‘‘The Lancet’’. Of these 78% or 1.23 crore were conducted outside health facilities. As per a 2015 report by Ministry of Health and family welfare more than half or 56% abortions in India are unsafe and 10 women in India die daily due to unsafe abortion.

SEX SELECTIVE ABORTIONS

India is still obsessed with male child preference this keeps sex determination centers running. There are concerns that a more liberal abortion law can aggravate this state-of-affairs. India is estimated to have 63 million fewer women since sex determination tests took off in the 1970s. This figure is deeply disheartening.

FEMINIST ANGLE

Many feminist communities argue that Medical Termination Pregnancy Act, still gives state the right on women's bodily autonomy rather than making it her personal choice. With the overarching qualifier of 'grave injury to her physical or mental health or severe physical or mental abnormality of the fetus,' the woman's agency ends up taking a backseat, requiring validation from the law at every stage in the way. Thus, abortion remains tied to the state-sanctioned conditionalities and not the rights of the woman. It is widely argued that the MPT Act doesn't take women's choice/right of abortion but left a need based discussion. It is the woman's womb that carries the foetus. It affects her mental or physical health. So it should be her choice as a basic reproductive right.

SOCIAL STIGMA

Abortion has always generated intense moral, ethical, political and legal debates. Abortion is not merely a medico-technical issue but a widely debatable social issue which is largely affected by topics of family, state, marriage, motherhood, parenthood. It has been observed that the social stigma around abortion has developed mainly due to religious societies and beliefs.

Women opting for abortion are often subject to social harassment and are questioned on her morality and responsibility as a wife. These social barriers make it tough for women to consider abortion.

A similar western concept of Pro-life vs. Pro-Choice comes into play. People who identify themselves as pro-choice believe that everyone has the basic human right to decide when and whether to have children. So basically, Pro-choice people believe abortion is OK. People who oppose abortion are considered Pro-life. Although, more than 50 countries have legalised abortion but have failed to 'socially re-engineer' the mindset of the society.

CONCLUSION

The MPT Act is definitely a good step with certain disagreements. This amendment will play a major role in maintaining privacy and ensuring safe access to abortion to women. India as a country, a society has gone through a lot in the past be it on International level or national level or civil matters. Indian women have been subject to various social issues and each and every law has given its best to provide equal ground to both the genders. These baby steps will shape society. It will also make the upcoming generation capable of acknowledging the shortcomings of the act.

Bibliography

- <https://www.plannedparenthood.org/learn/teens/ask-experts/can-you-explain-what-pro-choice-means-and-pro-life-means-im-supposed-to-do-it-for-a-class-thanks>
- <https://www.drishtiias.com/daily-updates/daily-news-editorials/medical-termination-of-pregnancy-amendment-bill-2020>
- <https://scroll.in/article/993527/indias-amended-abortion-law-still-gives-doctors-not-women-the-final-say-in-terminating-pregnancy>
- <https://thewire.in/health/medical-termination-of-pregnancy-amendment-bill-women-abortion>
- <https://thewire.in/health/medical-termination-of-pregnancy-amendment-bill-women-abortion>
- <https://prsindia.org/billtrack/the-medical-termination-of-pregnancy-amendment-bill-2020>
- <https://www.barandbench.com/news/litigation/medical-termination-of-pregnancy-amendment-act-2021-gets-presidential-assent>
-