

Amendments to the MTP Act, 1971- A breakthrough for women's rights

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In 1971, India became one of the first few countries to recognize the right of women to safe and legal abortion when it legalized up to 20 weeks for a variety of conditions. In order to ensure safety of women, the law defined the specifics like who, when, where and for whom abortion can be performed legally. For those times, the MTP Act was a progressive law allowing it under a wide range of therapeutic, eugenic and humanitarian grounds.

In order to keep pace with the evolving need of women and advances in medical technology, recently amendments have been proposed to the almost 50 year old Act. At a time when abortion and reproductive rights are under threat in a large number of countries in the world, the timing and scope of the amendments to the Indian abortion law is especially laudable. Countries like USA are making abortion laws more regressive and restrictive. It is therefore even more important that the Indian Government has sought these changes in the MTP Act which purport for Indian women and girls greater autonomy and control over their lives and reproductive choices. It has brought us closer to realising a major milestone in the reproductive rights journey of women and girls. While we await Parliament's approval of the MTP (Amendment) Bill 2020 due anytime now, let us demystify the proposed amendments— what it entails, what it means for the women of the country and what is needed to ensure its swift translation into action.

The MTP Act amendments discussed below aimed at expanding women's access to safe and legal abortion services. They are proposed by the Ministry after extensive consultations and deliberations with various stakeholders including the civil society and FOGSI. These are drafted in response to the growing barriers and struggles, in various settings and at various levels, women face in accessing safe abortion services. The guiding principal of drafting the amendments was to make changes that are women centric and rooted in the Indian field realities.

Once the amendments become law, women will require opinion of only one provider for termination of pregnancy up to 20 weeks. This is a welcome move from the current law which mandates one doctor approval for pregnancy termination up to 12 weeks and two doctors for termination up to 20 weeks. It will provide respite to the women who choose to terminate second trimester pregnancies as majority secondary level facilities (that can offer abortion services) in rural and peri urban areas may have only one abortion service provider. This amendment will prevent women from opting unsafe pathways because of the barriers of need for two-doctor opinion.

To overcome the impediment faced by vulnerable women in accessing abortion services, the amended abortion law when passed will enhance the upper gestation limit from 20 to 24 weeks for special categories of women including survivors of rape, victims of incest, differently abled women and minors. However, opinion of two providers will be required in such cases (20 to 24 weeks). This will provide extended time to this group of girls and women, who encounter far more barriers of stigma, access and agency preventing them to avail abortion services within the current period.

Last year, in September, a pregnant woman was diagnosed with a serious foetal heart abnormality at 22 weeks of pregnancy. As the existing law did not permit it, she approached the High Court seeking remedy. She had to undergo tedious court proceedings, multiple examinations and investigations by doctors. It took more than forty-five days before she was permitted to undergo the abortion.

This is not an isolated case. Foetal abnormalities in some medical conditions are detected only beyond 20 weeks, which allows women a short window of opportunity to terminate a pregnancy, if she decides to. A significant feature of the proposed amendments is to allow abortion at any time for cases with substantial foetal abnormalities post diagnosis, by the medical board; thereby striking off the earlier upper gestation limit of 20 weeks for these cases. This feature considers the field reality which the current law overlooks. This amendment is aimed at saving women from the trauma, huge expenses and a delay in abortion caused due to filing petitions in courts and awaiting a judgement.

Enforcing the amended abortion law into action will require concerted efforts of multiple stakeholders including the federal government, state governments, FOGSI and the civil societies. We hope these concerted efforts will enable effective roll out of the law and trickle down of relevant information on the amended abortion law till the last point in the field, while keeping the spirit of the amendments intact.
