

General Studies – 2; Topic: Issues relating to development and management of Social Sector/Services relating to Health

Medical Termination of Pregnancy Act

1) Introduction

- The Indian abortion laws falls under the Medical Termination of Pregnancy (MTP) Act, 1971 with the intention of reducing the incidence of illegal abortion
- The case of a 10-year-old rape victim seeking the court permission to abort has once again brought to the forefront the need for a comprehensive law on Medical Termination of Pregnancy.

2) Current Provisions

- The Medical Termination of Pregnancy Act allows a woman to get an abortion within the first 12 weeks of pregnancy
- If the foetus is between 12 and 20 weeks old, then the procedure requires permission from two medical practitioners.
- An exception in Section 5 of the Act, which allows abortion after 20 weeks in case it “is immediately necessary to save the life of the pregnant woman.”
- The decision is based on whether there would be a substantial risk of the child being handicapped by physical or mental abnormalities.

3) Criticism

- The 20-week cap is somewhat arbitrary and has drawn rightful criticism.
- Foetal impairments often get detected at the ultrasound done between 18 to 22 weeks, when the foetus is said to have “substantially developed”.
- While ultrasounds are covered under Pradhan Mantri Surakshit Matritva Abhiyan, ASHAs report that free ultrasounds are often not offered.
- Restricting legal access to abortion is likely to increase the number of women seeking illegal and unsafe abortions, leading to increased morbidity and mortality.
- WHO notes that “Legal restrictions on abortion do not result in fewer abortions nor do they result in significant increases in birth rates.
- Legal restrictions also lead many women to seek services in other countries/states, which is costly, delays access and creates social inequities
- The MTP Act is 45 years old and has not yet gone through amendments.

4) Concerns

- Restriction of 20 weeks on abortion under the MTP Act cause women grave mental and physical anguish.
- There appear to be no guidelines relating to the conduct of ultrasounds.
- According to data, unsafe abortions contribute to 8% of the total maternal deaths.
- Unsafe abortions still continue to outnumber safe and legal abortions in the country.
- The rising incidence of sex crimes and the urgent need to empower women with sexual rights and choices
- Many are not aware of the access to medical termination of pregnancy or abortion.
- In the debate between the right to life of the unborn child versus the right to life of the pregnant woman, the concept of liberty and agency of the woman is not deliberated.

5) Draft MTP bill 2014

- The bill by the Ministry of Health provides for termination of pregnancy beyond 20 weeks — to 24 weeks under certain stipulated conditions.
- The bill seeks to amend Section 3 of MTP Act of 1971 that “the length of pregnancy shall not apply” to abort a foetus diagnosed with substantial foetal abnormalities.
- The draft Bill allows a woman to take an independent decision in consultation with a registered health-care provider.
- This Amendment, if passed, would make judicial appeal unnecessary as abortions would be permitted based on the opinion of a registered healthcare provider.
- The proposed amendments, addresses the previously neglected aspect of women’s choice and autonomy.

6) Way Forward

- In many countries, pregnancy may be terminated even after more than 20 weeks.
- National Commission for Women (NCW), has proposed to increase the gestation limit from the present 20 weeks to 24 weeks for special categories of women.
- WHO says that laws and policies on abortion should protect women’s health and their human rights.
- Regulatory, policy and programmatic barriers that hinder access to and timely provision of safe abortion care should be removed
- We need uniformity in medical standards and standards to be followed by health-care providers
- There is need to consider the new social aspects of contemporary era wherein dignity of woman body and her choices about her life are equally important.
- Forcing a woman to go through an unwanted pregnancy is a violation of her right to dignity, and sexual and reproductive freedom as guaranteed in the constitution.