

A SMALL STEP: THE HINDU EDITORIAL ON MEDICAL TERMINATION OF PREGNANCY LAW AMENDMENTS

Relevant for: Developmental Issues | Topic: Rights & Welfare of Women - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

Emancipation is seldom a linear progression to the finish; the hurdles are many, some entrenched in the mind. The passing of amendments to the Medical Termination of Pregnancy (MTP) Act in India recently is a step forward in recognising the rights of women, but is no giant leap. It does push the envelope way past how far the now antediluvian MTP Act of 1971 went, primarily by allowing the termination of pregnancy beyond 24 weeks if there are foetal anomalies. However, it also sets the decision on the shoulders of a medical board formed by State governments for this specific purpose. The amended Act also allows the termination of pregnancy until 20 weeks based on the opinion of one qualified doctor, an improvement from the consensus between the two doctors clause that was previously required. As per the amendment, unmarried women can also terminate their pregnancy, and by replacing the word 'husband' with the word 'partner', it, for the first time, takes the dialogue outside the confines of marital relationships that it was trapped in, legally. In a country where statistics put the number of unsafe and illegal abortions done every year at about 800,000, any extension of legal and safe provisions for termination of pregnancy is clearly welcome. Admittedly, in India where sex-selective abortions are performed, the state needs to keep a watchful eye on anything that might allow the sex ratio to nosedive further.

But this law stops short of reimagining an issue at the heart of any debate on abortions — a woman's agency over reproduction. The key dramatis personae in a decision to keep or abort a foetus are essentially the woman and her gynaecologist; instead, the law envisages the decision to be made by a board of specialists if an abortion is required after 24 weeks. Among the reasons why the amendments were pushed was the laborious process a woman had to undergo in order to get an abortion, sometimes resolved by courts, but often frustrating and leading them to seek solutions surreptitiously, risking their life. This is retrograde, even positioned against a global trend — the laws in over 60 countries allow women to get an abortion on request at any point in the gestation. While old laws sought to protect the life of a woman on the grounds that medical procedures would be unsafe for the mother after a certain gestational limit — usually 12 weeks — medical capability is no longer a limit. Experts swear medical technology has advanced sufficiently to allow safe abortions in secure health-care settings at very advanced stages of the pregnancy too. The amended Act, then, scarcely recognises women's agency at the centre of it all, and until it does so, through a fundamental change in mindset, measures such as these will count as but small progress on a jagged line.

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From the abrogation of the special status of Jammu and Kashmir, to the landmark Ayodhya verdict, 2019 proved to be an eventful year.

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