

DENYING WOMEN THE RIGHT OVER THEIR BODIES

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Recently, Argentina's Congress legalised abortions up to the 14th week of pregnancy. The Indian Parliament too will consider an amendment to our abortion laws this Budget Session but unlike the [Argentina law](#) which is touted as being historic, the [Medical Termination of Pregnancy \(Amendment\) Bill, 2020 \(MTP Bill\)](#), will not translate into greater autonomy for women over their own bodies.

The MTP Act of 1971 was framed in the context of reducing the maternal mortality ratio due to unsafe abortions. It allows an unwanted pregnancy to be terminated up to 20 weeks of pregnancy and requires a second doctor's approval if the pregnancy is beyond 12 weeks. Further, it only allows termination when there is a grave risk to the physical or mental health of the woman or if the pregnancy results from a sex crime such as rape or intercourse with a mentally challenged woman.

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Therefore, the law is framed not to respect a woman's right over her own body but makes it easier for the state to stake its control over her body through legal and medical debates. Suppose a woman has had voluntary sex and she decides, for personal reasons, to end her pregnancy. If she is 24 weeks pregnant, then this would be a criminal offence. So, she moves the court under the condition that the pregnancy was affecting her mental health. However, here the court can refuse her despite the woman's choice to end it.

In one such case, a State government had argued that there were no grounds for an abortion since the pregnancy was the outcome of a voluntary act and she was "very much aware of the consequence" and the court agreed.

In such circumstances, women usually resort to unsafe methods of abortion. Unsafe abortions are the third largest cause of maternal deaths in India.

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The amendment too continues this legacy of hetero-patriarchal population control, which does not give women control over their own bodies. The proposed amendment still requires one doctor to sign off on termination of pregnancies up to 20 weeks old, and two doctors for pregnancies between 20 and 24 weeks old. Thus, it is not based on any request or isn't at the pregnant person's will but on a doctor's opinion.

The Bill also mandates the government to set up a medical board in every State and UT. Medical boards can rely on the facts of the case but personal beliefs could impact the medical board's opinion, which is one of the biggest challenges in having a third-party opinion on a decision which is very personal. For instance, the Madhya Pradesh High Court denied permission for terminating a 26-week-old pregnancy to a 13-year-old rape survivor with the psychiatrist on the medical board arguing against the mental and emotional trauma that the survivor would go through. The psychiatrist stated that while the survivor was "feeling anxiety at times", she was "not suffering from delusion and hallucination".

While the current Bill provides that safe abortions can be performed at any stage of the

pregnancy in case of foetal “abnormalities,” it fails to consider any other reason such as personal choice, a sudden change in circumstances due to separation from or death of a partner, and domestic violence.

Last, the proposed amendment uses the word “women” throughout, denying access to safe abortion to transgender, intersex and gender diverse persons.

Abortion rights are central to a woman’s autonomy to determine her life’s course. Neither the state nor doctors have any right to deny a woman a safe abortion. Doing so means that women are not being treated properly as adults who are responsible for their own choices.

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