Denying women the right over their bodies - MTP Amendment Bill 2020

Why in news?

The Medical Termination of Pregnancy (Amendment) Bill, 2020 passed in the Lok Sabha in March 2020, is scheduled to be tabled for consideration in Rajya Sabha.

What are the key provisions?

- The Bill amends the Medical Termination of Pregnancy Act, 1971.
- It seeks to extend the termination of pregnancy period from 20 weeks to 24 weeks.
    - This would make it easier for women to safely and legally terminate an unwanted pregnancy.
    - For termination of pregnancy up to 20 weeks of gestation, the opinion of one registered medical practitioner will be required.
    - For termination of pregnancy of 20-24 weeks of gestation, opinion of two registered medical practitioners will be required.
- The Bill proposes to extend the upper gestation limit from 20 to 24 weeks for special categories of women.
    - These include vulnerable women including survivors of rape, victims of incest and other vulnerable women (like differently-abled women, minors), etc.
- Upper gestation limit will not apply in cases of substantial foetal abnormalities diagnosed by Medical Board.
    - All state and union territory governments will constitute a Medical Board.
    - The Board will decide if a pregnancy may be terminated after 24 weeks due to substantial foetal abnormalities.
    - Each Board will have a gynaecologist, paediatrician, radiologist/sonologist, and other members notified by the state government.
- Name and other particulars of a woman whose pregnancy has been terminated shall not be revealed except to a person authorized in any law for the time being in force.
- The original law states that, if a minor wants to terminate her pregnancy, written consent from the guardian is required.

- The proposed law has excluded this provision. The Bill applies to unmarried women too.
- This relaxes one of the regressive clauses of the 1971 Act, i.e., single women could not cite contraceptive failure as a reason for seeking an abortion.

Why was the MTP Act of 1971 brought in?

- The Medical Termination of Pregnancy Act, 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.
- It requires a second doctor's approval if the pregnancy is beyond 12 weeks.
- Further, it only allows termination –
  i. when there is a grave risk to the physical or mental health of the woman (or)
  ii. if the pregnancy results from a sex crime such as rape or intercourse with a mentally challenged woman

What are the concerns?

- The MTP law is framed not to respect a woman's right over her own body.
- It instead makes it easier for the state to stake its control over her body through legal and medical debates.
- To illustrate, if a woman has had voluntary sex and she decides, for personal reasons, to end her pregnancy at the 24^{th} week or later, then this would be a criminal offence.
  - 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.
  - It said that she was "very much aware of the consequence."
  - The court agreed too.
- In such circumstances, women usually resort to unsafe methods of abortion.
  - Notably, unsafe abortions are the third largest cause of maternal deaths in India.
- The amendment too continues this legacy of hetero-patriarchal population control, which does not give women control over their own bodies.
  - Termination of pregnancies is not based on any request or at the pregnant person's will but on a doctor's opinion.
- **Inclusiveness** - The Bill uses the word "women" throughout.
- This, in effect, denies access to safe abortion to transgender, intersex and gender diverse persons.

- **Medical boards** - The Bill mandates the government to set up a medical board in every State and UT.
- Poor public health infrastructure and absence of specialists have meant that most abortions do not happen in the public sector, but at private centres or at home.
- There is overwhelming shortfalls in specialist availability, especially in rural and scheduled areas.
- Given this, it would be impossible to constitute boards with requisite specialist representation.
- **Personal beliefs** - Medical boards can rely on the facts of the case but personal beliefs could impact the medical board's opinion.
- This is one of the biggest challenges in having a third-party opinion on a decision which is very personal.
- The current Bill provides that safe abortions can be performed at any stage of the pregnancy in case of foetal "abnormalities."
- However, 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.
- In all, 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.

Source: The Hindu

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