

Pratigya Campaign's statement on MTP Act Amendments approved by the Union Cabinet

New Delhi: February 6, 2020: Pratigya Campaign for Gender Equality and Safe Abortion extends a cautious welcome to the government announcement last week approving the long overdue amendments to the MTP Act, 1971. While we welcome the government's intention to bring about reforms in the now dated abortion law in India, the approved amendments have fallen short of the changes proposed in the draft MTP Amendment Bill notified in 2014.

As per the announcement made by Cabinet Minister Shri Prakash Javadekar and as mentioned in the government press release dated 29th January 2020, the amendments approved include an increase in gestation limit for seeking abortion from 20 to 24 weeks for '**certain categories of women**', change in requirement of taking opinion from two providers between 12-20 weeks to just one and removal of gestational limit for foetal abnormalities to be diagnosed by a medical board.

We would urge the government to consider extending the gestational limit to all women seeking abortions up to 24 weeks. The advancement in medical technology enables detection of some serious foetal abnormalities between 22-24 weeks; extending the gestational limit for all women will help them assess and decide on the outcomes of their pregnancy. We recognise that the proposed amendments will benefit vulnerable women (including survivors of rape/incest) to an extent. However, a larger number of women will benefit if gestational limit for special categories of women is removed entirely. There can be no greater harm to the mental and physical health and well-being of women, than carrying a pregnancy arising out of rape/incest to term. Pratigya Campaign's analysis of court cases relating to abortion shows that 41% of rape survivors who approached the courts had exceeded 24 weeks gestation.¹

We welcome the decision to remove the requirement of opinion of two providers for 12-20 weeks and would advocate that this decision be extended to 24 weeks, given the small number of specialists who are authorised to provide abortion services beyond 12 weeks.

It is commendable that the upper gestational limit for foetal abnormalities will be removed, but it is disappointing that it requires women to seek approval of medical boards for substantial foetal abnormalities. Subjecting women to a medical board which will decide the cases is disrespectful towards their dignity and rights. This also legitimises third party authorisation which is uncalled for and against the spirit of the original MTP Act, which leaves the decision between the woman and her provider. In the past we have seen women and girls seeking abortions face delays, stigma, and repeated invasive exams by unfamiliar doctors on judicially-established medical boards, which could present a significant barrier to women needing timely service and care. We believe the opinion of the woman's provider regarding substantial foetal abnormalities should be sufficient.

The approved amendments to the MTP Act will not be helpful to the vast majority of 15.6 million women (an estimated 90% of whom access abortion care before 12 weeks gestation²) in the country

¹ Assessing the Judiciary's role in Access to Safe Abortion <https://pratigyacampaign.org/wp-content/uploads/2019/09/assessing-the-judiciarys-role-in-access-to-safe-abortion.pdf>

² Abortion in India: A Literature Review https://www.guttmacher.org/sites/default/files/report_pdf/abortion-india-lit-review.pdf

who seek induced abortion each year³ and will have negligible impact on reducing maternal mortality or morbidity due to unsafe abortion. To make transformative changes in access to safe abortion care and uphold “women’s reproductive rights over their bodies” we would urge the government to take bold decisions to overhaul the MTP Act keeping the interest of women and their rights at the centre.

Specifically we would urge to the government to consider the following:

- Extend gestation limits from 20-24 weeks for all women, not just **‘certain categories of women’**
- Remove upper gestational limits for ‘vulnerable women’ (including survivors of rape, victims of incest and other vulnerable women (like differently-abled women, minors etc.)
- Drop the need for Medical Boards to decide in cases of substantial foetal abnormalities and accept the opinion of the woman’s provider
- Allow all women and not just married women to seek an abortion due to contraceptive failure
- Expand the provider base to include trained Nurses, ANMs and AYUSH doctors to enable them provide abortions up to 12 weeks, in line with WHO recommendation⁴
- Make abortion a right and available on request at least for up to 12 weeks gestation

Most of the above recommendations were arrived at by a series of stakeholder engagements that the Ministry of Health and Family Welfare had facilitated and were included in the draft MTP Amendment Bill which was notified by the Government in 2014.

We are yet to see the full text of the bill and urge the government to share it widely with all stakeholders.

We would strongly urge the government to be bold in affirming its commitment to women’s reproductive health and rights by making substantial amendments to the MTP Act.

³ Abortion and Unintended Pregnancy in Six Indian States: Findings and Implications for Policies and Programs <https://www.guttmacher.org/report/abortion-unintended-pregnancy-six-states-india>

⁴ Health worker roles in providing safe abortion care and post-abortion contraception, WHO https://apps.who.int/iris/bitstream/handle/10665/181041/9789241549264_eng.pdf?sequence=1