

THE MEDICAL TERMINATION OF PREGNANCY (AMENDMENT)
BILL, 2002

A

BILL

to amend the Medical Termination of Pregnancy Act, 1971.

BE it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Medical Termination of Pregnancy (Amendment) Act, 2002. Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

34 of 1971. 2. In section 2 of the Medical Termination of Pregnancy Act, 1971 (hereinafter referred to as the principal Act),— Amendment of section 2.

10 (i) in clause (a), for the word "lunatic", the words "mentally ill person" shall be substituted;

(ii) for clause (b), the following clause shall be substituted, namely:—

'(b) "mentally ill person" means a person who is in need for treatment by reason of any mental disorder other than mental retardation;'

15 3. In section 3 of the principal Act, in sub-section (4), in clause (a), for the word "lunatic", the words "mentally ill person" shall be substituted. Amendment of section 3.

Substitution of new section for section 4.

4. For section 4 of the principal Act, the following section shall be substituted, namely:—

Place where pregnancy may be terminated.

“4. No termination of pregnancy shall be made in accordance with this Act at any place other than—

(a) a hospital established or maintained by Government, or 5

(b) a place for the time being approved for the purpose of this Act by Government or a District Level Committee constituted by that Government with the Chief Medical officer or District. Health officer as the Chairperson of the said Committee:

Provided that the District Level Committee shall consist of not less than three and not more than five members including the Chairperson as the Government may specify from time to time. 10

Amendment of section 5.

5. In section 5 of the principal Act,—

(a) for sub-section (2) and the *Explanation* thereto, the following shall be substituted, namely:— 15

"(2) Notwithstanding anything contained in the Indian Penal Code, the termination of pregnancy by a person who is not a registered medical practitioner shall be an offence punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years under that Code, and that Code shall, to this extent, stand modified. 45 of 1860. 20

(3) Whoever terminates any pregnancy in a place other than that mentioned in section 4, shall be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years.

(4) Any person being owner of a place which is not approved under clause (b) of section 4 shall be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years. 25

Explanation 1.—For the purposes of this section, the expression "owner" in relation to a place means any person who is the administrative head or otherwise responsible for the working or maintenance of a hospital or place, by whatever name called, where the pregnancy may be terminated under this Act. 30

Explanation 2.—For the purposes of this section, so much of the provisions of clause (d) of section 2 as relate to the possession, by registered medical practitioner, of experience or training in gynaecology and obstetrics shall not apply." 35

STATEMENT OF OBJECTS AND REASONS

The Medical Termination of Pregnancy Act, 1971 legalised termination of pregnancy on various socio-medical grounds. This Act is aimed at eliminating abortion by untrained persons and in unhygienic conditions, thus reducing maternal morbidity and mortality.

2. In 1997, an expert group was constituted to review the aforesaid Act with a view to making it more relevant to the present environment. The National Commission for Women also suggested certain amendments in the Act to remove provisions which were discriminatory to women. Taking into consideration the suggestions of the National Commission for Women and experience gained in the implementation of this Act, the expert group recommended certain amendments to the Act.

3. Accordingly, the Medical Termination of Pregnancy (Amendment) Bill, 2002 provides for—

(i) substituting the word "lunatic" by the words "mentally ill person";

(ii) amending section 4 with a view to delegating powers to the Government to approve places for medical termination of pregnancy and constituting District Level Committees to be headed by the Chief Medical Officer/District Health Officer;

(iii) amending section 5 so as to prescribe punishment of rigorous imprisonment of not less than two years and extending up to seven years—

(a) to clinics which are not authorised to conduct abortions; and

(b) to persons who are not registered medical practitioners with requisite experience or training for terminating pregnancy.

4. The Bill seeks to achieve the above objects.

NEW DELHI;

C. P. THAKUR.

The 13th April, 2002.

ANNEXURE

EXTRACTS FROM THE MEDICAL TERMINATION OF PREGNANCY ACT, 1971

(34 OF 1971)

* * * * *

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “guardian” means a person having the care of the person of a minor or a lunatic;

(b) “lunatic” has the meaning assigned to it in section 3 of the Indian Lunacy Act, 1912; 4 of 1912.

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When pregnancies may be terminated by registered medical practitioners.

3. (1) * * * * *
(4) (a) No pregnancy of a woman, who has not attained the age of eighteen years, or, who, having attained the age of eighteen years, is a lunatic, shall be terminated except with the consent in writing of her guardian.

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Place where pregnancy may be terminated.

4. No termination of pregnancy shall be made in accordance with this Act at any place other than—

(a) a hospital established or maintained by Government, or

(b) a place for the time being approved for the purpose of this Act by Government.

Sections 3 and 4 when not to apply.

5. (1) * * * * *
(2) Notwithstanding anything contained in the Indian Penal Code, the termination of a pregnancy by a person who is not a registered medical practitioner, shall be an offence punishable under that Code, and that Code shall, to this extent, stand modified. 45 of 1860.

Explanation.—For the purposes of this section, so much of the provisions of clause (d) of section 2 as relate to the possession, by a registered medical practitioner, of experience or training in gynaecology and obstetrics shall not apply.

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RAJYA SABHA

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BILL
to amend the Medical Termination of Pregnancy Act, 1971.

(Dr. C.P. Thakur, Minister of Health and Family Welfare)