BLOGS

Is Abortion Legal? Overview of Abortion Law in India

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Is abortion legal in India? Abortion is legal under specific circumstances as outlined in the MTP Act of 1971, which was amended in 2021. Read all about abortion law in India here!

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Introduction

The procedure of ending a pregnancy by the removal of an embryo and a fetus is known as an abortion. The pregnancy can be ended by taking a special type of medicine or by having a surgical procedure, depending on how many weeks the pregnancy has lasted.

It is typically done 28 weeks into the gestation period. Throughout history, women have practised forms of birth control and abortion. These practices have generated intense moral, ethical, political and legal debates.

Abortion was prohibited by law in India until the 1960s. Prior to its legalisation, it was criminalised by Sections 312 and 313 of the erstwhile Indian Penal Code. Eventually it was considered an essential mode of controlling population and was held to be an integral part of family planning.

Furthermore, a high number of unsafe abortions were taking place during this time, which led to several premature deaths of the mothers and the prospective children. Hence the need to legalise abortion was recognised.

Shantilal Shah Committee’s Report

The Government of India set up the Shantilal Shah Committee in 1964 to examine the issue of abortion and suggest whether it should be legalized and under what conditions. The committee was tasked with examining the prevalence of unsafe abortions and recommending legal provisions to address maternal mortality and reproductive rights. It submitted a report on 30th December 1996.

The Committee recommended the liberalization of abortion services in India to put an end to the large number of illegal and unsafe abortions.

It was determined by the committee that termination had to be carried out in a place approved and authorised by the Central or the State Government and that the practitioner who carries out this operation would not only notify the Chief Medical Officer but also have the consent in writing of the woman concerned or her husband or her guardian as the case may be.

Medical Termination of Pregnancy Act, 1971

Based on the findings of the Shantilal Shah Committee, the Medical Termination of Pregnancy Act (MTP) was enacted in 1971.

The Medical Termination of Pregnancy (MTP) Act, 1971 was enacted by the Indian Parliament to legalize abortion under specific circumstances, with the aim of reducing maternal mortality caused by unsafe, illegal procedures.

This law marked a significant step in public health and women’s rights by allowing pregnancies to be terminated by registered medical practitioners within a prescribed time frame and under clearly defined conditions.

These include risk to the physical or mental health of the pregnant woman, potential danger to her life, pregnancy resulting from rape or incest, and the likelihood of serious fetal abnormalities.

The Act permitted abortion up to 20 weeks of gestation, with the approval of one doctor up to 12 weeks and two doctors beyond that point. It also emphasized that abortions could only be performed in government-approved hospitals or clinics by qualified professionals.

Medical Termination of Pregnancy (Amendment) Act, 2021

The Medical Termination of Pregnancy (Amendment) Act, 2021 brought significant changes to India’s abortion laws, aiming to enhance reproductive rights and improve access to safe abortion

services.

One of the major reforms was the extension of the upper gestational limit for abortion from 20 weeks to 24 weeks for certain categories of women, including survivors of rape or incest, minors, and those with physical or mental disabilities.

For pregnancies beyond 24 weeks, termination is permitted only in cases of substantial fetal abnormalities, and must be approved by a specially constituted Medical Board in each state or union territory.

The Act also allows abortion up to 20 weeks with the opinion of one registered medical practitioner (RMP), and between 20 to 24 weeks with the approval of two RMPs for the eligible categories.

Notably, the amendment expands the scope of the law by allowing unmarried women to seek abortion in the case of contraceptive failure, a right previously reserved for married women.

It also strengthens confidentiality provisions, prohibiting the disclosure of the identity of the woman undergoing an abortion, with penalties for violations. Overall, the amendment marked a progressive shift toward recognizing women's autonomy and ensuring safer, more inclusive abortion access, although some limitations like the continued requirement of medical approvals and gestational caps remain points of debate among reproductive rights advocates.

Under the Act, a State Medical board has been established. The opinion of this board is necessary to access an abortion after 24 weeks if it is sought on the grounds of substantial foetal abnormalities.

The Board must be composed of the following members

1. A Gynaecologist;
2. A Pediatrician;
3. A Radiologist or Sonologist; and
4. Other members notified by the State Government or Union territory

Sustainable Development Goals and Abortion Rights in India

Abortion rights in India are closely aligned with the objectives of the Sustainable Development Goals (SDGs), particularly those focused on health, gender equality, and reducing inequality.

The provision of safe and legal abortion under the Medical Termination of Pregnancy (MTP) Act, 1971, and its 2021 amendment supports **SDG 3**, which aims to reduce maternal mortality and ensure good health and well-being. By allowing access to medical termination of pregnancy under defined conditions, India has taken critical steps to prevent deaths caused by unsafe abortions.

These laws also contribute to **SDG 5**, which promotes gender equality and empowers women to make informed decisions about their reproductive health. The 2021 amendment further advances this goal by extending abortion rights to unmarried women and survivors of sexual violence, recognizing their autonomy.

Moreover, ensuring equitable access to abortion services addresses **SDG 10**, which aims to reduce inequalities within and among populations. Despite these legal frameworks, challenges such as social stigma, lack of awareness, and inconsistent access, especially in rural areas, still hinder the full realization of these rights.

Conclusion

The evolution of abortion rights in India reflects a significant shift towards recognizing women's autonomy and reproductive choices. The Medical Termination of Pregnancy (MTP) Act of 1971 marked a pivotal moment, legalizing abortion under specific conditions and acknowledging the necessity of safe medical practices to prevent the dangers associated with illegal abortions. The subsequent amendments, particularly those in 2021, expanded access to abortion services for unmarried women and increased the permissible gestation limit to 24 weeks for vulnerable groups, thereby addressing longstanding inequalities within the legal framework.

The Supreme Court's recent rulings further underscore this trajectory by affirming that all women, irrespective of marital status, possess the right to make decisions regarding their pregnancies. This judicial recognition not only emphasizes bodily autonomy but also highlights the need to dismantle structural barriers that hinder access to reproductive healthcare. Despite these advancements, challenges remain in ensuring that women can exercise their rights without facing unnecessary legal hurdles or societal stigma.

As India progresses towards fulfilling its Sustainable Development Goals related to maternal health and reproductive rights, continuous advocacy and policy reforms are essential to ensure that the legal provisions translate into real-world access and empowerment for women across diverse socio-economic backgrounds.