

Chapter 5

Decoding Women's Reproductive Autonomy: A Critical Examination of Abortion Laws in India

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ABSTRACT

Abortions have been an age-old practice and prevalent since the ancient times. Different religions have had different connotations, always finding a way to control women's bodies and their choices. India had been the hub of unsafe abortions with an extremely high maternal mortality ratio (MMR). The Medical Termination of Pregnancy Act 1971 was India's first attempt marking a positive step, decriminalizing abortions and giving a higher degree of bodily autonomy to the women. Consequently, the government during various phases came up with policies to provide safe and accessible abortions to the women of the country. This paper makes a thorough analysis of the historical view and statistics on abortion, the functioning of the MTP Act, government schemes, and abortions from a global perspective. An attempt has been made to look into the other statutes which have a direct impact on the MTP Act – the statute which governs abortion in India. A critical analysis has also been provided concerning the outcomes of the Act – affirmative and non-affirmative.

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INTRODUCTION

Abortion in plain words can be addressed as “*the deliberate termination of human pregnancy*”. Abortions reflect a woman's reproductive choices, which can be exercised to procreate and abstain from procreating. In matters where the condition of the fetus or the mother's health is at stake, abortions become necessary. Historically looking, abortion is a practice as old as pregnancy. Abortion in India have been defined individually by different religions. In the Vedic texts which are central to Hinduism, abortions have been equated to the killing of one's parents (Sathya Narayanan,2016). Though they are allowed to be performed if the women's life has a direct threat due to the presence of the fetus. In Islam, India's second most practiced religion, the holy book Quran leaves the interpretation to the individual states where some schools of thought forbid abortions at any point and others have reservations over the same (Al-Matary,2014). Abortions in India were a serious offense under Section 312 of the Indian Penal Code till 1971. Abortions were legalized only after the implementation of the Medical Terminations of Pregnancy (MTP) Act, 1971.

ABORTIONS – TYPES AND STATISTICS

There are mainly two types of abortions:

- 1) Medical abortions - The medical abortions are usually the ones which need no invasive procedure or surgery. They are performed by taking drugs, most of the times; it is a combination of two – mifepristone followed by misoprostol. Misoprostol alone can be used if mifepristone is not available (Laura Collins,2022).
- 2) Surgical abortions - Surgical abortions are performed involves suction techniques by inserting small suction tube in the uterus. The suction removes fetus and the other pregnancy related material from the uterus.

The lancet global health journal in one of its reports (Guttmacher,2017) published that a total of 15.6 million abortions took place in India in 2015, against the figure of 7 lakhs, published by the Centre for the last 15 years. It was found that the vast majority of abortions (81%) were achieved using medical abortions referred to as medical methods of abortion (MMA) that were obtained either from a health facility or other source. The study also estimated that out of 48.1 million pregnancies in 2015, half of them were unintended and abortions were undertaken in one-third of these cases. The study further stated that India's abortion rate is 47 per 1000 almost similar to that of Pakistan and Bangladesh at 50 and 39 respectively. The public

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