

Module 2
Assignment 2

1. The MTP Act was the first attempt to legislate Abortion in India. True or False?
 - True
2. On what basis did the IPC of 1862 criminalise abortion?
 - Life was “sacred” and it was extended to foetus
 - Any harm to life was criminalised and hence abortion was also criminalised under the colonial rule
3. Who was liable to be punished for abortions under the IPC of 1862?
 - The person responsible for performing the induced abortion
 - Pregnant person who had given consent

4. What were the implications of the IPC 1862 on the rights of pregnant persons?
- Section 312 to 316 dealt with induced miscarriages and are placed under chapters which dealt with offences against the human body.

Section 312 penalised any voluntary miscarriage caused to a pregnant person by another person **with 3 years of imprisonment and/ or a fine**. This was a non-bailable, non-cognizable and non-compoundable offence.

Even the **pregnant person** who consented to and voluntarily underwent an abortion could be **imprisoned up to seven years and/or fined**.

Section 313 covered instances where a miscarriage was induced without the consent of the pregnant person. The person responsible would be imprisoned and also fined. The quantum of punishment could extend to ten years or even life imprisonment.

Section 314 details an instance where a person intending to cause a miscarriage ends up killing the pregnant person. **The quantum of punishment is more severe if the miscarriage was carried out without consent.**

Sections 315 and 316 penalise any act that causes the death of a foetus or a child after birth.

5. What was the motivation behind creating a more liberal abortion law in India?
 - Economic reasons
 - Population control
 - Abortion and maternal deaths
 - Right to health
6. What were some of the concerns expressed by members of parliament when the MTP Act was first introduced in 1971?
 - Undermining of moral fibres of nation building
 - Abortion wrong on religious and moral grounds
 - Degradation of society
 - Eroding sanctity of life
 - No need of population control, given the abundance of resources

7. Discuss the implications of the MTP Act on the rights of pregnant persons.

8. What was the rationale behind amending the MTP Act in 2002?

-The amendment **decentralised the process** through which private abortion facilities received approval.

-The amendment allowed district level committees to approve private facilities to provide services under the MTP act. **This was aimed at increasing the number of centres that provided the services.**

*-The amendment also replaced the word 'lunatic' with 'mentally ill'. This change was to imply that a **mentally ill person was someone who needed treatment for any form of mental illness or disorder.***

-Stricter penalties and punishments with imprisonment of 2 to 7 years were added in the event that the pregnancy was terminated in an unapproved facility or by an untrained person. This was done **to ensure greater safety and compliance of the pregnant person.**

9. Mention some of the gaps in the MTP Act.

-It doesn't take into account the autonomy of the pregnant person. Their right to choose is hence undermined.

Another gap is when it comes to medical abortion. **The pills can be prescribed only by a gynaecologist and are supposed to be available only through registered medical facilities.** Pregnant persons in rural areas might find it difficult to access gynaecologists and facilities.

In addition, the amendments mention that only those whose pregnancies are a result of a form of sexual violence can be considered to be viable for abortions beyond 20 weeks. They also provide a gestation limit for pregnancies caused through sexual violence at 24 weeks. **This does not account for the trauma and the experiences of the survivor.**

10. How can the MTP Act be improved?

-Can be centred around pregnant person rather than service provider

-Right to choose is violated

-Geographical conditions are not considered in terms of access

- It can be made more inclusive for single women, sex workers, gender-diverse persons, transpersons and intersex people.