

Assignment:Legal Aspects Of Abortion

1. The MTP Act was the first attempt to legislate Abortion in India. True or False?

False. Though the Indian Penal Code (IPC), 1862 dealt with abortions quite severely, it was the first attempt to legislate abortion in India. It criminalized abortion and considered life as sacred and extended that to the fetus as well. Sections 312-316 of the IPC are related to abortion. These sections mention induced miscarriages and are placed under chapters which deal with offences against the human body.

2. What was the motivation behind creating a more liberal abortion law in India?

An alarming increase in number of abortions and maternal death rates motivated the creation of a more liberal abortion law in India. A committee, headed by Shantilal Shah, was convened by the Govt. of India. They were asked to study the socio-cultural, medical & legal aspects surrounding abortion and give their recommendations for drafting a new set of abortion laws. They recommended the legalization of abortion to protect the health of women and lives on compassionate and medical grounds.

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

Following are the reasons that made amending the MTP Act in 2002 a necessity:

- to facilitate the approval for private institutions for providing abortion services.
- empower the district level committees to give approvals to private institutions for abortion services. This is aimed at increasing the number of centres that can provide the said services.
- Replacing the word 'lunatic' with 'mentally ill' to correctly refine the group of individuals under that.
- To ensure greater safety and compliance of the pregnant person, stricter penalties and punishments were added in the event that the pregnancy was terminated in an unapproved facility or by an untrained person.

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

Following are some gaps in the MTP Act:

- It is centred on the provider and does not take into consideration the needs and requirement of the pregnant person. It isn't right based either.
- The pregnant person's right to choose is undermined. It is intended to provide protection to the medical service provider and not the pregnant person.
- The current structure of the law addresses abortion as a means of population control rather than respecting the pregnant person's right to choose.
- it is non-inclusive law. It does not include single women, vulnerable groups, intersex individuals and gender diverse individuals who also might want to seek an abortion.

5. How can the MTP Act be improved?

MTP Act can be improved by modifying the laws by keeping in mind the rights of the pregnant person. The details of the partner should not be a necessity and the law should be inclusive. The services should be made available throughout the gestation period without any conditions. In case of medical abortions, a general physician or a registered medical practitioner should be authorised to prescribe the required medicines and not dependent on a specialized doctor like gynaecologist. Hence increasing the accessibility for pregnant persons in rural areas.