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## Law Of Abortion In India: An Analytical Study

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### Abstract:

The law of abortion in India is governed primarily by the Medical Termination of Pregnancy (MTP) Act, 1971, which was enacted to provide a legal framework for safe and lawful abortion, aiming to reduce maternal mortality and morbidity associated with unsafe abortions. The Act has undergone significant amendments, most notably in 2021, to expand access and reflect changing societal and medical perspectives.

Under the MTP Act, abortions are permissible up to 20 weeks of gestation under specific conditions, and up to 24 weeks for certain categories of women, such as survivors of rape or incest, minors, and those with fetal anomalies, with the approval of one or two registered medical practitioners depending on the duration of the pregnancy. The law seeks to balance a woman's right to reproductive autonomy with the state's interest in protecting potential life and ensuring the procedure's medical safety.

Despite its progressive amendments, the law has been critiqued for its provider-centric approach, where medical practitioners act as gatekeepers, and for lacking an explicit recognition of abortion as a fundamental reproductive right. Judicial pronouncements, particularly from the Supreme Court, have increasingly emphasized bodily autonomy, privacy, and reproductive choice as integral to the rights guaranteed under Article 21 of the Constitution.

In conclusion, while India's abortion laws are relatively liberal compared to many other countries, there remain challenges in access, awareness, and implementation that must be addressed to ensure reproductive justice for all women, especially those in marginalized communities.

## INTRODUCTION :

According to the World Health Organization, being healthy is a condition of whole physical, mental, and social well-being, not only the absence of illness or disability. All people must have access to high-quality healthcare, including complete abortion care services, which comprise counselling, abortion management, and post-abortion care, in order to achieve the goals of health for all and the gradual realization of human rights. Women and girls' physical, emotional, and social wellbeing are at stake then they lack access to safe, timely, affordable, and respectful abortion care.

An easy and routine medical practice is induced abortion. Every year, 121 million pregnancies—or over half of all pregnancies—are unplanned; 6 out of 10 unwanted pregnancies and 3 out of 10 pregnancies overall result in induced abortions. Then performed using a technique advised by the WHO, suitable for the stage of pregnancy, and by a qualified individual, abortion is safe. But then women with undesired pregnancies encounter obstacles to getting a good abortion, they frequently turn to risky abortion. In order to achieve the Sustainable Development Goals (SDGs) for gender equality and good health and well-being (SDG3), it is essential to guarantee that women and girls have access to abortion care that is evidence-based, safe, respectful, and non-discriminatory (SDG5).

## OBJECTIVE TO STUDY ABOUT CYBERCRIME:

The objective of research will mainly focus on

- 1) Examining the legal grounds for abortion.
- 2) Analyzing the impact of recent amendments.
- 3) Exploring the role of healthcare providers.
- 4) Comparing with other jurisdictions.

## MEANING OF ABORTION:

Abortion is the medical process of ending a pregnancy so that it does not result in the birth of a baby. Abortion can involve medical, ethical, legal, and emotional considerations, and different countries and cultures have various laws and views about it. The law of abortion in India is governed by the Medical Termination of Pregnancy (MTP) Act, first enacted in 1971 and later amended in 2002 and 2021 to expand access and update medical and social considerations.

## GROUNDS FOR LEGAL ABORTION:

- Risk to the life or physical/mental health of the woman.
- Pregnancy caused by rape or incest.
- Failure of contraceptive methods, including for unmarried women (added in the 2021 amendment).
- Fetal abnormalities detected by medical experts.

**REASONS OF ABORTION:****1. Risk to the Woman's Life or Health**

- If continuing the pregnancy poses a risk to the life of the pregnant woman.
- If it could cause grave injury to her physical or mental health.

**2. Pregnancy Caused by Rape**

- Pregnancy resulting from rape or sexual assault is presumed to cause mental trauma and is a valid ground for abortion.

**3. Failure of Contraceptive Method**

- If a married or unmarried woman becomes pregnant due to contraceptive failure, it is considered a valid reason.
- This includes cases involving consensual relationships.

**4. Fetal Abnormalities**

- If the fetus is diagnosed with substantial physical or mental abnormalities, and the child would be seriously handicapped if born.
- Must be certified by a Medical Board (especially after 24 weeks).

**5. Pregnancy Due to Incest**

- If the pregnancy is a result of incestuous relationship, abortion is permitted due to the mental and physical trauma involved.

**LAW ON ABORTION IN INDIA:**

- 1) Medical Termination of Pregnancy (MTP) Act, 1971
- 2) Amended in 2002 and 2021 to expand access and update legal provisions.
- 3) Only a Registered Medical Practitioner (RMP) with specific qualifications and training can perform an abortion.
- 4) Abortion Must be done in a government hospital or approved private clinic.
- 5) Adult women (18+): Only the woman's consent is needed.
- 6) Minors or mentally ill persons: Guardian's consent is required.

7) Abortion performed by an unqualified person or outside an approved place is illegal.

8) Sections 312–316 of the Indian Penal Code (IPC).

## **BARRIERS TO ABORTION:**

### 1. Gestational Limits

- Abortion is not allowed beyond 24 weeks, except for serious fetal abnormalities.
- Many women may realize pregnancy late (especially minors, rape survivors), but miss the legal window.

### 2. Mandatory Doctor Approval

- Requires 1 doctor's opinion (up to 20 weeks) and 2 doctors' opinions (20–24 weeks).
- This can lead to delays, especially in rural areas with few trained doctors.

### 3. No Complete Abortion on Demand

- A woman cannot request abortion solely by choice.
- Abortion is only allowed under specific legal grounds (health risk, rape, fetal issues, etc.).

### 4. Limited Access in Rural Areas

- Lack of qualified doctors and approved clinics/hospitals in remote regions.
- Many women are forced to seek unsafe or illegal abortions.

### 5. Stigma and Social Pressure

- Fear of judgment, especially for unmarried women or adolescents.
- Even though contraceptive failure is a valid reason, social attitudes can discourage seeking abortion.

### 6. Judicial Delays for Late Abortions

- For abortion beyond 24 weeks (not due to fetal abnormalities), women often have to go to court.
- This can take weeks or months, sometimes making the abortion impossible.

### 7. Confusion and Misinterpretation of Law

- Many doctors are over-cautious or unaware of the latest legal provisions.
- Some demand unnecessary spousal or parental consent, even when not legally required.

### 8. Medical Boards for Late-Term Abortion

- For cases after 24 weeks, a Medical Board must approve.

- These Boards may be slow to form or unavailable in many regions.

## CONCLUSION:

The abortion law in India, governed by the Medical Termination of Pregnancy (MTP) Act, aims to balance a woman's right to reproductive choice with medical safety and ethical considerations. The 2021 amendment was a progressive step, expanding access to abortion by increasing the gestational limit and including unmarried women under contraceptive failure.

However, despite legal provisions, several barriers remain, such as limited healthcare access, lack of awareness, stigma, and procedural delays—especially in rural areas or in cases requiring approval beyond 24 weeks.

To ensure safe and accessible abortions for all, there is a need for:

- Better healthcare infrastructure,
- Awareness among women and doctors,
- Timely implementation of the law across all regions.

Ultimately, the law recognizes that a woman's reproductive rights are central to her dignity, autonomy, and health, but ongoing reforms and awareness are essential to make these rights truly accessible in practice.

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