

## Feticide vs Abortion and Study of Abortion Laws in India

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**Received:** March 24, 2023; **Published:** March 30, 2023

Feticide refers to the intentional killing of a fetus, while abortion refers to the termination of a pregnancy before the fetus is able to survive outside the womb. Abortion is a legal and widely practiced medical procedure in many countries, while feticide is illegal and considered a form of homicide. Feticide may be committed in the context of a criminal act, such as in cases of domestic violence or as part of a forced abortion. It's important to note that the laws and ethical considerations surrounding abortion vary widely across different regions and cultures, and opinions on the matter can be highly polarized. Some people believe that abortion should be legal and accessible as a matter of reproductive rights and bodily autonomy, while others view it as a morally reprehensible act that amounts to the taking of innocent human life.

### Feticide

Feticide refers to the act of intentionally ending a pregnancy by causing the death of a fetus. This can be done through various methods, including abortion, but it can also occur as a result of other actions that harm the developing fetus, such as physical violence or drug abuse by the mother.

The procedure for feticide depends on the stage of the pregnancy, the reason for termination, and the laws and regulations in the region. In general, a medical professional will first assess the health of the mother and fetus and provide counseling on the available options for termination. The medical professional will then determine the appropriate method for termination based on various factors. Some common methods of feticide include medication, surgical abortion, induced labour and physical trauma. In the early stages of pregnancy, medication can be used to terminate the pregnancy. Medication-induced abortion typically involves taking one or more pills that stop the growth of the fetus or cause it to detach from the uterine wall. This method is usually performed in an outpatient setting and does not require anesthesia. For later pregnancies, surgical abortion or induced labor are preferred. A surgical abortion involves the removal of the fetus and other contents of the uterus through surgical procedures such as dilation and curettage (D&C) or vacuum aspiration. In some cases, labor can be induced in order to deliver the fetus. This method may be used in situations where a pregnancy has to be terminated late in the pregnancy due to medical reasons. In rare cases, feticide can occur as a result of physical trauma to the mother, such as from a car accident or physical violence. Feticide is a serious matter and should only be undertaken with the guidance of trained medical professionals in accordance with local laws and regulations.

### Abortion

Abortion is a part of feticide and involve the termination of a pregnancy, but they differ in their legal and medical contexts. Abortion is a medical procedure that is performed to terminate a pregnancy. There are two main types of abortion procedures: medical and surgical. Medical abortion involves taking medication to induce abortion, while surgical abortion involves a minor surgical procedure to remove the fetus and placenta from the uterus. Medical abortion is usually done within the first 10 weeks of pregnancy. The two medications used for medical abortion are mifepristone and misoprostol. Mifepristone is taken first to block the hormone progesterone, which is needed to maintain pregnancy. Misoprostol is taken a few days later to cause contractions and expel the contents of the uterus. Medical abortion is generally considered safe and effective. The surgical type of abortion involves a surgical procedure

to remove the contents of the uterus. There are different methods of surgical abortion, depending on how far along the pregnancy is. Some common methods include Vacuum aspiration, Dilation and curettage (D&C), Dilation and evacuation (D&E). Vacuum aspiration involves a suction device to remove the contents of the uterus. It is typically used up to 14 weeks of pregnancy. The Dilation and curettage (D&C) involves dilating the cervix and using a curette to remove the contents of the uterus. It is typically used between 13 and 16 weeks of pregnancy. In Dilation and evacuation (D&E) dilating the cervix and using forceps and suction to remove the contents of the uterus. It is typically used after 16 weeks of pregnancy.

Abortion can be performed for a variety of reasons, such as to protect the health of the mother, due to fetal abnormalities, or as a personal choice. The decision to have an abortion is a personal one and can be influenced by a variety of factors, such as the woman's health, the stage of the pregnancy, and her social and economic circumstances. Abortion is generally considered legal in many countries, although the specific laws and regulations surrounding it can vary widely, whereas it is considered a serious crime in many countries and is often punishable by law. The topic of abortion is highly controversial and often involves debates about women's reproductive rights, the rights of the fetus, and the role of government in regulating abortion. Some argue that a woman should have the right to choose whether to have an abortion, while others believe that abortion should be illegal or highly restricted. It is important to recognize that this is a complex issue that can be influenced by cultural, religious, and political beliefs.

On the other hand, feticide is the deliberate act of ending a pregnancy by causing the death of a fetus. This term is usually used in legal contexts, particularly in cases of criminal acts such as homicide, where a person intentionally causes the death of a fetus. Feticide is generally considered illegal, although the specific laws surrounding it can vary depending on the jurisdiction and the circumstances. The laws and cultural norms around feticide vary widely across different regions and societies.

### **Reasons of Abortions**

Abortion is the termination of pregnancy before the fetus can survive outside the uterus. There are various reasons a woman choose to have an abortion. Unintended pregnancy or Unplanned pregnancy is one of the most common reasons for having an abortion. Women used to terminate their pregnancy due to various reasons such as financial constraints, lack of support, or inability to provide for a child. Medically if continuing with the pregnancy poses a threat to the woman's life or physical or mental health, then an abortion may be recommended. In such cases, the decision to terminate the pregnancy is taken by a medical professional after assessing the woman's condition and the medical reasons. Fetal anomalies are fetal abnormalities that are detected during the ultrasound or other medical tests, and can also lead to an abortion. Women who have been victims of rape or incest can choose to terminate their pregnancy as a result of the trauma they have experienced. In some cases, women may seek an abortion due to social stigma or pressure from family members or society.

### **Abortion laws in India**

Until the 1960s, abortion was illegal in India and a woman could face three years of imprisonment and/or a fine under Section 312 of the Indian Penal Code (IPC). It was in the mid-1960s that the government set up the Shantilal Shah Committee and asked the group, headed by Dr Shantilal Shah, to look into the matter of abortions and decide if India needed a law for the same.

Based on the report of the Shantilal Shah Committee, a medical termination bill was introduced in Lok Sabha and Rajya Sabha and was passed by Parliament in August 1971. The Medical Termination of Pregnancy (MTP) Act, 1971 came into force on 1st of April 1972 and applied to all of India except the state of Jammu and Kashmir.

Also, Section 312 of the Indian Penal Code, 1860, criminalises voluntarily "causing miscarriage" even when the miscarriage is with the pregnant woman's consent, except when the miscarriage is caused to save the woman's life. This means that the woman herself, or anyone else including a medical practitioner, could be prosecuted for an abortion.

Medical Termination of Pregnancy (MTP) Act, 1971 act allowed pregnancy termination by a medical practitioner in two stages:

1. A single doctor's opinion was necessary for abortions up to 12 weeks after conception.
2. For pregnancies between 12 to 20 weeks old, the opinion of two doctors was required to determine if the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health or if there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously "handicapped" before agreeing to terminate the woman's pregnancy.

Recently some amendments were introduced in abortion laws. In 2021, Parliament altered the law to allow for abortions based on the advice of one doctor for pregnancies up to 20 weeks. The modified law needs the opinion of two doctors for pregnancies between 20 and 24 weeks. Further, for pregnancies between 20 and 24 weeks, rules specified seven categories of women who would be eligible for seeking termination under section 3B of rules prescribed under the MTP Act---

- Survivors of sexual assault or rape or incest.
- Minors.
- Change of marital status during the ongoing pregnancy (widowhood and divorce).
- Women with physical disabilities [major disability as per criteria laid down under the Rights of Persons with Disabilities Act, 2016].
- Mentally ill women including mental retardation.
- The foetal malformation that has a substantial risk of being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped, and.
- Women with pregnancy in humanitarian settings or disasters or emergencies may be declared by the Government.

The law recognizes changes in a pregnant woman's marital status with her spouses - such as divorce and widowhood -- but it does not talk about the situation for unmarried women. It is a highly regulated procedure whereby the law transfers the decision-making power from the pregnant woman to the Recognized Medical Practitioner (RMP) and provides great discretion to the RMP to determine whether abortion should be provided or not. India's legal framework on abortion is largely considered progressive, especially in comparison to many countries including the United States where abortion restrictions are severely restricted - both historically, and at present. Further, there is a need for a serious rethink in public policy making, also accommodating all the stakeholders to focus on women and their reproductive rights, rather than drawing red lines those medical practitioners cannot cross while performing abortions.

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**Volume 4 Issue 4 April 2023**

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