



# Legal Environment

The Medical Termination of Pregnancy Act was passed by the Parliament of India in 1971. Since then, both technology and the discourse around sexual and reproductive health has changed in the country.



Lack of awareness on the legality, stigma around abortion and provider bias also acts as barriers to safe abortion access. This is demonstrated by the fact that 40 cases filed at various courts for seeking abortion during the period June 2016-April 2019, were under 20 weeks gestation, which both in letter and spirit, are in violation of the MTP Act



Lack of clear jurisdictional boundaries and consistent definitions causes conflicts with the Protection of Children against Sexual Offenses (POCSO) Act and the Pre Conception and Pre Natal Diagnostics Techniques (PCPNDT) Act



The Act has become obsolete on various grounds and one of its strongest critiques has been that it emanates out of a medico-legal framework, as opposed to a rights-based perspective



It places the agency of decision making on medical practitioners, as opposed to the lived-reality of the women

# What is Pratigya Campaign advocating for?

Pratigya Campaign for Gender Equality and Safe Abortion is a network of individuals and organisations working towards protecting and advancing women's rights and their access to safe abortion care in India. The Campaign advocates with governments, organisations and media at the national and state levels on issues of women's empowerment and women's access to healthcare services.

As part of its advocacy strategy, Pratigya Campaign engages with the legal fraternity to understand the legal landscape around abortion related cases and the current legal barriers challenging women's access to safe abortion services in India. Through its research on 'Assessing the Judiciary's role in Access to Safe Abortion', Pratigya Campaign analysed 194 writ petitions that went before the Supreme Court and various High Courts between June 2016-April 2019. The research has informed our advocacy strategy which includes:



- Advocacy for speedy adjudication of abortion requests by courts, given the time sensitive nature of pregnancy, and the mental and emotional trauma of carrying an unintended pregnancy
- Regular tracking of ongoing cases on abortion going to various courts to study the judicial trends and patterns in how the courts are interpreting the law
- Advocacy for amendments to the Medical Termination of Pregnancy Act, 1971 to increase the gestation limit from 20 to 24 weeks, allow abortion in all rape cases regardless of gestation due to the associated mental and physical trauma, allow abortion on request of a woman up to 12 weeks and expand provider base for medical abortion to include MBBS doctors, AYUSH doctors and Auxiliary Nurse Midwives (ANM)
- Recommendation that the Supreme Court lays down a comprehensive jurisprudence that clarifies the act to ensure justice delivery is consistent across states and permit all cases under 20 weeks

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