

**GA6: DETERMINING
INTERNATIONAL LAWS RELATING TO
A WOMAN'S RIGHT TO HAVING AN
ABORTION**

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Introduction:

Abortion is the surgical procedure in which a fetus or embryo is taken out of the uterus. The moral and ethical implications are very clear. These implications create two different sides, pro-life and pro-choice. Pro-life people are against abortions and think that they have no place in our world. Pro-choice people are for abortions, arguing that women should have a choice and keep abortion as an option.

Explanation of Key Terms:

Contraceptive: devices or drugs used to prevent pregnancy

Abortifacient: a substance that induces abortion

Pre-viability abortion: abortion that is done before the fetus reaches its potential to live outside the uterus.

On request abortion: an abortion which is allowed in most countries in most cases but mostly when a(n) (valid) argument is brought forward by the woman to have an abortion.

Gestation: the period from fertilization until birth/delivery.

Gestational limit: the time period after fertilization in which the woman still has the option to have an abortion. In most countries, the gestational limit is 12 weeks.

Background Information:

Pre-Modern Era

Abortion goes very far back. The first recorded evidence for an abortion was in an Egyptian scroll dating back to 1550 BCE. Many early abortion techniques weren't surgical. They involved participating in physical activities like hard labour, climbing, diving, and paddling. Some more extreme methods included the use of irritant leaves, fasting, bloodletting, and pouring hot water on the abdomen. There is some evidence at some surgical attempts at removing a fetus but these were very rare.

Modern Era

Abortion really took hold in the 19th century when surgery, anaesthesia, and sanitation became much more advanced. Knowledge of abortions spread across the globe as people learned of safer and more effective methods. For much of the 19th century, abortion was illegal, but many physicians and doctors practised them in secret. When abortions first took hold in Europe and the United States of America the feminist movement was in full swing. Many feminists of the age were against abortions, as they believed that it was an “undesirable necessity forced upon women by thoughtless men”. However, there was a group of socialist feminists who believed in the right of abortion for the poor. Many socialist female doctors, such as Marie Equi, Madeleine Pelletier, and William J. Robinson practised very cheap or free abortions for poorer women.

Decriminalization of Abortion

The push for the reform of abortion laws came in the 1920s and 1930s. This was right after significant battles had been won in the area of birth control for women. Women such as Marie Stopes in the UK and Margaret Sanger in the USA managed to get the issue to be discussed on the global stage. Another woman by the name of Stella Browne attempted to legalise abortions for working women.

The Soviet Union was the first to legalise abortions upon request. These were then banned again when Stalin came to power because there was an emphasis on population growth. In Britain, abortions became legal under the 1967 Abortion Act. This act legalised abortions on certain grounds, and not on request. In the United States, each state has its own laws regarding abortions. The first state to allow abortion was Colorado in 1967. Then many different court cases and incidents caused many different states to change their laws. The most important of these cases were Roe v. Wade and United States v. Vuitch.

In the 1970s the second wave of feminism swept the globe and along with that came many more reproductive rights, including the rights to abortions in many western countries.

Major Players Involved:

China: forced abortions during the one-child policy. The law, however, has changed since the late 1970s. Abortion allowed on request but sex-selective abortion is prohibited due to the outcomes of the one-child policy. No gestational limit specified; however, laws vary.

Bulgaria: during the second half of the 20th-century abortion was used as a means of population control/policy instrument when contraceptives were not available. Now allowed on request, although the gestational limit is 12 weeks.

USA: abortion allowed when requested. However, the law varies in different states (some restrict access and set up bans) which makes it a very controversial topic in the US.

Turkey: abortion allowed on request but both spousal authorization and parental authorization/notification needed. Gestational limit of 10 weeks.

Sweden: abortion allowed on request. Gestational limit of 18 weeks, which is one of the longest in the world.

Netherlands: abortion allowed on request. Law does not limit pre-viability abortion.

Guyana: abortion allowed on request. Gestational limit of 8 weeks, which is the shortest in the world

Iceland: abortion allowed on broad social or economic grounds like rape, incest, fetal impairment, and some additional grounds. First western country to legalise therapeutic abortion, although under limited circumstances, in 1935.

Russia: the first country to legalise abortion on request. in 1920, Lenin legalised all abortions. There was a ban between 1936 and 1955 when Stalin came to power to try and increase population growth. Then the ban fell after 1955 and abortions have been legal on request since then.

Poland: first European country (outside of the Soviet Union) to legalise abortion in cases of rape and threat to maternal health in 1932. Now abortions allowed only in case of preservation of health (rape, incest, fetal impairment) and parental authorization or notification needed. The strictest country regarding abortion laws in Europe.

Mexico: first country in the world to legalise abortions in case of rape in 1931. Now abortion allowed only to save a woman's life (rape, fetal impairment). Laws vary at the state level.

Thailand: abortion allowed to preserve health. In cases of rape and fetal impairment, abortion is allowed. Thailand's history with abortion has been long and complex, as the debate of its legality took years to be resolved. Even now, the debate has not fully disappeared.

Zimbabwe: abortion allowed to preserve health. In cases of rape, incest, and fetal impairment. However, it is only allowed to preserve the woman's physical health.

Israel: abortion allowed to preserve health (in cases of rape, incest, fetal impairment and permitted on additional grounds). Law explicitly includes the preservation of mental health.

Egypt: abortion prohibited.

Iraq: abortion prohibited. Most strict with abortion laws in its region in the middle east.

Haiti: abortion prohibited.

Congo: abortion prohibited.

Center for reproductive rights: only non-governmental global legal advocacy organization dedicated to reproductive rights. It has been active since 1992. They have been actively presenting cases before national courts, United Nations committees, and regional human rights bodies. The organization has expanded access to reproductive healthcare, documented abuses, and worked together with policymakers. They have helped to strengthen laws and policies in 50 countries.

Timeline of Events:

Pre 19th century - Abortion widely practised and legal under common law.

Early 19th century - English-speaking world passes laws banning abortion at all stages of pregnancy (first law to explicitly outlaw abortion was put down in the 1st and 2nd section in Malicious Shooting or Stabbing Act of 1803).

1820s - Anti-abortion laws and statutes begin to spread and take hold in the US.

First half of the 19th century - In France, abortion is considered to be a last resort to unwed women. It is also looked at as a family planning method for married women when contraceptives don't work.

1860s - India bans abortion. Criminalization accelerates (in the US) and by 1909 the penalty for disclosing information about abortion and contraceptives or performing an abortion is a \$5000 fine and up to 5 years of imprisonment.

Second half of the 19th century - Feminists consider abortion something that is forced on them by the actions of thoughtless men. Socialist feminists are more supportive of abortion.

1920's and 1930s - Birth control becomes more common and less frowned upon. In the US the first birth control clinics are established.

1920 - Abortion legalised in the Soviet Union by Lenin.

1929 - Infant Life Preservation Act is passed in England, which amends the previous law by stating that "an abortion carried out in good faith, for the purpose of preserving the life of the mother, will not be considered an offence".

1931 - Stella Brown (a leading birth control campaigner) begins to develop an argument for women's right to decide to have an abortion. She starts to tour in England and gives lectures regarding the issue.

1936 - Janet Chance, Alice Jenkins, and Joan Malleson establish the Abortion Law Reform Association, which is the first advocacy organization for abortion liberalization in the UK. During the Spanish Civil War, Catalonia allows free abortion during the first 12 weeks of pregnancy.

1936-1955 - Abortion banned in the Soviet Union. The ban lasts for the duration of Stalin's rule. It is banned due to Stalin's concerns about population growth.

1948 - Japan legalises abortions. By 1952 the laws have become so lenient that the decision to have an abortion becomes a woman's personal affair.

1950s - China bans abortions, but as time goes on the laws become more relaxed.

1957 - Romania legalises abortion.

1964 - Japan has a period in which a conservative right-wing nationalist group starts to oppose abortion, but the campaign that peaks in the early 1980s fails by 1983.

1966 - Abortion criminalized in Romania and childbirth encouraged.

1967 - Abortion Act in the UK legalises abortion on certain grounds and when performed by registered practitioners. Colorado becomes the first state to decriminalize abortion in cases of rape, incest or if there is a chance for maternal physical disabilities due to pregnancy.

1970 - Hawaii becomes the first American state to legalise abortion on the request of a woman.

1971 - India legalises abortion under some specific circumstances.

1980s - China allows abortion as a back-up family planning method.

1989 - Romania legalises abortion again.

1980s and 1990s - Thailand experiences strong public debate about abortion (anti-abortionists label the procedure as anti-religious and consider it a western corruption that is anti-Thai and threatens the nation)

2005 - China bans sex-selective abortion.

2006 - In Thailand, abortions become legal in case of rape and fetal impairment.

Previous Attempts to Solve the Issue:

The UN has been actively supporting the rights of women to make their own decisions and have tried to make it possible for all women across the world to have the right to decide on their pregnancy. The UN has been determined to reduce barriers to safe abortions to help women and girls avoid dangerous or fatal consequences of unsafe abortions. Abortion is usually taken up in the human rights council.

WHO (World Health Organization) has determined that criminalizing abortions does not lessen the number of women who seek out an option to have an abortion. It just puts more women in a dangerous position that can end with injuries or even death when they seek out back-street procedures.

The Center For Reproductive Rights deals with cases when women need and should be able to have abortions. They have influenced several countries to amend their laws and allow abortion. They take up new members and accept donations from more passive people in their fight to give women the right to choose.

The US has had several different time periods in its history (periods when abortion is legal and periods when it is not); however, different states and areas have always had different opinions on it, which makes it a very controversial topic. It has been really hard to accomplish nation-wide laws and there still has been no success as all the states have their own variations of laws and their own opinions. Therefore, even though abortion is generally allowed in the US, it has been hard for the US to take a firm international stance regarding the issue.

Methods of Solving the Issue:

There are two main sides in the abortion debate: pro-choice, and pro-life. Pro-choice supporters are in favour of abortions. Pro-life supporters are against abortions.

Many progressive countries and more liberal countries are pro-choice, meaning that women should have the right to choose if she would like an abortion. But some countries only allow abortions if the pregnancy is threatening the woman's health, or in cases of rape or incest. Some countries don't have any regulations against when women can have an abortion. The only regulation against abortions in every country is when in term of the pregnancy the abortion happens. This is known as the gestation period and is different for every country.

Most conservative and Arab countries don't allow abortions under any circumstances. Many prohibit this on the terms that abortion is the murder of a child and the waste of life. Also, many pro-life people believe that abortion can be avoided through adoption. In many countries, there are ways to help with unwanted pregnancies due to rape or incest. Almost all people believe that these are enough to help women out and have them finish their pregnancy and guide them throughout their lives.

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