

RIGHT TO ABORTION AS A BASIC HUMAN RIGHT: AN INTERNATIONAL PERSPECTIVE

Sneha Singh

Lovely Professional University (Phagwara, Punjab)

Orcid Id: <https://orcid.org/0009-0009-5476-4296>E-mail: snehasjalanco.com@gmail.comCo- Author-

Dr. Dalliandeep Kaur Tiwana

Lovely Professional University (Phagwara, Punjab)

Orcid Id: <https://orcid.org/0000-0001-9330-3737>E-mail: dalliandeep.25656@lpu.co.in**ABSTRACT**

The main purpose of this paper is to present a comprehensive understanding of the laws on abortion that are in place all over the world. According to expert's opinion, abortion is safer when it is straightforward, uncomplicated, and is available at a woman's discretion, and is widely accessible and economical. The young researchers must take into account the political philosophy, the legal systems, and also the social diversities in order to fill in the gaps and flaws in the law. The various abortion- related laws and rulings on abortion impose limits on women's access to reproductive freedom, medical care, and safe abortion methods.

The main aim of this research paper is to analyze the current scenario regarding abortion laws across the globe internationally and how they frequently infringe human rights. The researcher has examined the recent judicial decisions.. Ultimately, this research paper will summarize how abortion laws and human rights are inter-related and denying the right to abortion is violation of human rights.

KEYWORDS

Abortion laws, Bodily autonomy , CEDAW, Human rights, ICCPR, International conventions, Right to life, Right to health, , UDHR.

INTRODUCTION

Human rights were created by the UN as a fundamental protection for everyone in the world about 70 years ago. Along with the freedoms to vote, own land, and receive an education,

these freedoms also include the freedom from aggression, enslavement, and prejudice.¹ Women were promised the same safeguards and freedoms under the Vienna Declaration, which recognized that women's rights are human rights. Despite this acknowledgment, gender disparity continues to be a significant obstacle to the complete fulfillment of these rights for women and girls around the globe. A worldwide campaign is working to alter abortion legislation in support of women's rights and human rights because having access to secure abortion services is essential to women's independence. A challenging human rights issue that limits women's freedom in all facets of their lives, including family life, career advancement, education, and interpersonal relationships, is presented by the new barriers that are being put in place to prevent women from accessing safe and legal abortion services.² The International Conference on Population and Development (ICPD) in 1994 stressed the significance of every woman having the freedom to choose her own sexual and reproductive health decisions, including the decision to have an abortion, in accordance with international human rights law.

Women still face numerous barriers to accessing secure and lawful abortion services, despite progress in the recognition of women's rights as human rights. Legal restrictions, societal shame, and a dearth of healthcare choices are a few of these difficulties. In many areas of the globe, women who seek an abortion are subject to criminal charges and legal penalties, which force them to resort to risky and unlawful practices that endanger their health and lives.³

Every woman must have access to cheap, secure, and lawful abortion services. To handle the underlying reasons of gender disparity and to guarantee the defense and advancement of women's rights, legislators, medical professionals, and civil society groups must work together.⁴ Only then can we truly claim that fairness and equity for all have been accomplished.

¹ Global Fund for Women. "Information about Women's Human Rights." Accessed May 4, 2023. <https://www.globalfundforwomen.org/womens-human-rights/>.

²Finer, Louise, and Johanna B. Fine. "Abortion Law Around the World: Progress and Pushback." *American Journal of Public Health* 103, no. 4 (April 2013): 585–89. <https://doi.org/10.2105/AJPH.2012.301197>.

³International Journal of Law Management & Humanities. "Comparative Analysis of Abortion Laws through the Lens of Human Rights Laws." Accessed May 4, 2023. <https://www.ijlmh.com/paper/comparative-analysis-of-abortion-laws-through-the-lens-of-human-rights-laws/>.

⁴OHCHR. "Information Series: Sexual and Reproductive Health and Rights." Accessed May 4, 2023. <https://www.ohchr.org/en/women/information-series-sexual-and-reproductive-health-and-rights>.

CONCEPT OF ABORTION

The word "abortion" comes from the Latin word "abortus," which refers to a separated item from its appropriate location. It alludes to the idea of giving birth too soon or of removing a human foetus before it can begin to grow into a living being.⁵

“Abortion is defined as the intentional or natural end of a pregnancy before the foetus or baby can live on its own outside a woman's uterus by Black's Law Dictionary.”

Simply put, this means that the expectant child is murdered inside the mother's body and is not permitted to be delivered. The end of a pregnancy before the foetus achieves viability is referred to as an abortion. In order to save the lives of women, 97% of the nation approved abortion, according to the 2013 census. When the mother's or the unborn child's mental or bodily health is in danger, abortion is permitted in two-thirds of the world's nations. “Victims who became pregnant as a result of rape, incest, or foetal anomalies were frequently given abortions.”⁶ About one-third of nations have also made abortion lawful for the sake of the nation's economy and societal stability. However, it should be noted that, aside from the aforementioned requirements, no regulation or rule has addressed the possibility that abortion may be necessary in other situations.

Abortion falls into one of three categories, depending on the circumstances:

- Illegal or forced Abortion; Spontaneous Abortion; Restorative Abortion

A form of abortion known as a "natural abortion" occurs when either the woman or the fetus is sick or has not grown correctly. Medical experts perform therapeutic abortions when it is believed that a woman's continued pregnancy poses a serious risk to her life or the life of the future child. Last but not least, illegal or illicit abortions, or the termination of a pregnancy by the mother or another individual, are crimes.⁷ Any abortion carried out with a woman's full permission and at her request shouldn't be regarded as a crime.

Objectives

⁵Jaising P Modi. *Medical Jurisprudence And Taxology (1955)*

⁶The Law Dictionary. “ABORTION Definition & Meaning - Black’s Law Dictionary,” March 28, 2013. <https://thelawdictionary.org/abortion/>.

⁷United Nations Department of Economic and Social Affairs Population Division. “Abortion Policies and Reproductive Health around the World,” (United Nations publication, Sales No. E.14.XIII.11).

The primary objective of this research paper is as follows-

1. To analyze the concept of abortion in relation to human rights perspective.
2. To examine the abortions laws in both developed and under-developed countries of the world.

The present research study is based on the hypothesis that abortion laws are not uniform and constant all over the world. Various social, religious and cultural differences affect the legislation on abortion.

Methodology

The current research work is purely doctrinal in nature. The research is based on primary as well as secondary sources. A number of sources are used like debates, commentaries of various authors, journals, books, websites etc.

THE RELATIONSHIP BETWEEN THE RIGHT TO AN ABORTION AND OTHER BASIC FREEDOMS

The freedom to choose one's own sexual and reproductive healthcare, including abortion, is protected by International Human Rights legislation (UDHR). Therefore, it is obvious that restricting access to abortion violates a woman's right to private and security. Without worrying about legal consequences or social reaction, women should be allowed to make choices about their own bodies. Women's lives are in danger and their right to health and wellbeing is violated when they are denied access to secure and lawful abortion services.

International human rights laws also safeguard a woman's right to life, and unlawful abortion puts women at risk of bodily injury or even death. Tens of thousands of women worldwide perish each year as a direct consequence of a risky or unlawful abortion, according to the World Health Organization. Women's lives and health are placed in peril and their right to life is breached when they are compelled by legal limitations to seek out risky abortion treatments.

The right to life is protected by numerous international human rights accords. Women who pursue the treatment risk their lives in countries where abortion is illegal. The World Health Organization estimates that 20 million women globally have a dangerous or unlawful abortion each year, which results in 70,000 fatalities (WHO). When a woman is compelled to have a dangerous and possibly fatal abortion, her right to life is violated. Because it exposes women to life-threatening medical treatments that infringe their right to life, illegal abortion

is associated with high rates of newborn mortality. According to the International Covenant on Civil and Political Rights, which was adopted in 2000, states are required to notify the committee of "any measures made by the State to help women in preventing unplanned pregnancies and ensure that they do not have to undergo life-threatening unlawful abortions."

• ***The anti-abortion legislation and a woman's claim to life.***

A handful of international human rights accords safeguard the right to life. Women who decide to have an abortion on their own in countries where it is illegal place themselves in peril. The World Health Organization estimates that 20 million women worldwide have a risky or unlawful abortion each year (WHO). An approximated 70,000 women perish each year as a result of unsafe and unlawful abortions.⁸

When a woman is compelled to have an abortion that could jeopardize her life, her right to life is invaded. Illegal abortion is linked to high rates of infant mortality because it forces women to use dangerous medical treatments that infringe their right to life. The International Covenant on Civil and Political Rights, which was adopted in 2000, compelled states to inform the committee of "any measures made by the State to help women in averting unplanned pregnancies and ensure that they do not have to endure life-threatening unlawful abortions."

• ***Initiatives to increase women's access to safe, quality medical care.***

To advance women's rights, adjustments must be made to their access to high-quality healthcare. The significance of offering ladies the best calibre of medical treatment is acknowledged by the World Health Organization (WHO).⁹ Women's health is seriously endangered by the negative health impacts of risky abortion procedures. Among them are uterine perforation, chronic vaginal discomfort, and pelvic inflammatory disease. Therefore, policymakers must take the necessary steps to safeguard women from the risks of possibly harmful therapies.

⁸Safe and Legal Abortion is a Woman's Human Right, CENTRE FOR REPRODUCTIVE RIGHTS (2004).

⁹"Human Rights." Accessed May 4, 2023. <https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health>.

The World Health Organization (WHO) describes "health" as a condition of total physical, emotional, and societal well-being as opposed to just the lack of illness or incapacity.¹⁰ To protect women's health, governments must give high-quality abortion facilities top priority and remove all legislative barriers to abortion. Reducing the negative effects of unlawful abortion on health was stressed at the 1994 International Congress on Population and Development (ICPD). Governments should take action to make sure that women can access secure and lawful abortion services, according to the conference's Plan of Action.

Governments recognized the need to improve abortion safety and accessibility during the ICPD's five-year review in 1999.¹¹ According to section 63(iii) of the Health and Human Services Quality Development Act, health care professionals have a duty to make sure that secure abortion services are accessible in areas where they are not prohibited. Governments should therefore take extra steps to guarantee that women have access to high-quality medical treatment.¹²

Governments should prioritize eliminating any obstacles to accessible, lawful abortion services. The Agreement on the Elimination of All Forms of Discrimination Against Women (CEDAW) outlines 30 principles to safeguard women from gender-based prejudice and advance gender equity. Prejudice against women is described as any difference, exclusion, or limitation based on sex that prevents or invalidates the acknowledgment, pleasure, or practice of women's basic rights and human liberties, regardless of their marriage situation.

The Commission on the Elimination of Discrimination Against Women (CEDAW) calls on nations that have signed the treaty to decriminalize abortion in extreme rape situations where the victim's life, health, or physical dignity are at risk. The CEDAW acknowledges that women's rights exist well after puberty. In order to ensure that the CEDAW's standards are adhered to and that everyone is held responsible for their actions, both men and women play crucial roles. This involves defending women's legal rights and abiding by laws that ensure their safety.

¹⁰“Constitution of the World Health Organization.” Accessed May 4, 2023.

<https://www.who.int/about/governance/constitution>.

¹¹ Dr. Babatunde Osotimehin . “Programme of Action of the International Conference on Population Development (1994).”

¹²World Health Organization. “Safe Abortion: Technical & Policy Guidance for Health Systems,”

The CEDAW grants nations the power to implement laws that advance gender equity, safeguard women's rights, and uphold moral standards. In order to guarantee that women have access to high-quality medical treatment, states should emphasize ratifying and implementing the CEDAW. This involves offering complete reproductive health services, such as family planning, contraception, and secure abortion.

- ***It is forbidden to violate a woman's right to abortion.***

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), a global declaration of women's rights, was approved by the United Nations General Assembly in 1979. It includes 30 suggestions for legislation to protect women from gender discrimination.¹³

According to CEDAW, discrimination against women is any difference, exclusion, or restriction that stops or denies a woman's ability to recognize, appreciate, or practice her basic liberties in the political, economic, and social realms, which are founded on the equality of men and women.¹⁴

The Committee on the Elimination of Discrimination Against Women (CEDAW) has urged signatory countries to permit abortions in instances of severe rape where the baby's health, life, or innocence are in peril.¹⁵

The needs of women at all ages, from juvenile girls to elderly women, are prioritized by the CEDAW. Both men and women are needed to execute CEDAW in the contemporary world. They are in charge of upholding everyone's legal obligations and protecting everyone's rights. They are also responsible for determining whether or not a violation of rights has occurred.

By ratifying the treaty, a country gains the right to pass laws that protect women from discrimination, promote gender equality, and uphold moral standards.¹⁶

¹³ OHCHR. "Information Series: Sexual and Reproductive Health and Rights." Accessed May 4, 2023. <https://www.ohchr.org/en/women/information-series-sexual-and-reproductive-health-and-rights>.

¹⁴ Sehgal, Diganth Raj. "All about Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979." *IPleaders* (blog), June 24, 2021. <https://blog.ipleaders.in/convention-elimination-forms-discrimination-women-cedaw-1979/>.

¹⁵ OHCHR. "Access to Safe and Legal Abortion: Urgent Call for United States to Adhere to Women's Rights Convention, UN Committee." Accessed May 4, 2023. <https://www.ohchr.org/en/statements/2022/07/access-safe-and-legal-abortion-urgent-call-united-states-adhere-womens-rights>.

- **Women's claim to physical liberty.**

A woman's autonomy is her ability to make her own personal and biological choices without outside influence.¹⁷ By autonomy, we also mean that a woman seeking treatment for her sexual or reproductive health should be regarded as an autonomous person who is the only one receiving medical attention and is completely capable of making her own choices without asking advice from anyone else. Even though the word "autonomy" is not used directly in the Protocols, the worth of "autonomy" is implied in the basic freedom it ensures for women who are treated equally with males in society. Fundamental human rights like independence, respect, private, personal security, and physical hygiene are closely related to autonomy. Women have a right to be informed about all of their treatment choices, including the advantages and disadvantages of each, as well as other options, such as the option to decline therapy.

THE WORLD'S ABORTION POLICIES

- **There is a sizable abortion rate in Sri Lanka.**

Abortion is against the law in Sri Lanka, as stated in Articles 303–307 of the Ceylon Criminal Code of 1885.¹⁸ Parts 312–315 of the Indian Criminal Code contain regulations resembling those found in Indian law. However, if an abortion is performed purely to preserve the mother's life, it is still legal in Sri Lanka. The Sri Lankan Ministry of Health published thorough instructions for post-abortion treatment in 2015. In the event of serious consequences, it states that any woman who has an unlawful abortion has the freedom to seek

¹⁶BYJUS. "CEDAW - UPSC Notes on UN Convention for Discrimination against Women." Accessed May 4, 2023. <https://byjus.com/free-ias-prep/cedaw/>.

¹⁷"Rights to Sexual and Reproductive Health." Accessed May 4, 2023. <https://www.un.org/womenwatch/daw/csw/shalev.htm#:~:text=The%20ICPD%20thus%20posits%20the,reproductive%20health%20and%20population%20programs>. Accessed.

¹⁸Center for Reproductive Rights. "Sri Lanka's Abortion Provisions." Accessed May 4, 2023. <https://reproductiverights.org/maps/provision/sri-lankas-abortion-provisions/>.

medical care at any government institution. Additionally, it mandates that access to abortion be guaranteed in even the most distant rural regions of the nation.¹⁹

- **Africa's abortion rate.**

With the exception of Tanzania and Zambia, abortion is prohibited throughout Africa and is only permitted in certain circumstances. In Tunisia, mothers who have had five or more children are lawfully permitted to have an abortion. However, as of 1973, abortions during the first trimester of pregnancy are legal as long as they are performed in a hospital or another setting that has been given the go-ahead.²⁰ An abortion may be carried out up to three months after conception when the mother's health is in danger, the pregnant child's health is in danger, or there is a chance that the unborn child will be delivered with a genetic deformity or an illness. In some severe cases, the mother may be confined prior to the procedure, and her pregnancy may be terminated with the provision of a doctor-signed document to the doctor performing the procedure. Zambia was another nation that allowed abortion.²¹ The British Abortion Act of 1967's rules are also included. New measures to enhance abortion laws and policies have also been proposed by the Ghana Law Reform Commission.²²

- **High abortion rate in Pakistan.**

According to Section 312 of the Criminal Code, abortion is prohibited in Pakistan. The Criminal Code of Pakistan refers to abortion as "Isqat-e-Haml" and "Isqat-e-Janin" in

¹⁹South East Asia World Health Organization. "ABORTION POLICY LANDSCAPE- SRI LANKA.,"

²⁰Blystad, Astrid, Haldis Haukanes, Getnet Tadele, Marte E. S. Haaland, Richard Sambaiga, Joseph Mumba Zulu, and Karen Marie Moland. "The Access Paradox: Abortion Law, Policy and Practice in Ethiopia, Tanzania and Zambia." *International Journal for Equity in Health* 18 (September 27, 2019): 126. <https://doi.org/10.1186/s12939-019-1024-0>.

²¹ Haaland, Marte E. S., Haldis Haukanes, Joseph Mumba Zulu, Karen Marie Moland, Charles Michelo, Margarate Nzala Munakampe, and Astrid Blystad. "Shaping the Abortion Policy – Competing Discourses on the Zambian Termination of Pregnancy Act." *International Journal for Equity in Health* 18, no. 1 (January 28, 2019): 20. <https://doi.org/10.1186/s12939-018-0908-8>.

²² Aniteye, Patience, and Susannah H. Mayhew. "Globalisation and Transitions in Abortion Care in Ghana." *BMC Health Services Research* 19, no. 1 (March 21, 2019): 185. <https://doi.org/10.1186/s12913-019-4010-8>.

Sections 338, 338A, 338B, and 338C. The Pakistani government has not attempted to relax the nation's strict abortion regulations for women. Sections 338 and 338(B) of the Pakistani Criminal Code state that it is illegal to end a pregnancy unless it is done in "good faith" or to save the woman's life through medical intervention.²³ Depending on whether the woman provided her permission, an unlawful abortion in Pakistan can carry a maximum sentence of three years. The Government is obliged to pass any legislation allowing abortion despite the fact that officials in the country are fully conscious of the benefits of liberalizing abortion due to stringent Islamic customs, strong religious leaders, and opposing parties.

- **Abortion rate in the UK.**

Since David Steel proposed the Abortion Act in 1967, abortion has been regarded as lawful in the UK. With the additional security provided by unrestricted regulations, this Legislation permitted abortion under specific conditions by a medical professional. In England, Scotland, and Wales, this legislation made abortion legal up to 24 weeks of pregnancy. In 2019, Northern Ireland became the most recent nation in Europe to legalize abortion. Abortion is legal in the UK for up to 24 weeks, but there's a chance of:²⁴

Doctors take into account the mother's physical and psychological well-being as well as any additional children she may have when determining the danger to a woman's health.

In the UK, getting an abortion requires a doctor, the approval of two physicians (in an emergency situation), and a hospital or other government-approved facility. Only the United Kingdom of England, Scotland, and Wales is covered by the Act of 1967.²⁵ Guernsey, Jersey, and the Isle of Man, all British foreign regions, recently passed laws pertaining to abortion.

Starting on August 30, 2022, a woman in the UK who is less than 10 weeks pregnant can get abortion drugs delivered to her house via tele-consultation. A doctor's attested document will

²³ LSE Human Rights. "Abortion Laws in the Islamic Republic of Pakistan: To What Extent Do Social Policies Cater to Human Rights?," March 22, 2022. <https://blogs.lse.ac.uk/humanrights/2022/03/22/abortion-laws-in-the-islamic-republic-of-pakistan-to-what-extent-do-social-policies-cater-to-human-rights/>.

²⁴ "Abortion and Your Rights." Accessed May 4, 2023. <https://www.msichoices.org.uk/abortion-services/abortion-and-your-rights/>.

²⁵ Abortion Rights. "The Current Situation in the UK," December 15, 2014. <https://abortionrights.org.uk/the-current-situation-in-the-uk/>.

be required stating in good faith that the gestation period is less than 10 weeks, if the doctor performing the abortion administers the abortion pills from their home or if the woman takes the abortion pills at home.²⁶

- **Abortion Rates in the United States are on the Rise.**

Despite the reality that the right to private is not expressly guaranteed by the Constitution, the abortion rate has been rising in the United States.²⁷ The Fourteenth Amendment's due process provision, however, provides it with the highest level of security. This freedom has been repeatedly supported by the US legal system, which has helped to defend other freedoms. Before the Roe v. Wade ruling, abortion was illegal in thirty states but legal in twenty more. Roe v. Wade, one of the most important Supreme Court rulings ever, cleared the way for abortion legislation and gave birth to pro-choice and pro-life groups, both of which spurred public action.²⁸ This case demonstrated how the right to life paved the way for individual freedom, which in turn led to privacy, which in turn led to the right to an abortion. Even carefully drafted state laws that prohibit abortion were found to breach the right to private by anti-abortion legislation.

The plaintiff in the Roe v. Wade case, Jane Roe, requested an abortion on the grounds that she had been mistreated.²⁹ Before the baby could survive outside the mother's body, which usually happens between 24 and 28 weeks of pregnancy, the judge approved her request for

²⁶ GOV.UK. "At Home Early Medical Abortions Made Permanent in England and Wales." Accessed May 4, 2023. <https://www.gov.uk/government/news/at-home-early-medical-abortions-made-permanent-in-england-and-wales>.

²⁷ Justia Law. "Griswold v. Connecticut, 381 U.S. 479 (1965)." Accessed May 4, 2023. <https://supreme.justia.com/cases/federal/us/381/479/>.

²⁸ Justia Law. "Roe v. Wade, 410 U.S. 113 (1973)." Accessed May 4, 2023. <https://supreme.justia.com/cases/federal/us/410/113/>.

²⁹ Yadunandan, Prasad. "Abortion Debate a Critical Study in the Light of Womens Choice of Sexual Freedom in the Context of Indian Society." *University*, <https://shodhganga.inflibnet.ac.in:8443/jspui/handle/10603/214275>.

an abortion.³⁰ In the 1992 case "Planned Parenthood v. Casey," the Supreme Court ruled 5-4 to uphold Roe v. Wade.³¹

On June 24, 2022, the US Supreme Court reversed this decision, rendering abortion a legally protected right in the nation. As was proven in the Dobbs v. Jackson Women's Health Organization case, which effectively banned all abortions performed after the 15th week of pregnancy, individual states in the United States are now able to enact their own abortion laws that seriously restrict access.³²

Despite not being specifically stated in the Constitution, the due process provision of the Fourteenth Amendment offers the greatest level of security for the right to privacy. American courts have supported this freedom, which has aided in preserving other rights. Legalizing abortion was a turning moment in American history because it allowed women authority over their own bodies and reproductive systems. Only a few states had legalized abortion before the Roe v. Wade ruling, and only in specific situations.

Roe v. Wade was a significant Supreme Court ruling that established women's reproductive rights and gave birth to pro-choice and pro-life groups. Other rights, like the right to privacy and the right to an abortion, can be constructed on the basis of the right to life. Even well-intentioned state laws prohibiting abortion have been ruled unconstitutional because they go against the right to privacy.

Because she had been abused, Jone Roe, the petitioner in the Roe v. Wade case, requested an abortion. "The court approved her request before the foetus was able to live outside of the mother's body. In "Planned Parenthood v. Casey," which was decided in 1992, the Supreme Court affirmed the Roe v. Wade ruling. The Dobbs v. Jackson Women's Health Organization

³⁰ Bureau, The Hindu. "Watch | What Is the 'Roe vs Wade' Case?" *The Hindu*, July 1, 2022, sec. World. <https://www.thehindu.com/news/international/watch-what-is-the-roe-vs-wade-case/article65588998.ece>.

³¹ Drishti IAS. "The History of Abortion Rights In India and the US." Accessed May 4, 2023. <https://www.drishtias.com/blog/the%20history%20of%20abortion%20rights%20in%20india%20and%20the%200us>.

³² Breuninger, Dan Mangan, Kevin. "Supreme Court Overturns Roe v. Wade, Ending 50 Years of Federal Abortion Rights." CNBC, June 24, 2022. <https://www.cnbc.com/2022/06/24/roe-v-wade-overturned-by-supreme-court-ending-federal-abortion-rights.html>.

case, which outlawed abortions after 15 weeks of pregnancy, was one example of a state limitation on abortion access that was reversed by the Supreme Court on June 24, 2022.³³ On June 24, 2022, the Supreme Court of the United States reversed this decision, making abortion a constitutionally guaranteed right in the country. Every state in the US is now free to implement abortion laws that are just as stringent as those in *Dobbs v. Jackson Women's Health Organization*, which outlawed almost all abortions performed after 15 weeks of pregnancy.

- **In India, the abortion incidence is quite significant.**

India has a serious issue with its high abortion rate. Prior to the 1970s, abortion was considered illegal in India under section 312 of the Indian Criminal Code, 1860, which entails a maximum sentence of three years in prison and/or a fine for "inducing abortion of a woman."³⁴ The Medical Abortion of Pregnancy Act, however, which was passed in 1971, allows abortions up to 20 weeks into a pregnancy if the mother's bodily or mental health is in danger or if there is a high risk of genetic abnormalities. In circumstances where the pregnancy is purportedly the result of rape, "the distress induced by such conception" must severely harm the woman's mental health, as stated in section 3(2)(b) of the Act.³⁵ Furthermore, the pain of pregnancy is deemed a serious harm if it occurs to a married woman due to a lack of protection. In accordance with Section 3(4)(a) of the Act, if a girl under 18 gets impregnated, her parent or guardian must give their signed consent to terminate the pregnancy.

Abortions are allowed under Section 5 of the Act to safeguard the mother's life after twenty weeks of pregnancy.³⁶ A modification to the abortion law in 2002 allowed for the use of lawful contraceptives like mifepristone and misoprostol. The law was changed again in 2021 to allow a higher prenatal limit of 24 weeks for specific categories of women, such as rape survivors, incest victims, minors, and women with disabilities. When the infant is between 20

³³INDIAN PENAL CODE, (1860)

³⁴ Sec 3 (2) (b) of the MEDICAL TERMINATION OF PREGNANCY ACT, 1971.

³⁵MTP ACT, 1971,S 3(2)(B).

³⁶ Firstpost. "Explained: The Role of Shantilal Shah Committee That Recommended Making Abortion Legal in India and the Evolution of the Law," May 5, 2022. <https://www.firstpost.com/india/explained-the-role-of-shantilal-shah-committee-india-abortion-law-mtp-act-10635911.html>.

and 24 weeks pregnant, only one doctor's opinion is required, but when the child is over 24 weeks pregnant, two doctors' opinions are required. There is no maximum gestational age if a medical committee of experts determines that an abortion is necessary due to prenatal disability.³⁷

According to a new change adopted by the Commissioners on September 29, 2022, all women, regardless of marital status, have the right to a secure and legal abortion. Additionally, it deemed it "unconstitutional" to exclude single women from mutually advantageous relationships.³⁸ The Delhi High Court granted a 33-week pregnant abortion on December 6, 2022, stating that "it is a woman's choice to give birth." In the recent case of ABC v. State of Maharashtra in 2023, the Bombay High Court granted an abortion to a woman who was 33 weeks pregnant despite the medical board's recommendation against it due to the length of the pregnancy.

India has made major strides toward providing women with safe, legal abortions. There are still problems that must be addressed to ensure that women have access to comprehensive reproductive health care, even though the 2021 amendment to the Medical Abortion of Pregnancy Act was a significant step forward. Among these challenges are increasing awareness of women's rights, reducing humiliation, and improving access to competent medical staff and adequate medical facilities. By addressing these concerns head-on, India can ensure that women have the autonomy to choose their reproductive health.

- **Significance of Abortion in Iceland.**

Iceland's government passed a law on May 14, 2019, that makes "abortion legal on demand for women during the first 22 weeks of pregnancy, regardless of the circumstances." Prior to this, abortion was legal during the same time period; however, after the 16th week of pregnancy, a committee's approval was required to terminate a pregnancy. The new laws did away with this restriction, so the decision to have an abortion is now completely up to the pregnant woman. Pregnancy termination in Iceland includes abortion up to 22 weeks and

³⁷ *BBC News*. "Abortion: India Supreme Court Says Amended Law to Cover Single Women Too." September 29, 2022, sec. India. <https://www.bbc.com/news/world-asia-india-63071113>.

³⁸ Rao, A. Sumathi, Sonal Gupta & Gadela Brahmakrit. "Care, Rights of Abortion Survivors," February 26, 2023. <https://www.livelaw.in/columns/rights-of-abortion-survivors-medical-termination-of-pregnancy-amendment-act-222533>.

delivery after that. Teenagers can now legally terminate a pregnancy without the consent of their parents or guardians, which is another difference. The new law mandates that young people obtain contraception education and guidance.

Last but not least, the term "abortion" in Icelandic has been changed to "interruption of pregnancy," replacing the older, more impassioned expression that was immediately translated as "foetus elimination."³⁹

CONCLUSIONS AND SUGGESTIONS

More risky and unlawful abortions frequently follow legislative limits on abortion. Abortion is not prohibited by laws. Despite the fact that the majority of women worldwide experience comparable obstacles when it comes to abortion, different countries have different abortion laws because of differing degrees of societal, cultural, and religious stigma. The majority of member states have not correctly applied women's human rights, according to a study of the International Human Rights Standards. As demonstrated by the strict abortion laws in the majority of states, this is not an official word but rather a privilege that can only be used in certain circumstances. To experience the right to life and exist with respect in the twenty-first century, however, the less privileged members of society require a comprehensive strategy from the nations of the globe. Regardless of whether abortion is allowed in their nation, the expert contends that women should have access to the process. According to the authorities, Iceland has the finest abortion laws in the entire globe. In this situation, women, including young females, have complete control over their sexual decisions. Even though she is physically and psychologically healthy, a married woman who is not ready to become pregnant should be allowed full freedom to get an abortion with her husband's approval. When her health allows, a woman should be able to have an abortion if she is unable to

³⁹ International Campaign for Women's Right to Safe Abortion (SAWR). "ICELAND - An Already Liberal Abortion Law Further Reformed: 'Ready for the 21st Century,'" May 17, 2019. <https://www.safeabortionwomensright.org/news/iceland-an-already-liberal-abortion-law-further-reformed-ready-for-the-21st-century/>.

parent due to mental or bodily impairments. Because an extended pregnancy would result in the child being a continuous reminder of the pain the mother experienced, women who have been the victims of rape should be permitted to have an abortion at any time. If a woman is unable to care for her infant alone due to emotional, physical, or economical issues, she should be able to get an abortion at any moment. Women who already have children and do not wish to raise another infant should also be permitted to have an abortion. In any nation that permits spouses to use surrogates, abortion should be lawful. To save and safeguard the lives of both the mother and the unborn child, the government should rear these undesired children for adoption to infertile families. Some may claim that giving married couples such an unfettered right to abortion could violate some men's human rights and harm the structure of marriage and the family. It should be stressed, though, that this justification cannot be used to excuse depriving women of a fundamental human right. As a result, it is the duty of the affected governments to pass legislation that effectively safeguards the rights of all parties involved. The survival of a beast is not guaranteed by the right to life. It entails maintaining physical autonomy while living a respectable existence. Fundamental human rights do not require authorization. All women shouldn't be treated similarly by laws and regulations. Not everyone's conditions need to be the same because every person is different. As a result, the right to an abortion and the right to reproduce are fundamental human rights.

References

Journals and Websites

- “Abortion and Your Rights.” Accessed May 4, 2023. <https://www.msichoices.org.uk/abortion-services/abortion-and-your-rights/>.
- Abortion Rights. “The Current Situation in the UK,” December 15, 2014. <https://abortionrights.org.uk/the-current-situation-in-the-uk/>.
- Aniteye, Patience, and Susannah H. Mayhew. “Globalisation and Transitions in Abortion Care in Ghana.” *BMC Health Services Research* 19, no. 1 (March 21, 2019): 185. <https://doi.org/10.1186/s12913-019-4010-8>.
- *BBC News*. “Abortion: India Supreme Court Says Amended Law to Cover Single Women Too.” September 29, 2022, sec. India. <https://www.bbc.com/news/world-asia-india-63071113>.
- Blystad, Astrid, Haldis Haukanes, Getnet Tadele, Marte E. S. Haaland, Richard Sambaiga, Joseph Mumba Zulu, and Karen Marie Moland. “The Access Paradox: Abortion Law, Policy and Practice in Ethiopia, Tanzania and Zambia.” *International Journal for Equity in Health* 18 (September 27, 2019): 126. <https://doi.org/10.1186/s12939-019-1024-0>.
- Breuninger, Dan Mangan, Kevin. “Supreme Court Overturns Roe v. Wade, Ending 50 Years of Federal Abortion Rights.” CNBC, June 24, 2022. <https://www.cnbc.com/2022/06/24/roe-v-wade-overturned-by-supreme-court-ending-federal-abortion-rights.html>.
- Bureau, The Hindu. “Watch | What Is the ‘Roe vs Wade’ Case?” *The Hindu*, July 1, 2022, sec. World. <https://www.thehindu.com/news/international/watch-what-is-the-roe-vs-wade-case/article65588998.ece>.

- BYJUS. “CEDAW - UPSC Notes on UN Convention for Discrimination against Women.” Accessed May 4, 2023. <https://byjus.com/free-ias-prep/cedaw/>.
- Center for Reproductive Rights. “Sri Lanka’s Abortion Provisions.” Accessed May 4, 2023. <https://reproductiverights.org/maps/provision/sri-lankas-abortion-provisions/>.
- “Constitution of the World Health Organization.” Accessed May 4, 2023. <https://www.who.int/about/governance/constitution>.
- Dr. Babatunde Osotimehin . “Programme of Action of the International Conference on Population Development (1994).”
- Drishti IAS. “The History of Abortion Rights In India and the US.” Accessed May 4, 2023. <https://www.drishtias.com/blog/the%20history%20of%20abortion%20rights%20in%20india%20and%20the%20us>.
- Finer, Louise, and Johanna B. Fine. “Abortion Law Around the World: Progress and Pushback.” *American Journal of Public Health* 103, no. 4 (April 2013): 585–89. <https://doi.org/10.2105/AJPH.2012.301197>.
- Firstpost. “Explained: The Role of Shantilal Shah Committee That Recommended Making Abortion Legal in India and the Evolution of the Law,” May 5, 2022. <https://www.firstpost.com/india/explained-the-role-of-shantilal-shah-committee-india-abortion-law-mtp-act-10635911.html>.
- Global Fund for Women. “Information about Women’s Human Rights.” Accessed May 4, 2023. <https://www.globalfundforwomen.org/womens-human-rights/>.
- GOV.UK. “At Home Early Medical Abortions Made Permanent in England and Wales.” Accessed May 4, 2023. <https://www.gov.uk/government/news/at-home-early-medical-abortion-made-permanent-in-england-and-wales>.
- Haaland, Marte E. S., Haldis Haukanes, Joseph Mumba Zulu, Karen Marie Moland, Charles Michelo, Margarate Nzala Munakampe, and Astrid Blystad. “Shaping the Abortion Policy – Competing Discourses on the Zambian Termination of Pregnancy Act.” *International Journal for Equity in Health* 18, no. 1 (January 28, 2019): 20. <https://doi.org/10.1186/s12939-018-0908-8>.
- “Human Rights.” Accessed May 4, 2023. <https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health>.
- International Campaign for Women’s Right to Safe Abortion (SAWR). “ICELAND - An Already Liberal Abortion Law Further Reformed: ‘Ready for the 21st Century,’” May 17, 2019. <https://www.safeabortionwomensright.org/news/iceland-an-already-liberal-abortion-law-further-reformed-ready-for-the-21st-century/>.
- International Journal of Law Management & Humanities. “Comparative Analysis of Abortion Laws through the Lens of Human Rights Laws.” Accessed May 4, 2023. <https://www.ijlmh.com/paper/comparative-analysis-of-abortion-laws-through-the-lens-of-human-rights-laws/>.

- Justia Law. “Griswold v. Connecticut, 381 U.S. 479 (1965).” Accessed May 4, 2023. <https://supreme.justia.com/cases/federal/us/381/479/>.
- Justia Law. “Roe v. Wade, 410 U.S. 113 (1973).” Accessed May 4, 2023. <https://supreme.justia.com/cases/federal/us/410/113/>.
- LSE Human Rights. “Abortion Laws in the Islamic Republic of Pakistan: To What Extent Do Social Policies Cater to Human Rights?,” March 22, 2022. <https://blogs.lse.ac.uk/humanrights/2022/03/22/abortion-laws-in-the-islamic-republic-of-pakistan-to-what-extent-do-social-policies-cater-to-human-rights/>.
- OHCHR. “Access to Safe and Legal Abortion: Urgent Call for United States to Adhere to Women’s Rights Convention, UN Committee.” Accessed May 4, 2023. <https://www.ohchr.org/en/statements/2022/07/access-safe-and-legal-abortion-urgent-call-united-states-adhere-womens-rights>.
- OHCHR. “Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979.” Accessed May 4, 2023. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.
- OHCHR. “Information Series: Sexual and Reproductive Health and Rights.” Accessed May 4, 2023. <https://www.ohchr.org/en/women/information-series-sexual-and-reproductive-health-and-rights>.
- Rao, A. Sumathi, Sonal Gupta & Gadela Brahmakrit. “Care, Rights of Abortion Survivors,” February 26, 2023. <https://www.livelaw.in/columns/rights-of-abortion-survivors-medical-termination-of-pregnancy-amendment-act-222533>.
- “Rights to Sexual and Reproductive Health.” Accessed May 4, 2023. <https://www.un.org/womenwatch/daw/csw/shalev.htm#:~:text=The%20ICPD%20thus%20posits%20the,reproductive%20health%20and%20population%20programs>. Accessed.
- Sehgal, Diganth Raj. “All about Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979.” *Ipleaders* (blog), June 24, 2021. <https://blog.ipleaders.in/convention-elimination-forms-discrimination-women-cedaw-1979/>.
- South East Asia World Health Organization. “ABORTION POLICY LANDSCAPE- SRI LANKA.”
- The Law Dictionary. “ABORTION Definition & Meaning - Black’s Law Dictionary,” March 28, 2013. <https://thelawdictionary.org/abortion/>.
- United Nations Department of Economic and Social Affairs Population Division. “Abortion Policies and Reproductive Health around the World,”

- World Health Organization. “Safe Abortion: Technical & Policy Guidance for Health Systems,”
- Yadunandan, Prasad. “Abortion Debate a Critical Study in the Light of Womens Choice of Sexual Freedom in the Context of Indian Society.” *University*, <https://shodhganga.inflibnet.ac.in:8443/jspui/handle/10603/214275>.

Books

- Jaising P Modi. *Medical Jurisprudence And Taxology (1955)*.
- Indian Penal Code, 1860
- The Medical Termination of Pregnancy Act, 1971