INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

VOLUME 3 ISSUE 1

Peer-reviewed, open-access, refereed journal

IJLAR

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www.ijlar.com

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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJLAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

REPRODUCTIVE AUTONOMY AND THE LAW: A DOCTRINAL AND SOCIO-LEGAL ANALYSIS OF THE MTP ACT AFTER THE 2021 AMENDMENT

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1.1. Meaning of Reproductive Autonomy

The word abortion has been derived from a Latin term *'Abortio'* means premature delivery, miscarriage. The actual definition of 'Abortion' usually refers to the removal or expulsion of an embryo or fetus from the uterus, which is the termination of a pregnancy. Abortion, as defined by Black's Law Dictionary, is the deliberate or natural ending of a pregnancy before the unborn baby can sustain life independently outside of the mother's womb.[1] According to *Webster's New International Dictionary* 'abortion' means an act of giving untimely birth.[2] According to the *Oxford Advanced Learner's Dictionary,* abortion is defined as: (a) the intentional termination of a pregnancy at an early stage; (b) a medical procedure to end a pregnancy at an early stage.[3] The World Health Organization (WHO) states that abortion is the ending of a pregnancy before reaching 20 weeks' gestation.[4]

There has been much debate regarding the meaning of the term abortion. Even though there are multiple definitions of the term in dictionaries, most people around the world perceive abortion as the deliberate killing of an unborn child from conception through birth, regardless of the method used. Partial birth abortion is the term used to describe the killing of a child at the time of birth. Infanticide is the term used to describe the killing of a child after they are born.

The word 'abortion' in the medical field refers to the premature end of a pregnancy before the fetus is viable. This can occur naturally, known as a 'miscarriage', or due to a medical necessity to end the pregnancy before viability. Therefore, abortion refers to the termination of an embryo or fetus at a medical facility, whether it be a hospital or private clinic, in both medical and legal contexts. This is an intentional termination of the life of a young individual through any method. The

1 https://thelawdictionary.org/abortion-statutes-and-laws/.
2 https://www.merriam-webster.com/dictionary/abortion.
3 https://www.oxfordlearnersdictionaries.com/.
4 https://www.emedicinehealth.com/what_is_abortion_according_to_who/article_em.htm.

decision was made prior to birth, allowing them to survive if proper antenatal care was provided. Abortion is described as the termination of a pregnancy when the fetus or embryo is killed in the woman's womb or the uterus expels prematurely.

1.2 Types of Abortion

Different classifications of abortion exist based on the conditions and type of occurrence. Here are different forms of abortion:

(i) ***Spontaneous Miscarriage***: It is a frequently observed event that can happen for various reasons like poor health, abnormalities in the mother's reproductive system, emotional stress, or happiness.

(ii) ***Unintentional Termination of Pregnancy:*** frequently occurs due to injuries sustained in accidents. Accidents always result in a forceful impact on the uterus, causing the ovum, embryo, or placenta to be dislodged from its natural attachment.

(iii) ***Miscarriage:*** Miscarriage can occur due to pathological factors, leading to an incomplete pregnancy and early emptying of the uterus before fetal maturity. This could occur due to metabolic conditions or buildup of toxins that hinder embryo growth and pregnancy progression.

(iv) ***Artificial or Induced Abortion***: An induced abortion refers to a medical or surgical method used to terminate a pregnancy. It is also called a medication abortion; it can be administered at home during the initial 12 weeks of pregnancy. The pregnant individual requires accurate information, quality medications, and assistance from a health professional with proper training.

(v) ***Illegal Abortion***: Illegal abortion refers to the unlawful destruction and expulsion of the fetus, with the perpetrator being subject to punishment under criminal law. It typically occurs during the second to third months of pregnancy, but sometimes it may happen between the fourth and fifth months when the woman is sure she is pregnant.

1.3 Medical Methods of Abortion

(i) **The Abortion Pill.** This is safer method of abortion in which a drug named mifepristone is taken in early gravidity and procures a miscarriage by delaying the hormone needed to enable a fertilized egg to implant.[5]

[5] Jonathan Herring, *Medical Law and Ethics* 286-287 (Oxford University Press, New York, 2010).

(ii) **Evacuation and Scraping of the Uterus.** In this procedure, the woman's cervical canal is dilated before the womb is either emptied by suction or scraped with a curette.[6]

(iii) **'Morning after Pill' and Intra Uterine Device.** They are occasionally listed in medical writings as arrangements of abortion, but under the law they would be contraception rather than abortion.[7]

(iv) **Partial Birth Abortion or Intact Dilation and Extraction**. In this technique, the fetus is removed through the vagina of women and the contents of the skull are vacuumed out. This causes the death of the unborn baby. The body (fetus) is subsequently taken away.[8]

(v) **Vacuum Aspiration Abortion.** In this process a tube is implanted through the cervix up into the womb. The tube is used to slurp out the contents of the womb, thereby destroying the foetus.[9]

1.4 Factors behind Abortion

Acknowledging that choosing to have an abortion is impacted by a mix of reasons like socio-economic status, individual beliefs, and legal limitations is essential. Let's explore the interconnected reasons for abortion, highlighting the significance of comprehending these factors.

1.4.1 Socio-Economic Factors and Abortion

(i) Poverty and Financial Instability: Pregnancy termination decisions are often heavily influenced by financial limitations for many women. One of the biggest obstacles to caring for a child can be financial instability. According to studies, almost 40% of women who seek abortions cite money as their top reason. About 4% of respondents claimed that their decision was influenced by their lack of employment. Therefore, a lack of financial means may make it impossible for women to give a kid the support and opportunity they need to thrive.

[6] *Ibid.*
[7] *Ibid.*
[8] *Id.*
[9] *Id.*

(ii) Lack of Access to Healthcare: Women who are unable to pay or obtain healthcare may be unable to obtain essential reproductive health services, such as prenatal care and contraception. Unwanted pregnancies may be more common in areas with poor access to healthcare, which would increase demand for abortion services. According to a World Health Organization (WHO) study, comprehensive access to reproductive healthcare is crucial for lowering the demand for abortions.

(iii) Limited Educational Opportunities: Women who have received an education are more equipped to make decisions regarding their bodies and reproductive health. Unplanned pregnancies can, regrettably, be a result of poor access to knowledge, especially comprehensive sex education. According to UNICEF research, adolescents who receive less complete sex education are more likely to become pregnant unintentionally.

(iv) Unemployment and Job Insecurity: Raising a child can become an overwhelming task in an environment where job instability and unemployment are prevalent. In these situations, women may be concerned about their capacity to give a kid the proper financial support, medical treatment, and education. Some people may choose abortion as a means of overcoming their present financial difficulties as a result of this worry.

1.4.2 Personal Situations and Abortion

(i) Rape or Sexual Assault: Unwanted pregnancies resulting from sexual assault or rape can cause emotional suffering for the survivor. Abortion is a common option for women in this scenario who want to take back control of their bodies and lives. Promoting survivors' physical and mental well-being requires acknowledging and supporting their choices.

(ii) Health Apprehensions for the Mother: Sometimes the mother and the unborn child are at risk due to maternal health issues. In order to put their health first, women with serious health problems might have to make the painful choice to end a pregnancy. In these circumstances, the American College of Obstetricians and Gynaecologists stresses the value of individualized care.

(iii) Inharmoniousness with Existing Life Goals: Sometimes it is seen that women have personal aspirations and goals which might be incompatible with raising a child at a particular phase of their lives. For example, pursuing higher education, establishing a career or achieving personal milestones can influence the decision to delay or abstain from parenthood.

(iv) Contraception Failure: this is also another reason for abortion. Sometimes, due to breakage or slippage of condoms, missing pills or using unreliable methods such as withdrawal etc. can lead to an undesired pregnancy. Women may seek abortion due to these circumstances. So, this problem signifies the need to use appropriate and reliable methods of birth control and family planning.

(v) Bond Issues: Decisions regarding pregnancy may be influenced by relationship factors. Relationship problems, such as a lack of support from a partner, an unstable relationship, or a disagreement about parenting, might make people think about getting an abortion. Reproductive decisions might be influenced by open communication and supportive relationships.

1.4.3 Legal Restrictions on Abortion

(i) Lack of Safe & Legal Abortion Services: Although in India, abortion is permitted up to 20 weeks into a pregnancy, there may not be as many safe and easily accessible options available. It may compel women to look for risky practices, endangering their lives and health. To safeguard women's rights and welfare, the WHO emphasizes how crucial it is to guarantee access to safe abortion services.

(ii) Lack of Support from Partner/Family, Harassment and Intimidation from Anti-Abortion Groups: Women who want abortions may face misinformation, harassment, and intimidation from anti-abortion activists. Women may find it challenging to access the right medical care due to familial discouragement, social disapproval of an unmarried girl, and the stigma attached to abortion. Such actions may exacerbate the psychological anguish that comes with making a problematic.

1.5 Right to Abortion as a Human Right

Reproductive rights are the most urgent requirement in human cultures worldwide, both in terms of human rights and women's health. Without reproductive freedom,

including the ability to have an abortion, women will never be treated equally to men and will be excluded from benefits related to job, education, family responsibilities, and health. Reproductive rights are essential for advancing women's human rights and development on a global scale.[10] Reproductive freedom is a fundamental human right, as the UN has stressed since its founding. Family planning was acknowledged as a fundamental human right in the 1968 United Nations Conference on Human Rights in Tehran. The fundamental human right of couples to freely choose the number of children they have was reiterated in the Plan of Action at the 1974 Bucharest Conference on World Population. The 1994 International Conference on Population and Development (ICPD) in Cairo and the 1995 Fourth World UN Conference on Women in Beijing have accelerated the advancement of women's reproductive rights in recent years.[11] Similar to the UN system, the right to abortion has been a focal point of regional human rights treaties including the African Commission on Human and Peoples' Rights, the Inter-American Commission, and the European Convention for the Protection of Human Rights and Fundamental Freedoms. There is strong textual and interpretive support for the aforementioned rights, which have been used by national legislative bodies and courts worldwide to guarantee a woman's right to an abortion and can be used by advocates to promote women's right to an abortion on request, even though international and regional human rights treaties and treaty-monitoring bodies have not yet directly addressed the issue of abortion on request.[12] Governments everywhere have recognized and committed to advancing reproductive rights in recent years. An important indicator of the government's commitment to promoting reproductive rights is the existence of formal laws and programs. Sometimes known as bodily rights, every woman has the absolute right to control her body.[13]

[10] Manisha Garg, "Right to Abortion", *available at:* www.legalserviceindia.com/articles/adp_tion.htm.
[11] Cook, Dickens and Fathalla, *Reproductive, Health and Human Rights: Integrating Medicine, Ethics and Law* 148 (Oxford University Press, New York, 2003).
[12] Jaime M. Gher and Christine Zampas, "Abortion as a Human Right – International and Regional Standards" 8(2) HRLR 249-294 (2008).
[13] Manisha Garg, "Right to Abortion", *available at* : www.legalserviceindia.com/articles/adp_tion.htm.

An 11-member committee headed by Maharashtra's health minister, Shantilal Shah, was established by the Central Family Planning Board, a governing body in India, in 1964. The committee's report, which was submitted in 1966, supported legal abortion. The committee's report was adopted with some modifications in 1967 by the Central Family Planning Council, which was part of the Ministry of Health and Family Planning and included of 17 state health ministers. Following parliamentary passage of the Medical Termination of Pregnancy Bill, 1969, and presidential approval in 1971, the Medical Termination of Pregnancy Act, 1971 which was based on England's Abortion Act, 1967 which came into force on April 1, 1972.[14] The government cautiously denied any connection to the family planning program when introducing the Bill in Parliament to avoid opposition from fundamentalists and religious fanatics, *mullas* and *pandits*, even though family planners suggested liberalizing abortion laws as a way to control the unheard-of population growth. Therefore, the MTP Act of 1971 lays out specific requirements for abortion rather than giving women a complete right to one.

1.6 Abortion in Prominent World Religions

1.6.1 Hinduism

An adamantly anti-abortion stance cannot coexist with the Hindu concept of dharma, which alludes to natural law, since dharma is characterized by flexibility, change, and sensitivity to the environment and the individual. Dharma enables a woman to consider her alternatives in light of the situation and her own conscience when she is having moral dilemmas about having an abortion. The fetus has never been assigned more weight than the woman's life in Hindu tradition, despite its high reverence for prenatal life. Early Hindu texts, such as medical treatises, support the practice of abortion when a woman's pregnancy poses a substantial risk of harm or death, or when a fetal disability precludes a normal delivery. Abortion became allowed in Nepal, the only official Hindu state in the world, in 2002. The law was changed to permit abortions upon request for pregnancies up to 12 weeks, in cases of rape or incest for pregnancies up to 18 weeks, and at any time when pregnancy poses a risk to the woman's life, physical or mental health, or fetal impairment.

[14] Partha Pritim Mitra, "Child Sex Ratio, 2011: The Myth of Laws and the Reality of Policies" 117 *Cri LJ* 254 (2011).

This change was largely made in response to the nation's startlingly high rate of maternal mortality and morbidity. Since 1971, abortion has been freely accessible in India and there has been no opposition from the organized Hindu religious group.

1.6.2 Christianity

There are different moral perspectives on abortion within Christianity, as evidenced by the official declarations of many religious groups. The Vatican's categorical ban on abortion is just one of many true Catholic views on the matter, as Catholic scholars and campaigners have demonstrated. A powerful religious movement in favour of legal access to abortion is frequently overshadowed by the vociferous lobbying of conservatives opposed to the procedure. Several nations with a large Catholic population have passed abortion laws that support women's autonomy and right to health. The majority-Catholic countries of Belgium, France, and Italy allow abortions at a woman's request. Despite the Polish Catholic Church's strong anti-abortion views, abortion is permitted in Poland to safeguard a woman's life and physical well-being, as well as in situations including rape, incest, and foetal damage. According to public opinion surveys, 58% of Poles support abortion in specific situations, while 95% of them say they are Catholic. A significant portion of Catholics support abortion and use it when necessary, in Brazil, although it is illegal save to preserve a woman's life and in rape situations.

1.6.3 Islam

Islam's various schools of thought have differing views on abortion, ranging from outright banning the procedure to allowing it for pregnancies under 120 days without any restrictions. Different conceptions of when a foetus is deemed to be a complete human being, or "ensouled," inform these recommendations. Although all Islamic schools forbid abortion after ensoulment, many allow for exceptions in situations where the woman's life or the life of a nursing infant is in danger, or when there is foetal damage. Islamic scholars have recently stated that abortion is acceptable in some situations, even in nations where it is illegal in general. The Grand Shaykh of Al-Azhar, a prominent Islamic school in Cairo, Egypt, has declared its support for a fatwa a ruling by a recognized authority on a matter of Islamic law which permits abortion in situations of rape.

A prominent Shi'ite cleric in Iran, where abortion is illegal, issued a fatwa that allows abortions in the first trimester for reasons other than preserving the health of the unborn

child. Iran's supreme leader issued a fatwa supporting abortion for fetuses under 10 weeks if they test positive for the inherited blood condition thalassemia. A number of nations with a large Muslim population, including Tunisia and Turkey, have implemented liberal abortion legislation in an effort to safeguard women's health. Additionally, during the first eight weeks of pregnancy, Bangladesh allows "menstrual regulation." Women's behaviors show that abortion is a societal reality even in predominantly Muslim nations where it is strictly restricted or outright forbidden. Abortion is prohibited in Indonesia unless it is necessary to save the female's life, up to two million females have miscarriages every year.

1.6.4 Judaism

Scholars have highlighted that the woman's welfare is a primary factor in Jewish law and teachings while examining Jewish opinions on abortion. In their teachings on the subject, Rabbinic authorities have approved abortion on the basis of general physical and mental health concerns. Furthermore, there is broad consensus across all Jewish faiths that when a pregnant woman's life is in jeopardy, abortion is a religious obligation. Israel, the only officially recognized Jewish state in the world, permits abortion for several reasons. Legal abortion is allowed if a woman is under the age of 17 or over 40, her pregnancy threatens her life or her physical or mental health, the pregnancy is the result of rape, incest, or extramarital affairs, or there is a risk of fetal damage. All four of the Non-Orthodox Jewish movements in the US *i.e.* Modification, Traditional, Reconstructionist, and Humanitarian have openly declared their opposition to abortion-related legislation restrictions. This stance has also been adopted by several orthodox leaders.

1.6.5 Buddhism

In certain cases, Buddhist research supports women's freedom to choose abortion. The Thai Buddhist concept of *kamma* emphasizes that an individual's intention behind an act is a major factor in establishing its morality, even more so than the act itself. Therefore, in the context of abortion, terminating a pregnancy for the benefit of the woman's life or health particularly in cases of rape would not always be considered an unethical act. Buddhism is flexible enough to permit abortion under specific circumstances, as demonstrated by the abortion legislation of Thailand and Cambodia, two countries where Buddhism is the official state religion. If the mother wishes it, abortion is permitted in

Cambodia throughout the first 14 weeks of pregnancy. Abortion is permitted in Thailand in cases of rape and threats against a woman's life or physical health. Abortion is common in the predominantly Buddhist nation of Japan, both legally and socially.

1.7 Literature Review

1. Indian Penal Code (1860)[15]**,** In India abortion is illegal per Section 312-316 of the Indian Penal Code, much as it is in the USA. Only in cases where an abortion or miscarriage is performed "in good faith" to preserve the woman's life is an exception to the general rule that these procedures are prohibited by this Section. In other cases, persons engaged can suffer severe legal consequences. There is evidence that this law, which has its origins in the US Offences against the Person Act, 1861, may have purposely omitted the term "abortion" to avoid offending the traditional Indian community.

Roe v. Wade (1973)[16], which was decided by the Supreme Court to establish the legal right to abortion for American women. This freedom, as described by Justice Blackmun, is guaranteed under the *'Due Process Clause'* of the Fourteenth Amendment to the United States Constitution. According to the court, a ban on abortion violates a woman's right to bodily autonomy. As the right to abortion is a basic right, the Court applied the rigorous scrutiny test and determined that any restrictions must be justified by "compelling state interests." The court did not agree that the unborn child should be considered a person. Using the "three-trimester test," the court determined that the government had no authority to outright ban abortion but did have some authority to restrict it during the first two trimesters. Additionally, abortions could be illegal in the third trimester unless the mother's life or health is in imminent danger.[17]

2. Manisha Gupte, Sunita Bandewar, and Hemlata Pisal (1999)[18], In the Article- "*Women's Perspectives on the Quality of General and Reproductive Health Care: Evidence from Rural Maharashtr*a" which focuses on the perspectives of women on reproductive

[15] K D Gaur, (2009). *Textbook on the Indian Penal Code*. Universal Law Publishing.
[16] 410 U.S. 113 (1973).
[17] N Vieira, (1973), Roe and Doe: Substantive Due Process and the Right of Abortion. *Hastings LJ*, *25*, 867.
[18] M Gupte, S Bandewar, & H Pisal, (1999). Women's Perspectives on the Quality of General and Reproductive Health Care: Evidence from Rural Maharashtra. Improving Quality of Care in India's Family Welfare Programme: The Challenge Ahead, 117-39.

health care, provides a thorough analysis of women's experiences with reproductive health care services in rural India. Their findings draw attention to the gaps in healthcare that, when it comes to abortion, can lead to women turning to dangerous methods and endangering their health and lives. When the insights from these sources are combined, it becomes clear that the socio-cultural context and the standard of reproductive health care services are inextricably linked to the constitutional and legal issues surrounding abortion in India. Such situations call for a comprehensive strategy that addresses gender inequality, cultural norms, and inadequate health care in addition to the legal issues surrounding abortion. The complex insight gained from these works highlights the necessity of laws and policies that not only safeguard women's right to abortion but also enhance the sociocultural and medical frameworks that affect this right.

3. Barge, Sandhya, Hillary J. Bracken, Batya Elul, Nayan Kumar, Wajahat U. Khan, Shalini Verma and Carol Camlin (2004),[19] In this Report "*Formal and Informal Abortion Services in Rajasthan, India: Results of a Situation Analysis*" a study conducted in Rajasthan, India, which sheds light on the availability and organization of abortion services in the sampled areas. The study highlights several important findings, which have implications for women's access to safe and legal abortion services in rural areas of the state of Rajasthan. According to the study, just 28% of the 105 formal-sector abortion clinics in our sample are in rural areas, and only 35% of them are in the public sector. Only 21% of primary health centers and 65% of community health centers in the catchment area's lower-level public institutions provide abortion services, indicating that impoverished rural women have few choices when faced with an unintended pregnancy. The study findings in Rajasthan are consistent with the broader literature on abortion services in India, which emphasizes the need for continued efforts to improve accessibility, particularly in rural areas and lower-level public facilities. Policy interventions and investments in training healthcare providers and expanding healthcare infrastructure are crucial to ensuring that women have access to safe and legal abortion services, in line with India's commitment to reproductive health and rights.

[19] Barge, Sandhya, Hillary J. Bracken, Batya Elul, Nayan Kumar, Wajahat U. Khan, Shalini Verma, and CarolCamlin. 2004. "Formal and informal abortion services in Rajasthan, India: Results of a situation analysis." New Delhi: Population Council.

4. Ravi Duggal and Vimala Ramachandran Delve (2004)[20], In their study "*The Abortion Assessment Project- India: Key Findings and Recommendations*" into the nuances of the abortion landscape in India. Their assessment project unpacks a variety of findings that highlight the conflicts and problems with abortion procedures and services across the nation. Their work extensively describes implementation flaws in policy and practise, problems with service accessibility, availability, and quality, as well as legal ambiguities surrounding abortion, including how service providers perceive legality.

5. Siddhivinayak S. Hirse's (2004)[21]**,** "*Abortion Law, Policy, and Services in India: A Critical Review*" offers a thorough critique of the legal and policy framework surrounding abortion in India, complementing Duggal and Ramachandran's analysis. Here not only highlights the sociocultural factors that exacerbate these difficulties, but also the legal and policy-related obstacles that limit access to and supply of safe abortion services. His review highlights the part that pervasive social discrimination and stigma play in denying women's reproductive rights. The constitutional and legal framework governing abortion in India is obviously rife with practical and sociocultural difficulties when the insights from Duggal, Ramachandran, and Hirse's studies are combined. In India, especially in the tribal and rural areas, abortion is not only a medical issue but also a deeply ingrained socio-cultural and legal one too.

6. Dr. Sharad D. lyengar, Vikram Gupta (2009),[22] "*Maternal Health: A Case Study of Rajasthan*" In order to comprehend the causes behind the continued poor maternal health in Rajasthan, a sizable state in northern India, this study employed the findings of a review of the literature. Most of maternal health services are provided by the government system. Despite gradual improvements in the service infrastructure, the lack of human resources, particularly midwives and clinical specialists and their non-residence in rural areas continue to hinder the availability of maternal health services in these locations. Numerous national initiatives, including the Family Planning, Child Survival and Safe Motherhood and Reproductive and Child Health (phases 1 and 2), have tried to enhance maternal health,

[20] Duggal, R., & Ramachandran, V. (2004). The abortion assessment project—India: key findings and recommendations. *Reproductive health matters*, *12*(sup24), 122-129.

[21] Hirve, S. S. (2004). Abortion law, policy and services in India: a critical review. *Reproductive health matters*, *12*(sup24), 114-121.

[22] Iyengar SD, Iyengar K, Gupta V. Maternal health: a case study of Rajasthan. J Health Popul Nutr. 2009 Apr;27(2):271-92. doi: 10.3329/jhpn.v27i2.3369. PMID: 19489421; PMCID: PMC2761778.

but they haven't had the desired effect. This could be due to a prior focus on ineffective strategies, a lack of effective ground-level governance, as evidenced by the widespread practice of charging users for free services, or a slow implementation, which is reflected in the poor use of available resources. Thirty-two percent of women gave birth in an institution in 2005–2006. Government program that provided financial incentives for giving birth in government facilities has led to a considerable increase in the percentage of institutional deliveries. Particularly in rural locations, the lack of access to safe abortion services leads to a high number of unlicensed abortion service providers and unsafe abortions. If the quality issues are sufficiently addressed, the new *Janani Suraksha Yoja*na initiative offers a chance to enhance maternal and newborn health.

7. Sai Abhipsa Gochhayat (2011)[23], In her paper "*Understanding of Right to Abortion Under Indian Constitution*" by expands on this foundation by providing a more in-depth analysis of the constitutional aspects of abortion in India. The constitutional clauses that can be used to protect a woman's right to an abortion are listed in Gochhayat's analysis. She examines how legal ambiguities may affect women's access to safe abortion services as well as the legal complexities surrounding abortion. Regarding the legal aspect, medical negligence falls under Section 304A of the Indian Penal Code. To establish medical negligence, the prosecution must prove beyond a reasonable doubt that there is a direct connection between the doctor's negligent actions and the patient's death. This requires a high standard of proof, demonstrating that the doctor's actions or omissions were not in line with what a reasonable and prudent doctor would have done in similar circumstances.

8. Sutapa Saryal (2014)[24], "*Women's Rights in India: Problems and Prospects*" This study emphasis how socioeconomic factors and cultural norms frequently take precedence over constitutional rights and legal protections in her paper which offers a comprehensive perspective on women's rights in India. Her analysis lays the groundwork for comprehending the larger context in which the right to abortion is situated, despite not being focused specifically on abortion. To understand the complex issues affecting women's rights in India, including the right to an abortion, Saryal's work is essential.

[23] S. A. Gochhayat, (2011). Understanding of Right to Abortion Under Indian Constitution. *Available at SSRN 1754455*.

[24] S. Sutapa, (2014). Women's Rights in India: Problems and Prospects. *International Research Journal of Social Sciences ISSN*, 2319-3565.

9. Mandira Paul, Birgitta Essen, Salla Sariola, Sharard Iyengar, Sunita Soni, Marie Klingberg Allvin, (2016)[25] "*Negotiating Collective and Individual Agency: A Qualitative Study of Young Women's Reproductive Health in Rural India*" In contemporary India, societal transformations and the availability of diverse reproductive health services necessitate evidence-based insights to inform health systems on meeting the reproductive health needs of young women., this study delves into the opportunities available to young women for exercising procreant agency within the framework of cooperative social prospects. Through painstaking consultations conducted with 19 early females in pastoral Rajasthan, that uncover the evolving ideas of intervention across generations, their impact on the need for efficient methods of reproductive control, as well as the reproductive aspirations and wants of young women. The research suggest to improve the safe abortion services in addressing the reproductive needs of young women in rural Rajasthan, India. Additionally, it highlights the urgency of dismantling the societal taboo surrounding sexual activity without reproductive intent. By destigmatizing and promoting open discussions around these issues, it can enable the use of "modern" contraception, ultimately reducing unintended pregnancies and expanding young women's agency over their reproductive health decisions.

10. Marge Berer, (2017),[26] "*Abortion Law and Policy Around the World*" This Journal aims to underscores the inherent complexity and inconsistencies in existing abortion legislation, highlighting the lack of alignment with both legal and public health principles. The fundamental premise for ensuring safe abortions is straightforward and incontrovertible: making abortion accessible and affordable at the woman's request. When viewed through this lens, it becomes evident that only a few current legal frameworks are effectively fulfilling this purpose. However, the process of changing these regulations is difficult and time-consuming. Advocates must examine the complex web of political, medical, legal, judicial and socio-cultural situations in their individual nations to protect the right to a safe abortion. They must also define the type of legal framework they aspire

[25] Paul M, Essén B, Sariola S, Iyengar S, Soni S, Klingberg Allvin M. "Negotiating Collective and Individual Agency: A Qualitative Study of Young Women's Reproductive Health in Rural India," *Qualitative Health Research*, (2017) Vol. 27(3), pp. 311-324.

[26] Berer M. Abortion Law and Policy Around the World: In Search of Decriminalization. Health Hum Rights. 2017 Jun;19(1):13-27. PMID: 28630538; PMCID: PMC5473035.

to establish, if any. The main obstacles include determining what is practically possible, mobilizing significant support, and working with legislators, legal professionals, medical professionals, and women to amend the legislation. The ultimate objective is to ensure that anyone seeking an abortion for an unwanted pregnancy can access it promptly and safely regardless of the gestational stage.

11. Sasi (2019),[27] "*Ethical Issues Concerning Legislation in Late-Term Abortions in India*" In examining the impact of legal restrictions on late-term abortions, it becomes evident that such prohibitions do not effectively prevent these procedures. Instead, they often contribute to a concerning rise in illegal and unsafe abortions, posing significant risks to women's health. Moreover, women compelled to continue their pregnancies due to restrictive laws experience physical, mental, and financial distress, exacerbated by inadequate government support. When comparing India relatively liberal abortion laws with Singapore and the Philippines more restrictive regulations, it becomes clear that liberalizing abortion laws leads to a more favorable outcome in reducing unsafe abortion rates. According to this review, the way forward entails establishing exceptions for situations that call for them, such as rape victims and cases of late fetal abnormalities, in addition to raising the gestational limit for abortions to at least 24 weeks. In order to guarantee clarity and avoid misunderstandings by courts and healthcare practitioners, these regulations should also be carefully developed and put into effect in cooperation with medical experts in the field.

12. Dipika Jain (2019)[28]**,** "*Time to Rethink Criminalization of Abortion? Towards a Gender Justice Approach*" critically analyses the criminalisation of abortion in India. By exposing the societal biases present in the current legal framework for abortion, Jain's gender justice philosophy calls for rethinking the laws harsh penalties. Understanding the larger socio-legal context affecting women's access to abortion services requires an understanding of the perspectives provided by Jain.

13. Priya Rathi, et.al.2020),[29] "*Awareness and Uptake of Maternal and Child Health*

[27] Sasi, Aiswarya. "Ethical issues concerning legislation in late-term abortions in India." *Asian bioethics review* 11, no. 4 (2019): 367-376.

[28] D Jain, (2019). Time to Rethink Criminalisation of Abortion? Towards A Gender Justice Approach. *NUJS Law Review*, (2021), p. 24.

[29] https://journals.sagepub.com/doi/full/10.1177/0972063420908371#core-collateral-self-citation.

Benefit Schemes Among the Women Attending a District Hospital in Coastal South India" This study conducted in Mangaluru, Karnataka, India, aimed to assess awareness and utilization of Maternal and Child Health (MCH) benefit schemes among 250 antenatal and postnatal women. The results showed varying levels of awareness, with 94% awareness for Integrated Child Development Service and only 0.8% for Rashtriya Bal Swasthya Karyakram. The primary source of information was accredited social health activists. Maximum members had a positive view of MCH scheme benefits, and the highest uptake was observed for Janani Shishu Suraksha Karyakram (100%), while Prasoothi Araike had no takers. The study suggests a need to increase awareness for all schemes and optimize resource allocation to improve uptake.

14. Kamali Pahwa, Nishant Awasthi, (2020)[30] "*Abortion Laws and Reproductive Rights of Women in India*" Over centuries, the topic of abortion has been a subject of intense debate, and this paper delves into the delicate balance between a mother's right to a healthy life and an unborn child's right to be born. By examining the evolving abortion laws and reproductive rights in both the US and India, this paper offers a comparative analysis. It seeks to provide a nuanced perspective on a pressing question that has confounded many: the concept of foetal personhood. Emphasizing the pivotal role of access to safe and sanitary abortions in promoting gender justice, the paper traces the journey of abortion legalization, which was once legally and religiously opposed but now finds protection under Art. 21 and the right to privacy. It underscores that a woman's right to choose abortion is an individual right, encompassing her right to life, liberty, and the pursuit of happiness. This paper review explores the viewpoints of eminent jurists and authors and examines landmark legal cases in England and India. It strives to paint a comprehensive picture of the judicial approach and attitude towards abortion in these countries. Additionally, it critiques the shortcomings of the MTP Amendment Bill of 2020, which suggests that India still has a significant distance to traverse in fully aligning with women's reproductive rights and embracing the "pro-choice" mandate.

[30] http://burnishedlawjournal.in/wp-content/uploads/2020/05/ABORTION-LAWS-AND- REPRODUCTIVE-RIGHTS-OF-WOMEN-IN-INDIA-by-KAMALI-PAHWA-NISHANT- AWAST.pdf.

15. According to Malagodi & Mara, (2020),[31] "*Intersectional Inequalities and Reproductive Rights: An India-Nepal Comparison*" The reproductive rights of women haven't always been as free and accessible as they should have been. This August, however, the Supreme Court of India made a landmark ruling by declaring that all women, regardless of their marital status, were legally allowed to terminate their pregnancies up until 24 weeks. This was in response to the case of a 25-year-old unmarried woman who had requested to terminate her pregnancy after the 24th week but her plea was refused by the Delhi High Court. The Supreme Court based this decision on the belief that all women have the right to their bodily autonomy and the freedom to choose the course of their lives, and that artificial distinctions between married and unmarried women couldn't be upheld. The decision has been widely praised by reproductive rights activists, who believe that the ruling will positively affect the lives of millions of women in the coming years. While this is a major step forward in the fight for women's reproductive and bodily autonomy, it is worth noting that more work still needs to be done to ensure that all women in India can access the healthcare and services they need, without facing any discrimination.

16. According to Sterri (2020), The strict penal provisions in place meant many women resorted to backstreet and dangerous abortions, thus leading to an increase in deaths and health problems. This prompted the Indian Government to appoint the Shah Committee to recommend changes to the law. The resulting Medical Termination of Pregnancy Act, 1971 was modelled on the US 1967 Abortion Act, yet there were significant differences in the two. One major difference is the lack of a conscientious objection clause – meaning those with moral or religious objections could not legally do so. The likely reason for this omission was due to a lack of medical personnel in India.

17. Aparna Chandra, Mrinal Satish, Sherya Shree, Mini Saxena, (2021)[32] **"***Legal Barriers to Accessing Safe Abortion Services in India: A Fact Finding Study*" In this report the absence of adequate training facilities poses a significant challenge for doctors seeking to meet the qualifications necessary to become Registered Medical Practitioners (RMPs) under the relevant Act. One significant finding from our analysis in one location was that

[31] Malagodi, Mara. "Intersectional Inequalities and Reproductive Rights: An India-Nepal Comparison." U. Oxford Hum. Rts. Hub J. (2020) 195.

[32] https://reproductiverights.org/wp-content/uploads/2021/08/Legal-Barriers-to-Accessing-Safe- Abortion-Services-in-India_Final-for-upload.pdf.

access to safe abortion services is hampered by a lack of female service providers in private clinics. A Community Health Center (CHC) medical officer, identified as CHC, reported that local women favoured seeking advice from female healthcare providers regarding gynaecological concerns. But these women chose to use the CHC for maternity and abortion services up to the first trimester because all of the private clinics in the area had male doctors on staff. For more critical situations or second-trimester abortions, they were compelled to travel to a district hospital. Consequently, government authorities-initiated efforts to prioritize the training of female doctors over their male counterparts.

Moreover, the insufficiency of infrastructural support, including the availability of essential equipment and supplies, poses a substantial barrier for adequately trained RMPs when it comes to conducting abortions, particularly at the Primary Health Center (PHC) level. An official from the government in Jharkhand emphasized that doctors often exhibit hesitancy due to the limitations in their training. They lack confidence in performing abortions, sometimes because the necessary equipment is unavailable or due to time constraints during their training. Annually, millions of individuals undergo abortions, and the lack of access to affordable and readily available abortion care often compels them towards unsafe abortion methods. Unsafe abortions are a significant contributor to maternal mortality in India, accounting for about 10% of maternal deaths. Significant maternal morbidity is another consequence of unsafe abortion. Making abortion services accessible through the public healthcare system is necessary in this situation to guarantee prompt access to reasonably priced abortion care. The analysis suggests that, situating abortion within the right to health framework underscores the imperative of accessible, safe, and affordable abortion care within the public health system in India. Addressing barriers and enhancing healthcare infrastructure are critical steps towards achieving comprehensive reproductive health rights and ensuring the well-being of individuals seeking abortion services.

18. Urshita Saxena, (2021)[33] **"***Analysis of Abortion Laws in India: Needfor Global March to Ensure AutonomyinReproductive Choices*" This Journal delves into the topic of abortion,

[33] file:///Users/macbook/Downloads/Articles%20or%20Journals%20for%20abortion/Analysis-of- Abortion-Laws-in-India-Need-for-Global-March-to-Ensure-Autonomy-in-Reproductive-Choices.pdf

examining the justification for State intervention as *parens patriae* to protect the health and lives of both mothers and fetuses on a national and global scale. While the global perspective initially appears promising, with 98% of countries permitting abortion to save a woman's life according to a UN Report, the reality is that women's rights, even in the 21st century, are often limited to the physical aspects of their well-being. This limitation is exemplified by the fact that only 34% of countries allow abortion solely at a woman's request in cases of unintended pregnancy. Recent developments in Poland, where a predominantly Catholic and archaic mindset influenced a court ruling that abortions for fetal abnormalities violate the country's Constitution, highlight the tension between a eugenic model and a woman's autonomy in reproductive decisions. This examination of the literature looks at the legal viewpoints of European nations on abortion regulations as well as how the COVID-19 pandemic has affected Indian women's access to healthcare in both rural and urban places. Lastly, the analysis highlights the significance of international initiatives to protect women's autonomy, privacy, rights, and choices while providing suggestions for updating existing Indian laws.

19. According to Rodgers, Yana Van Der Meulen (2021), "*The Macroeconomics of Abortion: A Scoping Review and Analysis of the Costs and Outcomes*" This research paper reviews that Despite the fact that abortion is a frequent gynaecological practice worldwide, the macroeconomic costs and results of abortion care and policy are not well synthesized. The literature on the effects of abortion-related care and abortion policies on macroeconomic (i.e., societal and national economic consequences is compiled in this scoping review.).[34]

20. Sourabh Batar (2021)[35], the Article "*A Review on Abortion*" offers a comprehensive analysis of the abortion situation in India. In this paper, Batar examines the evolution of abortion laws as well as the medical, social, and legal aspects of abortion. His observations give a thorough understanding of the abortion situation in India and put the legal considerations in the context of actual medical and societal issues. When these works are

[34] Yana Van Der Meulen Rodgers, Ernestina Coast, Samantha R. Lattof, Cheri Poss, and Brittany Moore. "The Macroeconomics of Abortion: A Scoping Review and Analysis of the Costs and Outcomes." PLOS ONE,16, No. 5 (2021).

[35] S. Batar, (2021). A Review on Abortion. *Asian Journal of Multidimensional Research*, 10 (11), pp. 472-478.

combined, it is clear that gender justice, cultural norms, and social attitudes are intricately entwined with the constitutional and legal issues surrounding abortion in India. Women's rights, including the right to a safe and legal abortion, are significantly hampered by legal ambiguities and social stigma surrounding abortion. The analysis suggests that in order to guarantee that women's constitutional rights are upheld and protected, a thorough review of the current abortion laws and a reconsideration of the current approach to gender justice are both necessary.

21. According to Malji (2022)[36], Beginning in the middle to late 19th century, medical professionals began advocating for a ban on abortion. By the turn of the twentieth century, most states had passed legislation criminalising abortion, prompting discussions about women's rights. More than 30,000 infants were born with disabilities during the 1964– 1965 rubella outbreak, which coincided with the beginning of judicial actions. Thousands of American babies were born with abnormalities because thalidomide was prescribed as a sleeping aid. This sparked a push to deregulate abortion regulations, which was led by lawyers, special-interest groups, and feminist organisations.

22. Dr. Ashish Ranjan Sinha, (2022),[37] **"***Impact of Maternity Benefit Schemes on Maternal & Child Health, with Special Reference to Bihar*" The National Food Security Act, 2013, grants Indian women maternity benefits of at least Rs. 6,000. Eligible pregnant and breastfeeding mothers can receive conditional cash transfers of Rs. 5,000 through the *Pradhan Mantri Matru Vandana Yojna* (PMMVY). Nonetheless, many pregnant women still do not have access to these advantages and necessary resources like wholesome food and medical treatment, particularly in rural regions. This study aims to assess awareness of maternity benefit schemes in Bihar and their impact on antenatal and postnatal care, as well as routine immunization for eligible women. While institutional deliveries increased by around 20% from 2015 to 2019, only 56.9% of them occurred in public facilities. Additionally, only 25% of pregnant women in Bihar received the recommended minimum of four antenatal check-ups. The study examines variables such as maternal education, institutional and family support, and government scheme benefits as independent factors,

[36] Andrea Malji, "Understanding India's Uneven Sex Ratios: A Comparative Religions Approach." *Journal of Religion and Violence* (2022).

[37] https://www.pnrjournal.com/index.php/home/article/view/8899.

with maternal and child health indicators (Maternal Mortality Rate, Infant Mortality Rate, Child Mortality Rate) as dependent variables. Bihar faces significant challenges in child health, with high rates of malnutrition, stunted growth, and low birth weight infants compared to national averages.

23. Tesfaye Alemayehu Gebremedhin, Itismita Mohanty, (2022),[38] "*Public Health Insurance and Maternal Health Care Utilization in India: Evidence From the 2005–2012 Mothers' Cohort Data*" The *Janani Suraksha Yojana* (JSY) was introduced in India as a conditional cash transfer program aimed at encouraging women to give birth in healthcare institutions, leading to a substantial rise in institutional deliveries. Another critical healthcare policy reform introduced was the *Rashtriya Swasthya Bima Yojana* (RSBY) in 2008, a public health insurance scheme. Surprisingly, there is a noticeable dearth of research examining the impact of RSBY on maternal and child health (MCH) utilization in India. To find out how health insurance, specifically public versus private insurance, affected access to MCH services, this study used data from a cohort of mothers whose deliveries were documented in both the 2005 and 2011–12 rounds of the Indian Human Development Survey (IHDS). Furthermore, the potential impact of maternal empowerment on MCH consumption was investigated. It's possible that during the study period, shifts in women's and society's perceptions of maternal healthcare were crucial in increasing MCH use. Our findings suggest a potential necessity to expand the coverage of the public insurance scheme, given its comparatively lower effectiveness in boosting MCH utilization. Importantly, policies aimed at enhancing healthcare services for women should consider the aspects of maternal autonomy and empowerment. This study examines the impact of JSY and RSBY on MCH utilization and highlights the need to consider maternal empowerment in future healthcare policies.

24. Priyanka Tripathi, (2023)[39] "*Reproductive Justice Discourse vis-à-vis Abortion Law in India*: *A Critical Review*" This Journal examines the historical perspective on the portrayal of third-world women, which has often been criticized for its regressive and

[38] TA Gebremedhin, Mohanty, Niyonsenga T. Public Health Insurance and Maternal Health Care Utilization in India: Evidence From the 2005-2012 Mothers' Cohort Data. BMC Pregnancy Childbirth. (2022), Vol.22(1), p. 155.

[39] P Tripathi, (2023), "Reproductive Justice Discourse vis-à-vis Abortion Law in India: A Critical Review," *Space and Culture, India*, 10(4), pp. 6–17.

discriminatory nature. In addition, it discusses how legal narratives have traditionally categorized women based on identity, despite the empowering intent of laws like the Medical Termination of Pregnancy (MTP) Act of 1971. It was only with the 2021 amendment to the MTP Act that a sense of inclusivity began to emerge, but the amendment failed to address the issue of unmarried women facing pregnancy due to contraceptive failure. A significant development in this context is the Supreme Court of India's recognition of agency for all women, irrespective of external influences, marking a departure from previous norms. This paper argues that the concept of choice has not been adequately celebrated in contemporary India, where the metanarrative of identity is prominent, and third-world postmodern feminism emphasizes intersectionality. It highlights the need for intervention in the legal discourse that differentiates women based on marital status, thereby grudging them of vital human rights related to bodily self- sufficiency and generative evenhandedness. Using a diachronic approach, this paper examines the empirical and critical research that has been done on abortion in the context of Indian women and human rights treaties.

25. M. Tara Casebolt, Kavita Singh, llene S. Speizer and Carolyn T. Halpern, (2023),[40] "*Maternal Healthcare Use by Women with Disabilities in Rajasthan, India: A Secondary Analysis of the Annual Health Survey*" This study highlighted various challenges that women with disabilities encounter when seeking reproductive health services, particularly maternal healthcare. These obstacles encompass issues such as physical inaccessibility, financial burdens, lack of accessible transportation, prejudiced attitudes from both family members and healthcare providers, as well as prevailing societal misconceptions that question the parenting abilities of individuals with disabilities. While qualitative investigations have shed light on these impediments, there is a scarcity of quantitative research exploring their impact on the utilization of maternal health services. This study seeks to fill this gap by examining the connections between disability and the utilization of maternal healthcare services among married women in the region of Rajasthan.

[40] Casebolt, M.T., Singh, K., Speizer, I.S. *et al.* Maternal Healthcare Use by Women with Disabilities in Rajasthan, India: A Secondary Analysis of the Annual Health Survey. *Maternal Health, Neo-natal and Peri-natal*, 11 (2023)

1.8 Research Hypothesis

My hypothesis for present research work is that "Though abortions are legalized in India yet the right to abortion is not recognized in absolute terms which confers on the women the right to privacy in restricted and regulated manner."

1.9 Research Objectives

1. To understand the concept, evolution and extent of abortion and reproductive rights of women in India.
2. To explore the various laws regulating the abortion and reproductive rights in India.
3. To analyse the constitutional validity and other aspects related to abortion matters in India through the judicial pronouncements.
4. To identify and examine the potential challenges faced in implementation of rights relating to abortion and reproductive choices.

1.10 Research Questions

1. What are the various rights which comes under the purview of abortion and reproductive right of women?
2. Whether existing legal framework is sufficient to safeguard the interest of women in relation to abortion and Reproductive choices in India?
3. Whether abortion is constitutionally valid in India?
4. Whether abortion right of women has been evolved and strengthen by the judicial precedents?
5. What are the potential barriers and challenges which is being confronted by women seeking abortion and exercising right of reproductive choices in India?

1.11 Research Methodology

The appropriate and specific approach used for study completion determines the research's quality and worth. The study's methodology combines doctrinal and analytical approaches. Various national legislations like the Constitution of India, 1950; Indian Penal Code, 1860; the Medical Termination of Pregnancy Act, 2021; the Prohibition of Child Marriage Act, 2006 and the Pre-Conception and Pre-Natal Diagnostic Techniques

(Prohibition of Sex-Selection) Act, 2003, all contain provisions about women's rights and privacy which includes abortion also. To make sense of the study's findings and draw a meaningful conclusion, an effort has also been made to discuss, examine, analyse, and critically evaluate the various provisions of these laws and identify their flaws. In this research, secondary data has received more attention. To examine the evolution of the concept of reproductive freedom, abortion rights, its international perspectives, and the effects of these international instruments on Indian laws, a variety of books, articles, reports, research papers, journals, decided cases, etc. were gathered, put together, and examined. Following a thorough investigation, the researcher has reached a conclusion and developed recommendations for a workable legislative framework that acknowledges reproductive freedom.

1.12 Plan of Study

Chapter1 Introduction

The first chapter gives the introduction of the topic, articulates the problem, causes of abortion analyses the definitions and concept of abortion. This chapter also includes hypothesis, aims and objectives and research methodology of present study. It also includes scheme of chapters to have an overview of the thesis.

Chapter 2 Legal Framework on Abortion and Reproductive Rights of Women in India

This Chapter elaborates more specifically on the Indian constitutional, legislative and policy framework. The constitutional framework provides that personal liberty in Art. 21 is of the widest amplitude and it covers a variety of rights. While expanding the prospect of the right to life and personal freedom, the SC added right to privacy in it and declared that Art. 21 of the Constitution assures a person the freedom to take choices about his/her individual life. This includes decisions about parenthood, the right to complete or terminate pregnancy *i.e.* reproductive rights. Legislative provisions include Indian Penal Code, 1860 where induced abortion is considered as an offence but there is one exception i.e. to save the life of the mother where abortion is permitted. Further the provisions of Medical Termination of Pregnancy Act, 1971 are discussed here that allows termination of pregnancy under specified circumstances and up to certain period. Then the chapter proceeds by discussing PCPNDT Act, 1994 which provides for the regulation of the use of

pre-natal diagnostic techniques to check the illegal and anti- social practices of pre-natal sex-determination.

Chapter 3 Judicial Approach towards Abortion Laws in India

This chapter provides a comprehensive overview of the judicial process of India's abortion regulations. Women who wanted to have their pregnancies medically ended have filed several writ petitions with India's Supreme Court and High Courts over the years. The outcomes are diverse and uncertain, even though all cases stem from traumatic events including rape, threats to life, mental health risks, or foetal abnormalities. Legislation affecting women's bodies and lives loses legitimacy when it contains such contradictions. Additionally, it causes women to lose faith in the judiciary and its capacity to acknowledge women's autonomy over their bodies.

Chapter 4 Barriers in Women's Reproductive Choices

This chapter gives an introduction about women's reproductive choices, articulates the problem, examines the importance of freedom and its meaning and analyses the definitions and concept of reproductive freedom and also the barriers in women's reproductive choices. Some of the broad areas where there is violation of women's reproductive rights are also highlighted in this chapter. This chapter also demonstrates that every individual has a right to choose a partner of his/ her choice and to lead a married life. It further explains that the right to make decisions about procreation is a basic human right.

Chapter 5 Conclusion and Suggestions

This chapter draws upon the Conclusion of the study and puts forward various suggestions for respecting the right of personal autonomy and the promotion and protection of their human rights of women, and particularly the right of abortion. The chapter primarily suggests measures which can be taken to strengthen reproductive freedom.