Medical Termination of Pregnancy in India: A Juridical Study

ABSTRACT OF THESIS

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Abstract

"We…acknowledge our awareness of the sensitive and emotional nature of the abortion controversy, of the vigorous opposing views, even among physicians, and of the deep and seemingly absolute convictions that the subject inspires."

Justice Harry Blackmun, speaking for the majority[1]

Abortion is artificial termination of conception as a universal miracle that has existed since time immemorial and is prevalent for every conceivable cause, from health to accessibility.[2] Reproductive rights are legal rights and autonomies related to procreative and reproductive health that differ among countries around the world.[3] The World Health Organization delivered reproductive rights as follows: "Reproductive rights rest on the recognition of the basic right of all couples and individuals and the information, number and space and timing between children to decide and do so independently and responsibly. And the right to achieve the highest levels of sexual and reproductive health". These include the right to take all decisions related to reproduction free from insight, coercion and ferocity.[4] The practice of abortion and the termination of a pregnancy has been known since ancient times. Several methods have been used to perform abortions, including the administration of abortifacient herbs, the use of sharp tools, the application of abdominal pressure, and other techniques. Abortion laws and their implementation have fluctuated during various periods. The abortion-rights movement was successful in the aftermath of the ban on abortion in many Western countries during the 20th century. While abortion is legal in most of the West, this legitimacy is regularly challenged by anti-abortion groups.[5]

[1] *Roe v. Wade* (1973) 410 U.S.113.
[2] K.D. Gangrade, I *Social Legislation in India* 261 (Concept Publishing Company (P) Ltd., New Delhi, Reprinted edition, 2011).
[3] J. Cook Rebecca and F. Fathalla Mahmoud, "Advancing Reproductive Rights Beyond Cairo and Beijing" 22 *International Family Planning Perspectives* 115–121 (1996) *available at*: http://doi.org/ 10.2307/2950752, *accessed on* Jan 20, 2018.
[4] World Health Organization, "Defining sexual health: report of a technical consultation on sexual health" Geneva (2002), *available at*: https://www.who.int/reproductivehealth/publications/sexual_ health /defining_sexual_health.pdf (last visited on March 20, 2018).
[5] Brodie Janet Farrell, *Contraception and abortion in nineteenth-century America Ithaca* 254 (Cornell University Press, New York,1997).

The Right to safe abortion has been granted to women as a fundamental Right under the Constitution of India and codified in the MTP Act, MTP Rules and MTP Regulations also. Anybody who inflicts, encourages or condones unsafe abortion in contravention of the codified law, commits a crime. Yet, as we have seen many articles in academic journals describe criminal abortions identifying the person who conducted it, and the place where it was performed. Legally, they are required to report these to the police administration, at least after treatment is given and certainly if the woman dies.[6]

Women's reproductive rights may include some or all of the following: legal and safe abortion rights; Right to birth control; freedom from forced sterilization and contraception; The right to access good quality reproductive healthcare; And the right to education and the right to make free and informed fertility choices. Reproductive rights may include the right to receive education about sexually transmitted infections and other aspects of sexuality and protection from practices such as female genital mutilation. The International Executive Committee (IEC) of Amnesty International has implemented "A new position on sexual and reproductive rights that includes support for abortion under special circumstances, in the context of our work to prevent serious human rights abuses against women and girls. This new policy, which grew out of our campaign to stop violence against women, and the tragic circumstances in which women too often find themselves, will enable the organization: women seeking safe, early medical termination of pregnancy in cases of rape Support, incest or when a woman's life or health is in serious danger. Urge governments to provide medical care to women experiencing complications from unsafe abortion; Resist imprisonment and other criminal penalties for abortion against women and their providers".[7]

Modern jurisprudence on reproductive rights is considered by two features: contraception and abortion rights are protected from only active governmental abridgement and the alternative choice to become a parent, despite dicta to the contrary, has virtually no constitutionally-based protection and little statutory protection. Consistent application of strict scrutiny to abridgements of the fundamental right of

[6] S.G. Kabra, *Abortion in India Myth and Reality* 43 (Rawat Publications Jaipur, 2013).
[7] Amnesty International, "Stop Violence Against Women: Reproductive rights" *Amnesty International, USA* (2007) *available at*: https://amnestyinternational.files.wordpress.com/2007/05/aiusapolicydocs.pdf, *accessed on* March 5, 2018.

reproductive choice would yield a more socially progressive and legally defensible jurisprudence than contemporary common law and judicial practice.[8] The relationship between induced abortion and mental health is an area of political controversy. Abortion is associated with both negative feelings and clinically significant disorders among some women, but similar problems are also associated with carrying an unwanted pregnancy to term. Given these two alternatives, the best evidence suggests that a single, first trimester induced abortion for adult women poses no greater mental-health risks than carrying unwanted pregnancies to term. The evidence is less clear in situations such as repeat abortions, and late termination of pregnancy due to fetal abnormality.[9]

Among those women who do experience mental health issues, the American Psychological Association's Task Force on Mental Health and Abortion concluded that these issues are most likely related to pre-existing risk factors, including "terminating a pregnancy that is wanted or meaningful, perceived pressure from others to terminate a pregnancy, perceived opposition to the abortion from partners, family or friends, lack of perceived social support from others and various personality traits and a history of mental health problems prior to the pregnancy." Since these and other risk factors may also predispose some women to more negative reactions following a birth, the Task Force concluded that the higher rates of mental illness observed among women with a prior history of abortion are more likely to be caused by these other factors than by abortion itself. The best predictor of mental health issues following an abortion is a history of mental health issues prior to the pregnancy.[10]

In a society, a woman who is pregnant is pressurized to abort and one who is not pregnant is pressured to control her fertility. The women in societies such as that found in India do not have the choice to remain single and, having gotten married, they cannot choose when to have the sexual relations that make them pregnant. Nor is the choice to continue the pregnancy or not theirs. In India, today many pregnant women make their "only choice" induced abortions-which may be neither legal nor safe. Free

[8] *Available at*: https://scholarshiplaw.berkeleyedu/cgi/viewcontent.cgi?referer=https://www.google.com/&https.redir =1&article=1020&context=bglj (last visited on May 25, 2018).
[9] B Major, M Appelbaum, L Beckman, MA Dutton, NF Russo and C West, "Report of the APA Task Force on Mental Health and Abortion" *Washington DC: American Psychological Association* 4–5 & 11–12 (2008) *accessed on* May 20,2018.
[10] *Ibid.*

access to abortion is a woman's right and a major demand of the feminist movement. It has being observed that abortions are damaging the health of women. In a patriarchal society where women have no rights over their bodies, and population control policy is being forced, abortions and abortion services add to being one more instrument for the exploitation of women. To be able to participate effectively in political and social processes, women must have access to information, choice, and control over reproductive technologies. However, as techniques of medically monitoring and managing labor became available, methods of induced abortions are developed.[11]

A person's life begins at birth and is extinguished with death. The most important right of human is the Right to life. This is the highest human right from which no insult is allowed. It is insufficient Article 6(1)[12] of the International Covenant on Civil and Political Rights prohibits arbitrary deprivation of life. But there are some provocative issues related to this supreme authority. One such issue is the right to abortion. Among other rights of women, it is believed that every mother has the right to abortion for her own interest or by her own choice, a universal right. Earlier abortion rights were not allowed and strongly opposed by the humanity. Termination of pregnancy was named as fetal killing. But due to changes in time and technology, nowadays this right has been legally approved by most people in the country after the famous decision of *Roe v. Wade*[13] by the US Supreme Court, which is the most politically significant the Supreme Court ruling in history is one of Reviving national politics, dividing the nation into "pro-choice" and "pro-life" camps, and motivating grassroots activism. It is a milestone in the United States Supreme Court's decision that most laws against abortion violate the constitutional right to privacy, thus overturning all state laws or prohibiting abortion that is inconsistent with the decision *Jone Roe*, the plaintiff wanted to end her pregnancy because she argued that it was the result of rape. Relying on the current state of medical knowledge, the decision established a system of trimesters, which attempts to balance the legitimate interests of the state with the constitutional rights of the individual. The court considered that the state could not restrict a woman's right to an abortion during the first trimester, the state could regulate

[11] Shweta Rana Chauhan, "Induced Abortion in India" *Uttarakhand Judicial & Legal Review, available at*: file:///F:/ABORTION%20IN%20INDIA%20%20ART/INDUCED%20ABORTION%20IN%20IND-IA.pdf, *accessed on* Jan 15,2019.
[12] International Covenant on Civil and Political Rights, 1966; *Article* 6(1): "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life".
[13] *Supra* note 1 at 1.

the abortion process during the second trimester "in ways that relate to maternal health," and the third trimester in, first delimiting the viability of the fetus, a state may choose to prohibit abortion or even prosecute it as it sees fit. *Roe v. Wade*[14] in response to several states enacted laws limiting abortion, including laws requiring parental consent for minors to have abortions, but protests still exist and people believe it should be legally banned.[15]

The Medical Termination of Pregnancy Act, 1971 is considered by many to be one of the significant land marks of India's social legislation. Its supporters have described it as a key, opening the doors for reform and social change. More cautious empiricists point to the gap between other social statutes, such as the Abolition of Dowry Act, 1961, and reality, while some critics describe the MTPA as a tool for encouraging immorality in society.[16] The MTP Act is based on the UK Abortion Act, 1967. In The UK Abortion act, abortion can do on the consent of Medical Practitioner only. At that time, it forms not available as Right to choose and Right to Abortion. After the *Roe case*[17] Right to choose is a part of Right to Privacy. Rapid growth of population remains one of the important problems of Indian society, despite efforts by the government to control it through various family planning programs. The population has been growing at a rate of 2.5 percent per year for the last two and a half decades. Legalizing abortion was another scheme to restrict the growth of the population.[18] However, past abortions have been seen as an immoral act attacking the sanctity of life, a view embodied in the Indian Penal Code, 1860 and this attitude is still widely maintained by many sections of Indian society today is at the same time, approximately 4.4 million abortions occur each year, clearly revealing the difference between legally acknowledged social values and social realism.[19]

India initiated in sanctioning induced abortion (Medical Termination of Pregnancy (MTP) Act of 1971) under which a woman can legally avail abortion if the

[14] *Ibid.*
[15] Punam Kumari Bhagat and Pratish Sinha, "Abortion law in India: The debate on its legality" 4 *International Journal of Law* 272 (2018) *accessed on* March 12, 2018.
[16] Savithri Chattopadhyay, "Medical Termination of Pregnancy Act, 1971: A Study of the Legislative Process" 16 *Journal of The Indian Law Institute* 549-569 (1974) *available at*: www.ili.ac.in, *accessed on* March 16, 2020.
[17] *Supra* note 1 at 1.
[18] *Supra* note 15 at 5.
[19] Government of India, "The Shantilal Shah Committee Report" 19 (Ministry of Health, 1964).

pregnancy carries the risk of grave physical injury, endangers her mental health, when pregnancy results from a contraceptive failure in a married woman or from rape or is likely to result in the birth of a child with physical or mental abnormalities. Abortion is permitted up to 20 weeks of pregnancy duration and no spousal consent is required. According to the Ministry of Health and Family Welfare, in 1996-97 about 4.6 lakh MTPs were performed in the country. Against that, an estimated 6.7 million abortions per year are performed in other than registered and government recognized institutions, often by untrained persons in unhygienic conditions. Despite an intensive national campaign for safe motherhood and after the initial attention on unsafe abortion in the 1960s and early 1970s that led to legalization of abortion, morbidity and mortality from unsafe abortion have remained a serious problem for Indian women 28 years after abortion was legalized in India. In the last decade, women's health advocates have tried to draw the attention of policy makers and administrators to a range of issues and concerns related to abortion in order to improve the availability, safety and use of services.[20]

In the post *Cairo* period, the comprehensive Reproductive and Child Health (RCH) programme initiated in India, has included abortion in the RCH package and work towards making it safe. While the climate seems to be favorable to initiate debate on safe abortion among key stakeholders, lack of reliable information, wide regional and rural-urban differences, inability to bring various constituencies on a common platform and a thin research base, make it difficult for policy makers, administrators and women's health advocates to develop strategic interventions. The Abortion Assessment Project India (AAP-I), ventured to fill in the gap by creating evidence-based body of knowledge on all facets of induced abortion. This multi-centric research project commenced in August 2000 and was managed jointly by CEHAT (Mumbai) and Health Watch (New Delhi).[21]

Women have always been part of the birthing experience, either as the birthing woman, or the supporting woman or midwife. Women bonded over the birthing process, as part of their day-to-day life and within the social remit of their environment.

[20] Leela Visaria, Vimala Ramachandran, Bela Ganatra and Shveta Kalyanwala, "Abortion in India: Emerging Issues from the Qualitative Studies" 39 *Economic and Political Weekly* 5044-5052 (2004) *available at*: jstor.org/stable/4415809, *accessed on* Dec 15, 2019.
[21] *Ibid*.

This entrustment of nature is still the significant difference between males and females. Even though men were not allowed to be part of this natural part of reproduction, women have always had problems in making midwifery professionally accepted in the modern society. Midwives generally promote a non-medicalized approach to pregnancy and birth. For instance, they avoid the use of electronic fetal monitoring (EFM) and prefer stethoscope auscultation instead. They tend to discourage women from the need for pain relief, emphasizing the valuable function of pain for a more instinctive connection with the child, and thus for a satisfying experience of childbirth. They also defend their professional interest by not promoting such interventions, as only specialists can administer these interventions.[22]

However, even though midwives incline to the natural process of birth, as soon as there is a complication, the higher-ranking, most often male, obstetrician is called upon to assist. In contrast to the mid- wife, a medical professional treats a pregnant woman as someone who requires care and assistance. Thus, the pregnant body does not belong to the woman; the health professional objectifies it as the container of an unborn baby, which needs to be taken care of Woman's bodies are seen as being in production when going through childbirth. According to *Foucault*, "this kind of objectification of the body can be done with the idea of normalization through the modern medical gaze". According to *Martin*, "if birthing is seen only as production, then health professionals should manage it with the assistance of technology". The pregnant woman takes part in a medicalized system that is considered normal. As such, childbirth has moved from the social remit of the woman's environment, where women bonded over the birthing process, into a sterile medical environment. The concept of medicalization was first defined in the 1970s in the social sciences. It indicates the process through which the medical institution extended its domain over daily life, transforming certain categories of people into 'patients' and certain attitudes or behaviors into 'illnesses'. This approach to human birth casts an obstetrician in the role of a lead decision-maker about the birthing process and places the birth in a hospital setting with intensive use of high technology. Medical science views pregnancy and the reproduction process as a deviant condition that could be dangerous and needs medical surveillance. Consequent to this view, medical intervention involves special assistance to monitor the mother's health,

[22] Smitha Nizar, *The Contradiction in Disability Law* 25 (Oxford University Press, London, 2016).

her obstetric history, and antenatal conditions of the fetus. Thus, the medical professionals progressively took over.[23]

The responsibility of the birth of a 'normal child', in addition supervising the natural process of childbirth. Medical science makes available a few prenatal monitoring machines for EFM or cardiotocography, and so on. The plethora of information can be overwhelming and frightening. Yet. the imperialistic perception of medicalized childbirth claims it to be uplifting, empowering, and wonderful. The rise of antenatal care, however, is noticeable for being more than an extension of medical service to the mother. The interest in the fetus marks a significant shift in the medicalization of birth. Screening tests such as amniocentesis and EFM that detect fetal conditions that are medically termed 'abnormal' have become more common. This process of screening fetal conditions ensures the monopoly of medicine over the entire process of childbirth.[24]

According to *Oakley*, "childbirth stands between nature and nurture, as it has been considered both a biological and a cultural process". It is biological because of the way babies are born; it is cultural because of the interference and impact that technology, science, and politics can have on the process. A woman decides to go through technocratic birth because only when she submits herself to the norms of medicalization of childbirth is, she deemed responsible. Society has deemed childbirth to be dangerous and therefore it is safe only in the hands of health professionals. This is the reason why babies are no longer born at homes, but in hospitals. Many feminist accounts of the relocation of childbirth from the home to the hospital emphasize the political machinations of the emerging medical community and the impact of its propaganda on women's beliefs and preferences. According to these accounts, doctors used their growing political and cultural authority to redefine childbirth as a dangerous, pathological event, to denigrate and eliminate midwives, and to fuel the perception that middle-and upper-class women are less capable of withstanding the challenges of childbirth. This is despite all the possible complications that can be caused by technological interventions during childbirth in a hospital.[25]

[23] *Ibid.*
[24] *Ibid.*
[25] *Supra* note 15 at 20.

The natural discourse in the reproduction process has thus changed to a medical discourse. According to *Foucault*, "it is possible to create socially accepted individuals who are acceptable to the medical system, by using power through discipline". The disciplinary process is done through the regulation of the smallest part of their lives. In the case of a pregnant woman, it would be by regulating the baby that would make the mother do as she is medically prescribed. Technology will let her know the minute details of the fetus growing in her body. Medical experts would examine the present and future 'medical problems associated with the baby. They claim that this will empower a woman to take an informed decision about her unborn baby. For a woman, it is wonderful to know the details of her baby before birth. The medicalization of human birth has thus resulted in scrutiny of the qualities of the fetus, deviating from its original objective of safety of the child and mother. The mother then does not seem to fit into the medical picture of childbirth, as she is objectified as merely the carrier of the baby. Childbirth, a natural everyday act, thus proceeded to become a medical act, where the qualities of the new human life are scrutinized to decide what kind of baby should be born. So, an unborn baby is not deemed to be a legal subject that could have rights over the mothers reproductive rights. Consequently, even the 'technological fix' hovers around a spectrum of issues such as: Who is a human? When does human life begin? Does the fetus possess the characteristic of a person to claim the right to life?[26]

Traditionally, birth was synonymous with viability, the point at which the human entity growing in the womb becomes an independent. In December 1994, an extreme anti-abortionist opened fire on two neighboring abortion clinics in *Boston*, killing two people and injuring at least five others. He then headed 600 miles south and was arrested as he fired shots into another clinic. He later committed suicide in prison. In the same year, another anti-abortionist was convicted of shooting and killing an obstetrician and his driver outside a clinic in *Florida*. He was executed in 2003. Fortunately, such extremism on the abortion issue has not yet been seen in Britain. Abortion in a source of considerable controversy but lacks the nasty bite of the crusading killer. Abortion is after all really about the value that should be attached to

[26] *Supra* note 15 at 21.

human life. It is about whether it is permissible to kill a fetus and whether and when the medical profession should act to free a pregnant woman from an unwanted pregnancy.[27]

The abortion debate is trickled in ethical controversy and the moral position adopted makes a huge difference. The existence of different views and regulatory approaches raises practical issues beyond extremism. *Britain's* irrelatively permissive regulatory approach to abortion encourages medical tourism as women particularly *lrish* women travel to this country for treatment not available in their home country. Despite this tourism the *lrish* only narrowly rejected the adoption of an even stricter abortion law in a 2002 constitutional rejected the adoption of an even stricter abortion is permitted only to save the life of the pregnant woman the legality of abortion on more general grounds has been clear in Britain for nearly four decades. Before examining the detail of the abortion legislation however this chapter will seek to map the moral debate.[28] For convenience, I will refer to a human being from conception until birth as a fetus. Scientists tend to restrict use of the term "fetus" to eight weeks gestation and beyond. In other chapters where the focus is only on the very early stage of development I will use the term embryo. Here, however, using the term fetus seems stylistically preferable to constantly saying "embryo and/ or fetus" or using the composite "Embryo-Fetus".[29]

Most antagonism to abortion depend on the foundation that the fetus is a human being, a person, from the flash of conception. The principle is argued for, but, as think, not well take, for example, the most common argument. We are asked to notice that the development of a human being from conception through birth into childhood is continuous; then it is said that to draw a line, to choose a point in this development and say before this point the thing is not a person, after this point it is a person is to make an arbitrary choice, a choice for which in things no good reason can be given. It is determined that the fetus is, or anyway that we had better say it is, a person from the moment of conception. But this conclusion does not follow. Similar things might be

[27] Shaun D. Pattinson, *Medical Law and Ethics* 209 (London Sweet and Maxwell, 1st edition, 2006).
[28] *Id.* at 210.
[29] *Ibid.*.

said about the development of an acorn into an *oak* tree, and it does not follow that acorns are *oak* trees, or that we had healthier say they are.[30]

The controversy relating to the legal rights of an unborn fetus has been the subject matter of debate at both National and International level. The question that arises for consideration is whether the fetus can be granted the status of a human being from its very inception and conferred the status of a person or not. Most legal systems in the world have regarded the fetus as part of a woman and have no rights as an entity separate from it. "The reason that different values are given to life inside the womb and to extracorporeal life in the modern legislation of many states lies in the fact that the term 'biological individual' is split into 'human being' and 'person'". Such a dichotomy is rendered probable by the "legal capacity" with which the individual patronizes with. "It is precisely this use of the category of legal capacity, in positive law, that makes it possible to recognize the personal status of beings that are different from the biological individual, and some biological individuals continue to be denied their legal capacity." It is also pertinent to note that the ambiguity relating to the legal personality of an unborn fetus in various jurisdictions across the world raises serious questions as to the legality of abortion.[31]

However, *Ronald Myles Dworkin*, an American philosopher, jurist, and scholar of United States, Constitutional law has argued that fetus is not a complete moral person from the moment of its conception. He has excluded claims by advocates of the prohibition of abortion that the unborn have the right to survive and that abortion is almost as wrong as murder or manslaughter. He contends that the fetus has no interest until the end of the third trimester. As the brain of a fetus is not sufficiently developed until the twenty-sixth week, it cannot feel pain which is further supported by scientific claims. The question whether abortion should take place is dependent on the fact that the fetus has developed interests and not on the fact that it will develop interests if no abortion takes place. Something that does not have life cannot be said to have developed interests. A fetus would thus develop interests only when it can live on its own which

[30] R.M. Dworkin, *The Philosophy of Law* 113 (Oxford University Press, New York, Reprinted edition, 2007).

[31] Siddhartth Singh Nehra and Abhay Singh Rajput, "The Legal Personality of an Unborn Child: A Comparative Analysis of USA & India" 5 *Amity International Journal of Juridical Sciences* 2 (2019) *available at*: file:///F:/ABORTION%20IN%20INDIA%20%20ART/amity%20university%20article%20on%20Fetus.pdf, *accessed on* Jan 12, 2020.

happens only after the third trimester. However, the fundamental question that needs to be resolved is whether the fetus right to life if any, conflicts with the rights guaranteed to a pregnant girl which safeguards her right to health, life and in the interests of a female where the pregnancy jeopardizes her bodily injury or even life and where pregnancy is a consequence of rape or incest.[32]

Abortion is hardly in need of a definition, but in the interests of complete clarity, let me define it as the deliberate ending of a pregnancy with the known or desired result that the embryo or fetus will die. This matter is predominantly concerned with how claims about the moral and legal permissibility of abortion intersect with claims about fetal, or 'prenatal', personhood- in other words, claims about whether the fetus is a person in the philosophical sense. In different places, refer to this issue interchangeably as the question about what constitutes 'personhood' or 'moral status' or 'full moral standing' or full 'moral consider ability'. Exactly what is meant by that question, and how the designation 'person' differs from that if 'human being' will clarified.[33]

Pregnancy is a natural phenomenon. In view of this, the need for abortion will always remain irrespective of the reason. Abortion, being a sensitive issue, is possibly the most neglected and underexplored women's health issue leading to maternal morbidity and mortality. Nearly 97% of unsafe abortions take place in developing countries. About 8% of maternal deaths in India are attributed to unsafe abortions. The viewpoint of different persons has been different on the matter of abortion. Some argue on its ethicality and others opine that it is a right of a woman to choose whether she wants to give birth or not. Over the past 15 years, abortion has been increasingly viewed in perspectives of human rights such as right to life, health, equality, nondiscrimination, liberty, and security of privacy. In 1979, the United Nations Committee on the Elimination of All Forms of Discrimination against women (CEDAW) reinforced the legalization of abortion.[34]

[32] *Ibid.*
[33] Kate Greasley, *Arguments about Abortion Personhood, Morality and Law* 2 (Oxford University Press, London, 2017).
[34] Pallabi Dasgupta, Romy Biswas, Dilip Kumar Das and Jayanta Kumar Roy, "Pro-life or Pro-abortion–Women's Attitude toward Abortion in Darjeeling, India" 7 *Archives of Medicine and Health Sciences* 42-47 (2019) *available at*: http://www.amhsjournal.org, *accessed on* Nov 28, 2019.

Despite difference range of physical, economic, social, and policy factors limit the access to competent care. Social factors such as stigma, conscientious objection to abortion in community, gender discrimination and low status of women, women avoiding male providers, lack of understanding and awareness of rights, and provider's attitude result in women conforming to unsafe methods. Behavioral theory suggest that women's attitudes, perceived norms, and knowledge of abortion may prevent them from considering it as an option. Pregnancy termination may be against women's personal, moral, and religious beliefs. While alternated, it is possible that abortion attitudes of women affect abortion-seeking decisions, behaviors, and experiences. For occasion, research has shown that a woman's abortion attitudes are even related to the type of procedure that she elects. To emphasize the right of pro-life, the fetus or embryo, and the right of women to be born and to have a pre-natal abortion, to choose whether to abort or preserve a pregnancy The debate on abortion affects the moral condition can issues of increasing attitude have been dealt with in studies addressing the Indian context in Gujarat, Bihar, Jharkhand and Uttar Pradesh. Perspectives about abortion are required by public health managers to better implement strategies for diverse population groups.[35]

"Reproductive rights are the rights of individuals to decide whether to reproduce and have reproductive health. This may include an individual's right to plan a family, terminate a pregnancy, use contraceptives, learn about sex education in public schools, and gain access to reproductive health service". Even Universal Declaration of Human Rights, 1948 considered Reproductive Rights as one of the basic Human Rights[36]. Even according to Para 7.3 of the International Conference on Population and Development (ICPD) 1994, "Reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents, and other consensus documents. These rights can be freely and responsibly decided upon the recognition of the fundamental right of all couples and individuals. The number, spacing and timing of their children and the information and means to do so, and the right to achieve the

[35] *Ibid.*

[36] The Universal Declaration of Human Right, 1948; Article 3 : Everyone has the right to life, liberty and security of person. Article 16: 1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. 2. Marriage shall be entered into only with the free and full consent of the intending spouses. 3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

highest standard of sexual and reproductive health. Human rights documents, including the Beijing Declaration, Fourth World Conference on women also includes their right to make decisions relating to reproduction free of discrimination, rebellion and violence expressed. The explicit recognition and reaffirmation of the right of all women to control all aspects. In their health, especially their own fertility is fundamental to their empowerment". In many International Conventions, Reproductive rights is considered to be as one of the basic human right which is included under Right to Privacy of Fundamental Rights. Where a woman has a Right for safe Abortion under Reproductive health not only abortion rights but right to decide number of children, spacing between the child etc. is also included in Reproductive Rights. Also, in country like UK and Singapore abortion is allowed up to 24 weeks. But in India, abortion is allowed up to 20th weeks. Now in recent time Medical Termination of Pregnancy (Amendment) bill, 2020 pending in the Parliament. In this Act Termination is exceed from 20th to 24th weeks. After the *Menaka Gandhi case*[37] when Article 21 was elaborately discussed. And, Right to Abortion was considered as a part of Right to Privacy and included under Article 21 of the Constitution of India. But biasness is there. As only rape victim and married lady could have safe abortion under MTP Act. The Act is silent about the right of the Unmarried lady, divorcee and Widow. Even married lady had to show or proved that there was a failure of contraceptive and because of which she gets pregnant. Then, in such situation where is the privacy of Indian Women, when she must answer so many questions before availing the service of safe legal abortion under MTP Act, 1971. Moreover, Indian women are not that lucky like women in European countries who enjoyed their Reproductive rights with full freedom. we can say that Indian society and Government does not want to give this right to the women of our country as still our country is patriarchal society or male dominating society, where every decision is to be taken by the male member of the society.[38]

In a society, a woman who is pregnant is pressurized to abort and one who is not pregnant is pressured to control her fertility. The women in societies such as that found in India do not have the choice to remain single and, having gotten married, they cannot choose when to have the sexual relations that make them pregnant. Nor is the choice to

[37] (1978) SCR (2) 621.
[38] Pyali Chatterjee, "Medical Termination of Pregnancy Act: A Boon or a Bane for a Woman in India-A Critical Analysis" 5 *International Journal of Science and Research* 236-240 (2016) *available at*: www.ijsr.net, *accessed on* September 16, 2017.

continue the pregnancy or not theirs. In India, today many pregnant women make their "only choice", induced abortions- which may be neither legal nor safe. Free access to abortion is a woman's right and a major demand of the feminist movement. It has been observed that abortions are damaging the health of women. In a patriarchal society where women have no rights over their bodies, and population control policy is being forced, abortions and abortion services add to being one more instrument for the exploitation of women. To be able to participate effectively in political and social processes, women must have access to information, choice, and control over reproductive technologies. However, as techniques of medically monitoring and managing labor became available, methods of induced abortions are developed.[39] The major deficiency of the Medical Termination of Pregnancy Act, 1971 is that although it allows women to access abortion under certain circumstances, it does not provide the option of abortion as a right. More prominently, it does not provide for abortion as her right, granting a monopoly to medical opinion without any respect for the opinion of the woman who should be given the crucial right of choice making.[40] In The Medical Termination of Pregnancy Act, 1971 there are many issues which need to be resolved:

1. The Act initiatives the power of decision-making on medical practitioners, expropriating women's right to autonomy and self-determination.

2. When a woman is beyond 20 weeks pregnant, the pregnancy may be terminated only if it's immediately necessary to save her life. The Medical Termination of Pregnancy (MTP) Act of 1971 only makes abortion legal till 20 weeks.

3. The baby's physical and mental health, which is a ground to terminate pregnancy prior to 20 weeks, is no ground to terminate pregnancy post 20 weeks.

4. This artificial distinction is not rational, for, medical opinions suggest that several fetal faculties develop much later than the 20-week period. Several fetal abnormalities become conspicuous only during late-term pregnancy.

[39] *Supra* note 8 at 6.
[40] Nitu Nawal, *Human Rights and Women Justice International and National Perspectives* 156 (Regal Publications, New Delhi, 2015).

5. The Act is confined in scope for it discounts a whole range of factors which compel a woman to terminate her pregnancy much later than the 20-week period. For illustration, when there is a sudden change of personal circumstances like separation from, or death of the partner, the woman might not be able to raise the child single-handedly due to several reasons.

6. There are also illustrations where women do not even realize that they are pregnant until much later in the term, as they are using contraceptives, or their periods do not stop, or they are menopausal, etc. These situations, although fallible, reasonably impel them to rule out pregnancy.

7. There are also emotional factors like living in denial, until a time when it is too late when they finally gather the courage to even think of abortion. In the case of unmarried women, it is even more common to conceal pregnancy over long durations, owing to an ultra-conservative and a taboo-replete society.

8. Article 21 of the Constitution entails right to live with dignity. A woman who's certain that she will not be able to fulfill basic needs and raise her child with a life of dignity she predicts must be facilitated to exercise her right to reproductive freedom and fetus rights which also is an integral facet of Article 21.

9. The draconian requirements of the Act have been coercing women to access abortion services through backdoor channels, further affecting the bargaining power of vulnerable women and the unsafe abortions contribute to 8% per cent of the total maternal deaths.

10. Also, the Act must be amended to increase the availability of safe and legal abortions in India, all stakeholders argue that unsafe abortions continue to outnumber safe and legal abortions in the country.

11. These maternal deaths and morbidities can be addressed through expanding the base of safe abortions, with increasing medical advancements.

12. Medical Termination of Pregnancy Act, 1971 and its implication should be amended. Under section 3, abortion should be legal from 20 week to 24 weeks within limit prescribed under this Act.

Our Indian Law is not specified clearly for safe abortion and not give consent for abortion after 20 weeks. Followings are some problematic areas related to abortion in law.

1. In the Indian Penal Code, 1860, which were made about the age of a century, were prepared keeping in mind the British law on the subject. Abortion was made a crime for which the mother, as well as the abortionist, could be punished, except where she was to be induced to save the mother's life. It has been said that this extremely strict law has been violated in breech, with an exceptionally large number of cases having their pregnancy hidden.

2. In current years, when health services have expanded and hospitals have been fully taken advantage of by all sections of society, doctors have often expanded and hospitals have been fully taken advantage of by all sections of society, doctors have been provoked with seriously ill or pregnant women whose pregnant uterus has tampered with the approach of having an abortion and suffered very severely as a result.

3. Thus, there is wastage of mother's health, strength, and, sometimes life. The projected measure which seeks to loosen certain existing provisions relating to termination of pregnancy has been received as a health measure when there is a threat or risk to the physical or mental health of the woman; On human grounds such as pregnancy arises from a woman's sexual crime health; And the eugenic base where there is a substantial risk that the child, if born, will agonize from deformities and diseases.

1.1 Hypothesis

India is one of the few countries in the world to legalize abortion by passing the MTP Act in 1971. Though the abortions are legalized in India yet the right to abortion is not recognized in absolute terms. The act confers on the women the right to privacy in restricted and regulated manner. Right to safe abortion is also one of the fundamental issues which must be taken into consideration.

1.2 Research Questions

The main research problem of the issue that we goal to answer are following:

1. Is having an abortion a risk to a woman's health?
2. What is the impact of abortion on the health of women?
3. What measures could to be taken to reduce the unsafe abortions leading to increased maternal mortality and morbidity?
4. What is the condition of accessibility and availability of abortion related services?
5. What is the role of primary health care centers to provide safe abortion services?
6. Whether the informed consent is obtained from the women or not?
7. Is if the persons free will to decide whether she wants to choose baby or not?
8. Is Termination of Pregnancy is a debate between Pro-choice and Pro-life?

1.3 Research Methodology

My study has been based on the doctrinal as well as analytical research. The researcher has used mainly the methods of doctrinal and analytical tools simultaneously. The researcher has studies the literature available in Library as well as online journals and materials have been consulted. In addition to it descriptive, explanatory method have applied in accordance with the need of the proposed study. At the same time, the researcher has discussed international and national provisions and judicial pronouncement, and critically analyzed to substantiate the logic and rational behind the different provisions relating to the Abortion and Reproductive Rights and their problem. All the primary as well as secondary documentary sources have utilized. The researcher has consulted the reports of the Law Commission of India, 1971 on the topic of Abortion, articles, journal, judicial decisions of Supreme Court and high courts of India and other significant foreign decisions.

I have designated many issues in all chapters. It comprises as follows:

The *First chapter* something of a fresh start with the Introduction, issue and argument in MTP Act, Statement of Problem, Research Hypothesis, Research

Questions and Research Methodology also. In this chapter, I have described Reproductive Rights, Right to Life, Right to Abortion and Fetus Right's also.

The *Second Chapter* is explained History and Concept of Medical Termination of Pregnancy and deals with historical background of Abortion in Primitive Society to Pragmatic Society, Criminal Abortion in Modern Era. Meaning and Definition of Abortion and Medical Termination of Pregnancy with Religious Views also.

The *Third Chapter* is relating to Legal Status of Fetus. In this chapter researcher has discussed Meaning of Fetus, Legal status of Fetus, Moral status, ethics also and other issues raised by abortion, relationship view. It chapter coherent in following topic Introduction, Meaning of Moral Status of Fetus, Reproductive Technology and the Earliest Stages of Human Stages of Human Life, The Debate over the Moral Status of the Early Embryo, The Legal Status of the Fetus, Abortion Ethics, The Ethical Sustaining of Roe v Wade and Casey v Pennsylvania, The Status of the Fetus, The Fetus is a Person from the Moment of Conception, The Fetus has Moral claims based on its Potential, The Fetus becomes as Human, The Fetus becomes a Person at Sentience, Personhood does not begin until sometime after Birth, The Right to Choose, The Morals of Abortion, Grounds of Moral Status, The Major Moral Positions of Fetus, Conclusion.

The *Fourth Chapter* considers on Medical Termination of Pregnancy: International Perspective. It is particularly devoted to the comparative Law of other country and International Norms. In this chapter, I have discussed United Nations Conventions, treaties and International guidelines for woman on this topic. Introduction, Universal Declaration of Human Rights, 1948, International Covenant on Civil and Political Rights, (1966) (ICCPR), American Conference on Human Rights, 1969 (ACHR), Vienna Program of Action, International Reproductive Rights Policy as pronounced at International Human Rights Conferences, International Conference on Population and Development, 1994 (ICPD), The Women's Conventions and Conferences, Health-Related Rights under the Women's Convention-Autonomy, Equality, Discrimination and Difference, Biological Difference, Non-Discrimination in Allocation of Resources, The Right to Life, Reproductive Choice–Abortion, Reproductive Choice-Family Planning, International Human Rights Instruments and Abortion, Beijing Declaration (1995), Beijing +5 (2000)- First World Conference on Women, Second World Conference on Women, Third World Conference on Women,

Fourth World Conference on Women, Convention on the Elimination of all form of Discrimination against Women (CEDAW), 1979, The African Charter on the Rights and Welfare of the Child, UN Millennium Declaration, 2000, The Convention on the Rights of the Child, Disability Rights Convention, Regional Treaties and Conventions, Conclusion.

The *Fifth Chapter* is relating to Medical Termination of Pregnancy in India. In this chapter, I have discussed Medical Termination of Pregnancy Act, 1971, previous all amendment and recent Amendment, 2020 in MTP Act also. I elaborate many laws relating to Abortion and the policy, The Constitutional Law of India and The Indian Penal Code, 1860. It chapter articulate in following topic Introduction, 42nd Law Commission of India Report, 1971, Implementation a Preliminary Report of the First Twenty Months of Medical Termination of Pregnancy Act, Position of Abortion Law in India, The Indian Penal Code, 1860, Offence Against the Persons Act, 1861, Family Planning Commission Report (1951-1956), Medical Termination of Pregnancy and its implementation: Critical Analysis of MTP Act, 1971, Characteristics of Women who Terminate Unwanted Pregnancies, Medical Termination of Pregnancy (Amendment) Bill, 2002, Medical Termination of Pregnancy (Amendment) Rules, 2003, Medical Termination of Pregnancy (Amendment) Bill, 2014, Medical Termination of Pregnancy (Amendment) Bill, 2017, Women's Sexual Reproductive and Menstrual Rights Bill, 2018, Medical Termination of Pregnancy (Amendment) Bill, 2020, Objects and Reasons of MTP, Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994, The Protection of Children from Sexual Offenses Act, 2012, Abortion and Sex-Determination: Different Issues, Relation between the PNDT and the MTP Act, Unsafe Abortion in India, Abortion Law and Policy: Potential and Actual Abuse, Conclusion.

The *Sixth Chapter* examined the Judicial Response. In this chapter, I have discussed Foreign and Indian cases related to topic. This chapter deals various cases of the UK, USA and Indian Judiciary which gave so many directions to safe abortion, right to Abortion Fetus rights also. It cases have been enunciated in following topic Introduction, Reproductive Right of a Woman, Right of Fetus, Right of Abortion, Right of Safe Abortion, Right of Abortion of Rape Victim, Second Trimester Abortion, Minors Abortion, Right to Privacy, Conclusion.

The *Seventh Chapter* deals with Conclusion and Suggestions. In this chapter I have discussed all important issue relating to the topic. To some we have seen the shocking failure of our legal system to protect the most vulnerable members of our society like unborn child from being killed. To others we have seen the struggle for control over women's bodies, especially during pregnancy. Although women have right is own bodies and control over their reproductive right this control is said by some only to be to the extent that it is permitted by the male dominated legal or medical establishment. For those seeking a middle path of respecting the interests of the fetus and rights of the mother with safe life, there should be balance between each other.

I have discussed many issues relating to the topic of Medical termination of Pregnancy in the aforesaid chapters. Because MTP and issues related to theme are very controversial. We should balance right from each other. Without balancing we cannot survive in life on the Earth.

My concluding overview on this topic is that from the primitive society to recent time many laws available in favor of Mother but there is no specific law for fetus and his life. Because importance of fetus is not necessary in current scenario in India and all over world. And there are so many guidelines for safe abortion, but death rate is increasing day by day cause unsafe abortion. The state should make specific Law in this issue for betterment of our society. Mother have a right to choose because mother body is own body, she can choose her right. But our MTP act says that mother have not a right to choose for her own body. Because self-determination and Autonomy is a personal right of woman, it should be available in every stage. Due to unsafe abortion many women have died with maternal death. So, we should apply better process for safe abortion like surgical abortion process. We should be aware of poor woman for matter of abortion law. Government should make rule and regulation for betterment of improvement in this matter. It is can be in medium of awareness Campaign. We should follow rule and regulation from International Convention and treaty also. There are so many Convention relating to woman and Right to life.

Unsafe abortion is a major and preventable cause of maternal death and ill health, which adversely affects poor, under-educated, rural and young women in low and middle income countries. Circumstances that facilitate unsafe abortions in a context-including legal restrictions, poor access to contraceptives, unavailable or poor-

quality health services, and social stigma, regarding and fulfilling their reproductive intentions on women's rights Includes informed and independent decision making. To achieve the Sustainable Development Goals related to women's health and gender quality, reducing the number of unsafe abortions globally is essential. Therefore, despite its challenges of measuring unsafe abortion, it is necessary to understand the magnitude of this problem and monitor progress at the global, national and sub-national levels.

From the Indian point of view, we find that our MTP Act, 1971 has not resolved such problem properly. Medical practitioners are solely in charge of the termination of pregnancy. The MTP Act does not allow termination for a period of 20 to 24 weeks. The judiciary has faced a lot of problems in recent times. After that the new amendment in Medical Termination of Pregnancy (Amendment) Bill, 2020 has come in the Parliament, but it is pending in the House of Parliament. Special provisions should be mentioned in the act that abortion should be easy with a safe procedure. In the abnormality of a fetal case, there is no law and regulation for the elimination of women's mental health.

The prevalence of the population problem will require greater cooperation between policy makers and social scientists than is currently happening. These efforts will require greater use of reproductive studies and similar research in the formulation of the requisite research "supply" and "demand" laws. If abortion laws are right to free women, these standards should be more comfortable than those socio-economic norms explicitly stated in the MTP Act. To safeguard the success of the law, a lot of financial provisions should be made by the Government of India. Education and communication must be established on a large scale to extend the benefits of the law to all areas of society. Finally, to encourage women to have abortions and to encourage doctors to perform these operations, the MTP Act must provide greater incentives. Greater governmental and collective organizational efforts can, over time, change the current social climate and ensure eventual acceptance of the abortion process in India. It remains to be seen whether such efforts will be undertaken. In general, the contribution of lawyers and legal scholars to the design and evaluation of population policies should be encouraged and strengthened through new programs in legal education. The emphasis in such programs should be on the one hand on the development of skills in

methods of policy analysis, for example, planning techniques that facilitate the forecasting of the results of legal proposals; And on the other hand skills in the contribution and use of empirical research in social sciences that investigates policy issues. In the discussion of population studies in India, *Clarence Dias* recently concluded: "The legal profession in India should also help implement the types of socio-social studies that are required before social legislation can be enacted". The research reported in this discussion has given hope for this goal and future work of a similar nature.

It may be significant that under the Convention on the Rights of the Child the description of the "child" rights of the unborn is indistinguishable. The decision of the Supreme Court of Roe v. Wade, regarding the granting of fetal rights under the Constitution of the United States is very significant. The United States makes it clear that the Fourteenth Amendment right is not up to a fetus, but the perception is a "compelling state" to protect the future baby's life as well as the pregnant woman's health after a certain point in pregnancy "Recognizes interest." Moreover, the law should be narrowly changed so that it minimizes the burden and interference of restricted rights.

Though, the law of India fluctuates from the law predominant in the United States, observing that the rights under Article 21 extends to the unborn fetus, which is subject to the rights of the pregnant woman. The law is also conflicting because law in the United States allows state intervention only after the point of vention is of compelling interest. Till then, the woman's right to take decisions in matters associated to childbirth is absolute. However, the right to comprehend a woman is forbidden under the Medical Termination of Pregnancy Act, 1971 and Prevention and the Pre-Natal Diagnostic Techniques (Prohibition of Sex- Selection) Act, 1994. The Parliament give the impression to have included MTPA in the exercise of its legislative jurisdiction under the concurrent list. In terms of bile and substance, the MTPA amends the provisions of the Indian Penal Code relating to abortion. Consequently, a challenge to its constitutionality based on a lack of legislative competence cannot be judicially upheld, although it affects public health that falls within the legislative sphere of states. The study suggests that the close cooperation and coordination between the Union and the states that existed at the beginning of the abortion law will continue in the

implementation of the MTPA. The central government has formulated rules under the MTPA and has also issued model rules to guide the states. Some states have started implementing the MTPA, but some are yet to be introduced. Till now the impact of the legislation is felt only in urban areas. This is understandable as there is a lack of basic minimum of statutory medical requirements for performing abortions in rural areas. To furnish to the needs of rural areas, the district headquarters government hospitals should be adequately equipped in terms of equipment and qualified personnel. This requires finances that states alone may not be able to provide. Therefore, the union should aid in the form of statutory grants under Article 275 and plan assistance in the form of centrally sponsored schemes with central monitoring that the funds are purposefully used and not sent to other heads of expenditure goes. It is necessary to ensure that legal abortions are performed in safer and more hygienic conditions than illegal ones.

Absolute justification of abortion which is an extreme form of social approval is not possible at the present time. Women's attitudes toward abortion reflect complex personal and moral choices with social stigma within which abortion decisions are made. To develop a pro-opt approach, life skills education for women, identifying safe spaces in which they can build social networks, and social support among peers, and question community stereotypes are needed. Creating a supportive family environment, sensitizing young men through widespread awareness campaigns and advocacy through health care providers can create a supportive attitude to abortion when needed.

Before concluding, it would be relevant to understand the basic motive behind making laws regarding abortion. One might say that the most important objective is to provide quality abortion care to all women, which is sensitive to their needs by increasing aspects such as easy access and affordability to safe abortion services. This can be done by mobilizing human, financial and material resources for the provision of care and protection in abortion procedures and increasing the number of trained persons and equipped abortion centers. Also increased efficiency and broadened ambition by integrating abortion services into primary and community health centers, increased investment in public facilities, broadening the base of abortion providers by training paramedics to perform first-quarter abortions created, simplified registration procedures, policy with linked up-to-date technology, legalizing abortion through the MTP Act in India, addressing the need for appropriate post-abortion care in India, What

was done in 1971 has not generated the expected results. Notwithstanding the existence of liberal policies, most women still choice to unsafe abortions. This donates significantly to maternal morbidity and mortality burden. The MTP Act now has an explanation in Section 3 asserting that termination for rape and contraceptive failure is acceptable because the suffering caused by each "reasons grave injury to her physical or mental health". The MTP Act should identify that a diagnosis of fetal encumbrance can cause serious injury to mental health and that such exceptions should exist during the entire pregnancy period as some fetal differences can be determined as early as the 20th week can be detected within Pregnancy. The great Tamil *Saint Thiruvalluvar* said, "Children's touch is the joy of the body, the joy of the ear is the hearing of their speech". It is a natural duty of the mother to give the best to her children. Though, sometimes she is involved in activities that wounded the fetus. This may be outstanding to lack of information, negligence, or sometimes conscious acts. Abortion comprises various social, moral and fiscal issues. Therefore, the mother's right to terminate the pregnancy is imperfect. It is on the bears of the law to take care of the freedom and freedom of the mother as well as the life of the unborn. The medical community and civilization need to offer love and support to women with unintended gestations and help find genetic substitutions for abortions.

In India, although the laws recognize the existence of an unborn person as a legal person, they do not give rights until the birth of a child and can intervene only after the state has attained birth viability. Crimes against an unborn child are not recognized in this way and therefore make punishment impossible. For example, threatening death and even serious injury to a fetus is not a crime. The Constitution of India, 1950 has recognized the right to life in Article 21. Recognition has been given in many cases from *Maneka Gandhi* to *Francis Correlli*. There is no fundamental right to be born, although we can interpret it under Article 21. But it is hardly available for the unwanted girl. Although the right of girls can be interpreted from Article 21 of the Constitution, it can be interpreted in a comprehensive manner and should be inferred as (1). The right to be born and not only to have an abortion because she is a girl. (2). Right to survive after birth and to be killed at any moment after birth and (3). The right of the girl child, her body, the right to childhood and the right to a healthy family environment, which she is not able to bear. Apart from the birth right, it is reiterated that together an unborn child has the right to healthy development in an illiterate

environment. Regarding the rights of the unborn child within the purview of the trunks, the Civil Appreciation Disability (Civil Liability) Act, 1976 was passed by the British Parliament which may provide for action against a person or authority. Instead of blaming each other, we should take quick initiative without loss of time. Change must begin within each of us. Let bygones be bygones. The mistakes made by our ancestors should not be repeated by the present generation. Most of us and future parents are, and we have a responsibility to maintain balance with our society. At last, this research would like to be seen with a saying which was aptly pronounced by *Manusmriti*, the great sacred, the very first Smriti writer of Hindus "*Yatra Naryaste Pujante, Ramante Tatra Devta"*, which denotes that where ever women are worshipped and womanhood is honored, respected there the God resides, settles perpetually; and where the women are insulted, dishonored, degraded, battered and beaten cruelly, or harassed God does not come, and saintly moves away. Men cannot do anything without women. They need a mother to feed them, a sister to play with, in their youth seek a ladylove for romance, a wife to have a family with, but they do not expected a daughter born to them. These double standards and ingrained hypocrisy have made the girl child more vulnerable demographically and culturally as well. Men cannot do without women. These double standards and ingrained hypocrisy have made the girl child more vulnerable demographically and culturally as well. The son has an important place in Indian laws pertaining to inheritance and succession. Indian laws do not entitle an after-born son to reopen the position if he has got his share. If the father gets his share, the son becomes a coparcener with the father. He can entitlement his father's segment as well as his father's dispersed property. A child, who is born after the partition of the joint family, is not to be counted as a member of the joint family. The moment when you meet that one person that steals your heart. The first kiss, the first intimate moment when two bodies coming together in the procreation of another human being. Sound like the perfect love story and a happy ending. Partners want to be given a gift from God, where they can spend both their time and their life providing care and love. On the other hand, in another part of the world, there is someone being raped, either by someone she never met, or a family member; the moment of two bodies coming together, yet procreation of another human being has taken place. The time comes in every woman's life when she wonders what it would be like to have a child. In scenario number one, both parents wanted the baby; however, and for health reasons, the doctor recommended an abortion. In scenario number two, the raped woman does not want the pregnancy, so she asked

for an abortion. A child is a priceless gift from God. In my peculiar opinion, they dream of the things they hear, taste, and feel in their mother's womb. Not as we hear, taste and feel of course but as they do. I know babies can hear music and things around them. They also get to know the sound of their parents voices while in the womb. Obviously, they don't know who or what mom and dad are but they do remember the sounds of their voices at birth. They have the right to live on the earth. However, I have heard some issues here and everywhere that fetus in a mother's womb is not a human, so they are not bounded to have human rights. I am ridiculous and I believe that some people confuse the adjective "human" and the noun "human being" giving them the same meaning. I am struck by the question: "But isn't it human?", As if we secretly think a fetus is really a creature from outer space. If you point out that a fetus consists of human tissue and DNA so does it mean that he or she has a right to live? Moreover, the truth that life does indeed begin now of conception. All life is precious and should be encouraged and preserved. We have the duty to protect the life of an unborn child because we all know that babies are such a nice way to start people. As *Pope Francis* said, "The right to life is the first among human rights".

Since, the government is responsible for achieving the right to abortion through institutional and medical assistance, it also has the right to normalize it by banning it. Consequently, it is an accepted reality that neither full noninterventionist nor complete state regulation is beneficial to society. To safeguard that abortion is available to women, selective abortions of female fetuses should be stopped. The contemporary abortion discussion is more than just pro-life and pro-choice. Clearly, the law is currently on cross-purposes with the need of the hour. While its original purpose was to avoid sex-selective abortions, this line of reasoning is no longer true since medical advances. While sentiments date back to the time of conception (pro-lifers) when the fetus becomes viable at birth, there is no single criterion that is used to frame their laws globally. By making abortion a worthy right, the law does not diagnose women as individuals with autonomy over their bodies, a sinister mistake by all accounts. India, despite its liberal abortion law, does not count 'choice' as a factor for abortion. A lesser known fact about the MTP Act is that a woman cannot choose not to be a mother only; Abortion is conditional and carried out on reasons such as the physical or mental health of the mother, a hypothetical disabled or deformed child, rape, young pregnancies, pregnancies in women with low mental capacity, and failure of contraception. By

making abortion a worthy right, the law does not recognize women as individuals with autonomy over their bodies, a sinister mistake by all accounts. Nevertheless, it is admirable that India's abortion law of 49 years ago is still more liberal than the laws of many countries. Further clearly, it is a secular law; It is not for the beliefs of any religion to begin life and the right of the fetus to life. At the time of the enactments, it was practical, and it really obliged the mother's best interests. Therefore, in keeping with the spirit of thought behind the unique law, it now needs to be amended. The researcher has the following suggestions to submit:

1. Safe abortion is a Human Right of every women and it should be protected by Law. The MTP Law has not clearly mention for Safe Abortion Procedure. It should be clearly mentioned to save life of women.
2. MTP act says that mother have not a right to choose for her own body. Because self-determination and Autonomy is a personal right of woman, it should be available at every stage.
3. The state should provide quality abortion care to all women, which is sensitive to their needs by increasing aspects such as easy access and affordability to safe abortion services. This can be done by mobilizing human, financial and material resources for the provision of care and protection in abortion procedures and increasing the number of trained persons and equipped abortion centers.
4. Availability of abortion related facilities should be provided in primary health care centers across the country. The primary health care centers should also mention clearly for Abortion related facilities.
5. Informed consent should be obtained before the process of Medical Termination. It should be clearly mentioned that consent has given by mother and in the case of minor then consent should give by her guardian.
6. Minors, lunatics and rape victims should be given absolute right of abortion irrespective of the length of pregnancy. In this matter, It is a very critical situation for their health and the consent to abortion should be given by her legal guardian.
7. Every woman should know laws relating to Abortion. They should be aware about the Right of abortion.
8. To safeguard that abortion is available to women, selective abortions of female fetuses should be stopped.

9. Every woman have a right to personal Autonomy and Self-determination without any exclusion. Autonomy and self-determination is a part of personal liberty under article Twenty One of The Constitution of India.
10. Due to unsafe abortion many women have died with maternal death. So, we should apply better process for safe abortion like surgical abortion process. Abortion process should be quite easy and safe. In this matter Surgical Abortion process is very easy and safe recommended by many Gynecologists.
11. Government as well as non-governmental organizations should launch the campaign to make women aware about their Right of abortion. It should be promoted as a social welfare programme.
12. Every woman have a Right to marry and to find a Family because Reproductive Right is a human right. The Right to decide freely and responsibly on the number and spacing of Children should also be recognized.
13. Prohibition on Child Marriages and need to amend the Child Marriage Restraint Act, 1929 is also the need of hour. Because in case of minor safe abortion and reproduction are very critical issues.
14. Abortion should be allowed if the Child is to be born with Deformity. Physically and Mentally Deformity is a very critical problems in our society. If these problems are available in unborn child as well as fetus also, it should be eradicated for save life of mother.
15. There should be amendment in the Provisions of the Indian Penal Code, 1860 as well to decriminalize abortion.
16. Measures to tackle Female Feticide should be clearly mentioned. In India PNDT Act, 1994 is available for prohibition of Sex-Selective abortion. Pre and Post Natal Care center should be clearly mention for that purpose and banned beyond act by PNDT Act, 1994.