# Abortion Rights: Impact Of Current Abortion Laws On Unmarried Females (15-30 Years) In New Delhi


**A Project Report Submitted In Partial Fulfillment Of The Requirements For The Degree Of Master Of Law In Access To Justice**

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# DECLARATION

I, Ms. Sukirty Khasa, hereby declare that this dissertation titled "Abortion Rights: Impact of Current Abortion Laws on Unmarried Females (15-30 years) in New Delhi" is the outcome of my own study undertaken under the guidance of Professor Nishi Mitra, Advanced Centre for Women's Studies, School of Development Studies, Tata Institute of Social Sciences, Mumbai. This dissertation is a creation of pure research of field realities and doctrinal analysis of existing legislations. It has not previously formed the basis for the award of any degree, diploma, or certificate of this institute or any other institute or university. I have duly acknowledged all the sources used by me in the preparation of this dissertation.

14th March, 2016 Sukirty Khasa

# CERTIFICATE

This is to certify that the dissertation entitled "Abortion Rights: Impact of Current Abortion Laws on Unmarried Females (15-30 years) in New Delhi" is the record of original work done by Ms. Sukirty Khasa under my guidance and supervision. The results of the research presented in this dissertation have not previously formed the basis for the award of any degree, diploma, or certificate of this institute or any other institute or university.

14th March, 2017

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# 1. INTRODUCTION

In India, Medical Termination of Pregnancy Act, 1971 governs abortion and policies related to it. The Act was enacted to allow certain pregnancies to be terminated by registered medical practitioners. Abortions under this Act can be performed under limited circumstances & up to 20 weeks only. The list of 'circumstances/special situations' given in the Act is restrictive in nature and excludes the unmarried women from the list thereby, keeping the right of unmarried women to undergo an abortion, in a suspense and confusion. The Act was enacted keeping in mind the problems caused by the increasing population to a newly independent country (India) with limited resources. It is well known that population control has always remained an issue under the laws in India, concerning reproduction and fertility.

Explanation 2 to Section-3 of the Medical Termination of Pregnancy Act, 1971 provides that *if a pregnancy occurs due to the of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman*.[1]

The Act fails to consider or recognise the 'anguish' caused by an unwanted pregnancy to an unmarried woman. It screams of silence when it comes to pregnancies incurred by unmarried women or the termination thereof. The Act also requires the written consent of guardian in case a pregnant woman is below eighteen (18) years of age.[2] This creates problems for the young girls who are in dire need of an abortion to resort to illegal means and seek different solutions to their problems, the issues of honour, shame and guilt make the situation even more vulnerable for them. It is important to note that illegal abortions are generally unsafe. These 'unsafe abortions' are one of the reasons for maternal deaths in India and worldwide. Majority of these are the abortions that are carried illegally and in hiding despite of having a valid law for over past 40-45 years. According to the World Health Organization (WHO), one woman in the developing nations die in every eight (8) minutes due to complications arising out

[1] Explanation 2 to Section-3 of the *MTP Act, 1971*
[2] Section-3(4)(a) of *MTP Act, 1971*

of unsafe abortions,[3] irony being, that abortion isn't a very difficult procedure in medical terms if done at the right time by a trained person. The history states many incidents of abortions in our society long before the existence of Laws and policies on the topic.

The Global Rate of Abortion in 2010-16 was 25 per 1000 for unmarried women[4] establishing it for a fact that unmarried women do incur pregnancies and therefore, need abortions.

It is indeed problematic to think that unmarried women cannot be pregnant while it is well known that many girls get pregnant outside or without marriage. This clearly points toward the fact that apart from the usual shame and stigma, the laws and policies are also a reason for the occurrence of 'unsafe abortions' in our society. It is pertinent to note that the 'Right to Terminate' forms a part of the Reproductive Rights of a female. The MTP Act not only limits the Reproductive Rights of females but it also mirrors a patriarchal presumption whereby unmarried women aren't entitled to have consensual sexual relationships. Therefore, these laws also deny women's autonomy in sexuality and their sexual and reproductive rights. Such laws imply that unmarried women are not allowed to enjoy consensual sexual relationships even when they are adults. Moreover, it is implied that the women having sex without marriage must use contraceptives and if they do use contraceptives and still get pregnant, then they have no right to seek a safe solution. The Act very cleverly, just like a typical Indian parent avoids the topic of the pregnancy of the unmarried women and termination of it. It seems to the researcher that any connection between '*unmarried women and abortion'* was perceived as immoral by the standards of our society to be put together in the Act. The feminists have been asserting for safe abortion rights for ALL women regardless of the different situations in which a woman undergo an abortion. They state that a woman must be free from the pressure coming from various quarters such as State, religion, family or societal preferences etc., in order to make a free decision without coercion and control her agency and mind.

[3] World Health Organization, *Unsafe Abortion: Global And Regional Estimates Of The Incidence Of Unsafe Abortion And Associated Mortality In 2003*. 5th ed. Geneva: World Health Organization (2007).
[4] Induced Abortion Worldwide, *Guttmacher Institute (2016), https://www.guttmacher.org/fact-sheet/induced-abortion-worldwide* (last visited Feb 24, 2017).

## Rationale:

There is a significant increase in the number of Abortion cases and this increase, with it, brings risks: the risk to a woman's health, safety and her dignified life. The present debates going on abortions are a matter of concern for the whole world. When we talk that the Abortion Laws in India are liberal, we should also talk about the restrictions it poses and the impact of the same. This research presents the dilemma an unmarried woman faces and the stories of not so friendly policies, practices and systems. The present Law deprives many females of their reproductive rights and the right to choose for them and hence, directly affects their **Right to Life**[5], making this topic to be of uttermost importance.

## Contribution:

The Researcher hopes that the research will contribute to the struggle of women in society and will give a multi-disciplinary approach to the policies governing abortions in India. The research tries to address the various issues related to abortions and (unmarried) women and by dealing with the practical and functional aspect of Law and the impact thereof.

It will contribute to the literature present on the topic and provide insights to the possibility of amendment in the current Law. The research tries to find an answer to a legal problem through different dimensions and hopes that this piece of work will contribute in legal as well as social science's field.

[5] Article 21, *The Constitution of India*, 1950

# 2. RESEARCH METHODOLOGY

The research methodology used by the researcher is **qualitative** in nature. It was important for the researcher to understand the different experiences of the different stakeholders in an unbiased manner so that the inconsistencies and contradictions could be brought on the surface and the complexity of the subject matter could be analysed with due care and caution, hence, the researcher chose qualitative methodology. The researcher has used both doctrinal as well as empirical methods of legal research. The former (doctrinal) was used for the academic understanding of the topic while the latter (empirical) was used during the interviews and focussed group discussions.

## Objectives:

The objectives of the Research are as follows-

1) To understand the historical and legal perspective and operation of the current law on abortion.
2) To study how young unmarried women experience abortion and whether the law addresses their needs and expectations.
3) To explore a holistic perspective on the law for abortion from the accounts of doctors, lawyers and community based organisations working with the issues.
4) To study the changes in law that are needed to address young unmarried girls and their sexual health rights in a better way.

## Research Questions:

1. What is the difference between Abortion as a ‘matter of choice’ and as a matter of family planning policy?
2. Is the present law sufficient to grant the Right of Women to their Sexual and Reproductive Health? If yes, then how?
3. What are the effects of such deprivation on the unmarried females (15-30 years)?
4. What methods can be adopted to reform the present condition?

## Sample:

The sample for the research has been taken from various areas of New Delhi from the Month of October to November 2016. There are various stakeholders involved in the research from whom the data has been collected, like the doctors, lawyers, organisations, young women, the general public etc. Hence, the researcher has divided the respondents into three groups on the basis of the methods of data collection used; they are as follows:

1) Group-1 – [Total respondents-5] The respondents under this group includes the young girls and women who underwent abortion while they were unmarried (4); it also includes a male respondent (1) who at present is the husband of one of these women and was the father of the aborted foetus. The researcher did not plan on taking his interview but it came as a surprise when he offered. The researcher took this opportunity; this gave an understanding of the topic through a male's perspective.
2) Group-2 – [Total respondents- 10] The researcher has included the lawyers (2), doctors (3) and the organisations (4) under this group. The researcher visited four (4) government hospitals (2) and private clinics (2) in Delhi and telephonically interviewed two (2) lawyers. The researcher used semi-structured interviews to collect data from organizations that are working in the field. The researcher interviewed four (4) organizations in total; two (2) based in Delhi and other two (2) based in Maharashtra. The latter were telephonically interviewed.
3) Group-3 – [Total respondents- 26] This group includes the participants in the focussed group discussions that were conducted by the researcher in different parts of Delhi viz. Karol Bagh, GTB Nagar, JNU, South Campus of DU (Lady Sri Ram College). The researcher took a sample of mixed and varied population, females as well as males, youngsters as well as middle aged people, in order to get a diverse opinion.

**The total sample size for the research is 40** and the researcher has collected the data from different groups using different methods; it is covered in the next section.

## Data Collection:

The researcher has collected the data from the various stakeholders, through different

tools. The researcher used following methods for the collection of data:

1) *Unstructured In-Depth Interviews*- The researcher used this method on the first group of respondents (Group-1) that included the women who underwent abortion when unmarried and father of the aborted foetus. These interviews took the form of soulful conversations where the researcher reciprocated focussing on her objective of the study. The researcher went out of her formal role as an interviewee in order to collaborate with the respondents.
2) *Semi-Structured Interviews*- The researcher used semi-structured interviews in case of the second group of respondents (Group-2) that included lawyers, doctors and the organisations. The researcher asked a lot of open-ended questions from the respondents in this group and also made certain observations.
3) *Focussed Group Discussions*- The researcher, in order to understand the general perspective of the public on the topic, conducted focussed group discussions in different parts of Delhi on third category of respondents (Group-3). It helped the researcher to understand the expressions, feelings and beliefs.

## Sites for Data Collection:

The researcher collected the data from various sites depending on the availability of the respondents.

| Groups | Areas where the data was collected from |
|---|---|
| Group-1 | Hudson Lane, Dwarka, Green Park, Gurgaon (Sec.-29) |
| Group-2 | Safdurjung Enclave, Lajpat Nagar, Daryaganj, Rohini, Jungpura, Defense Colony and (Telephonic interviews from Organizations in Maharashtra |
| Group-3 | Karol Bagh, JNU, GTB Nagar, Lady Sri Ram's College (LSR) |

## Sampling:

The researcher used mixed sampling methods. It was a challenge for the respondent to find respondents especially for the group-1; the researcher specifically with great care and caution used a non-probability sampling technique. The researcher gained the contacts of the stakeholders involved in group-1 and asked them to participate in the study.

Group-2 was chosen by purposive method of sampling, where the researcher identified the stakeholders that provided services to the main subjects of the research i.e., the women who undergo or need termination of pregnancy.

The group-3 i.e., participants of the focussed groups were chosen randomly by the researcher in an unbiased manner so that different perspectives could be gained and understood for the research.

## Ethics:

The Researcher remained committed to an ethical approach to the participants of the study. She conducted her research in a humanistic way. The researcher has taken prior informed consent before conducting the interviews and focused group discussions where the participants were explained about the research and the purpose thereof; no participant has been threatened or coerced or influenced in any manner any manner. The researcher has ensured that the principle of voluntary participation was followed throughout; she informed the participants about their right to not choose to be a part of this research.

The research has been carried in a professional manner whereby the researcher ensured full confidentiality by not using the real names or addresses of the respondents due to the sensitivity of the topic; she did not in any manner deceived the participants or made any false promises. The researcher also understood the vulnerability and stigma associated with the topic and managed the whole research in a sensitive way, yet remained unbiased and impartial. The data has also been analysed in an impartial way.

## Limitations:

The research is limited to New Delhi, India. The samples have been taken from different parts of the capital for this research. The researcher planned to cover at least 5 private clinics/hospitals and 5 government hospitals under Group-2 but the attitude of some of the private clinics contacted by the researcher, was hostile and cold, they refused to give any time or data; one of the private hospitals (famous for abortions) was in the process renovation and hence, they did not participate in the study at all. This made the researcher to do quick amendments in the methodology for the research and the sample size decreased to 4 for the doctors.

The researcher found it an extremely difficult task to convince the respondent women (who underwent abortions) to participate in the study, due to the sensitivity and stigma attached to the topic; out of the ten (10) young women contacted, only 4 agreed to be a part of the study. There was an opposition from the participants for taping or recording the interviews, hence, the researcher had to resort to pen and paper and write the interviews.

Furthermore, the research had time as well as budget constraints, which made it impossible to conduct 'repeat interviews' and other triangulations.

# 3. REVIEW OF LITERATURE

There are many evidences of abortions being present since ancient times but at different points in history, abortions have gathered attention for different reasons. Some people have supported it some have opposed it ever since its existence. The same situation lies in many parts of the world today. But unlike those parts of the world, we do not face the same situation in the Indian scenario.

**Abortion in India**:

India legalized abortion in 1971. Despite legalizing abortions, we could not achieve the expected outcomes and majority women still resort to unsafe abortion, contributing largely to maternal morbidity and mortality. Liberal abortion policies and legislations aren't the answer in themselves and aren't adequate. The Abortion Policy in India is consistent with India's Family Planning Policy. [Hirve, 2003] [i]

The author further claims that India's abortion policy encourages the promotion of family planning services but at the very same time it recognizes the importance of providing a safe, affordable, accessible and acceptable abortion services to women who need to terminate the unwanted pregnancy. I however, disagree to this claim and this discrepancy needs to be corrected. Policies need to CLEARLY demarcate the purpose and domains of MTP Act, 1971 and must also state the difference between 'abortion as a matter of right versus abortion as a family planning tool.

**Abortion Scenario**:

An estimated number of about 4-6 million abortions take place in India every year (some reports project this number as high as 10 million). We still lack the data on abortions outside the legal framework that is, the illegal abortions which happen to be a reality. [Visaria & Ramchandran, 1998][ii]

The authors claim that there are a few studies undertaken in India on why do women who seek abortions being unmarried, tops the charts. The lack of safe and legal abortion facility give rise to '*informal providers',* who are untrained, home based providers. They are non-physicians and charge very less as compared to the legal health clinics. They also assert that these informal providers are used because the legal abortion options are very costly and aren't easily accessible especially in cases of unmarried women. The legal abortion service providers do

not treat client with dignity as well and this speaks volumes about the failure of public health services in terms of those who need them the most.

**Ground Reality:**

The numbers of adolescent girls and young women getting pregnant, experiencing birth and abortions is very high and young people are more interested in sex due to several biological reasons- hormones. They experiment and experience and this is an open secret. [Mishra & Dilip, 2006][iii]

Reproductive health, especially reproductive health of adolescents is poorly understood in India. Even fewer studies discuss female sexual health than males. This makes the young couples, especially females very vulnerable and prone to situations of pregnancies and abortions. Unmarried Adolescents, constitutes a large number of abortion seekers. [Anita Anand, 2003][iv]

These factors give rise to several problems to the young girls, especially those who are unmarried. The lack of abortion facilities, the fear of losing their dignity in society, the humiliation they suffer at the health centres and the expensive costs of *safe and legal abortion* force them to go for cheap and illegal means. Thereby, endangering their health. This could all be done away if we accept the problem and bring a change in our current laws.

# 4. REPRODUCTIVE RIGHTS UNDER LAW

Reproduction or procreation is a fundamental concept. In simple words, it is an act through which one gives birth to one's offspring. Reproductive Rights could be understood as the rights of people related to the process of sexual reproduction. They are quoted with the Sexual Rights of human beings and together, these Sexual and Reproductive Rights (SRHR) form a part of Human Rights.

It was the year 1994 when a breakthrough was achieved in the field of reproductive health at the International Conference on Population and Development (ICPD) held at Cairo. It was for the first time when a connection was established and acknowledged between the human rights and health, which was later, associated with the concept of women empowerment. It was at the ICPD 1994 that a woman's right to 'reproductive and sexual health' was considered as one of the most significant rights under the broad causes of woman's health. The reproductive rights are basic and fundamental to all human beings.

## 4.1 Definition

World Health Organization (WHO) states that the reproductive rights are based on the basic right that all couples and individuals have to freely and responsibly decide the number, spacing and timing of their kids and the right to attain highest level of sexual and reproductive health; these are also inclusive of the right to make decisions regarding reproduction free from all sorts of force, coercion and discrimination.[6]

The issue of SRHR is closely related with gender and social justice. CEDAW[7] has clearly stated that a woman's right to health is inclusive of her sexual and reproductive rights. A woman must have full autonomy in her sexual and reproductive decisions and activities.

These reproductive rights are a subset of human rights, which are already recognised as being of universal significance. The Committee on Economic, Social and Cultural Rights have also recognised these rights and the Nation States have obligations to respect, protect and fulfil these rights and are supposed to make legislations doing the same. Under these rights all people have a right to healthy and safe consensual sexual activity and control over their bodies.

[6] WHO, http://who.int/reproductive-health/gender/index.html. (last visited Feb 26, 2017).
[7] Committee on Elimination of All forms of Discrimination against Women

These reproductive rights with respect to women's health include-

- Right to control one's reproductive functions[8]- It means that a woman will have full control on the reproductory functions of her body including the right to have consensual sexual intercourse free from coercion and violence or not to have one at all.
- Right to make autonomous reproductive decisions[9]- It includes the choices of a woman to reproduce or not to reproduce and attain highest level of reproductive health and is inclusive of access to safe abortion services.
- Right to have an informed opinion regarding reproductive choices[10]- It includes the right to have information and access to sexual and reproductive education that can help her make informed choices.
- Right to protection from gender discriminatory practices like FGM[11]- This is a protection against gender discriminatory practices and gender based violence.

## 4.2 History of Reproductive Rights at International Level

The Tehran Proclamation[12] is considered to be the first international document that raised and acknowledged one of the reproductive rights. It stated that, the parents have a basic human right to freely and responsibly determine the number and limit of their children.[13] In 1979, the United Nations adopted Convention on Elimination of All Forms of Discrimination Against Women (CEDAW); it marked the treaty of the 'bill of rights' for women. It addresses all the sphere of a woman's rights including her civil, political, economic, cultural and social rights.

It directs the Nation States who are parties to it to take appropriate measures to eliminate discrimination against women in the field of health care and ensure access to health services on the basis of equality including those of family planning.[14]
CEDAW dealt with multiple aspects of discrimination faced by a woman.

[8] Kosgi S, Hegde VN, Rao S, Bhat US, Pai , *Women Reproductive Rights in India: Prospective Future*, Online J Health Allied Scs.,http://www.ojhas.org/issue37/2011-1-9.htm, (last visited Feb. 26, 017)
[9] Ibid
[10] Ibid
[11] Ibid
[12] UN's International Conference on Human Rights, 1968
[13] Ibid.
[14] Article 12, CEDAW, 1979

Then came the year 1994 when the women groups and activists at the International Conference on Population and Development (ICDP) [15] were able to produce substantial Program of Action thereby recognising women's issues and giving aspirations for a better world for women. ICPD marks an important event in the history of women's rights as it gave affirmation and assertion to the reproductive rights of women. It connected the policy of family planning with reproductive health and defined it (reproductive health) as a state of complete social, physical and mental well being and stated that people must have liberty to decide if they want kids or not, or their numbers or gap between to them. It asserted the fact that men and women must have an easy access to safe and effective methods of family planning and talked about women's right to safe abortion. Cairo Conference gave a strong message on women's right over their fertility. It brought the concepts of 'autonomy', 'consent' and 'equality' in the ambit of reproductive rights.

In 1995, Fourth World Conference on Women (FWCW) was held in Beijing, China, where a step ahead was taken. This conference invited Governments to consider reviewing their Abortion Laws so that abortions could be decriminalized and the illegal abortions could be prevented.16 It recognized a woman's right over her own fertility to control and direct it as key to women empowerment. This treaty is often referred to as International Bill of Women's Right; it significantly addresses the discrimination against women. FWCW broadened the ambit of the definition of reproductive rights and also talked about the concept of 'equality' and 'responsibility' in sexual relationships.[17]

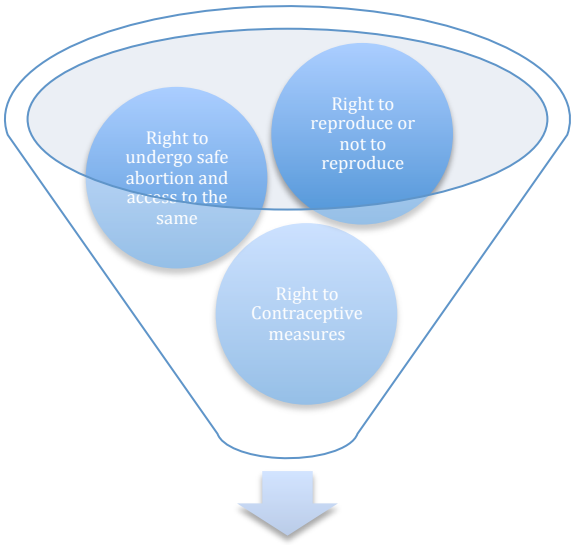
There are variations in the adoptions of these Conventions by the Nation States, despite the preference to ICPD and CEDAW get, yet there is no common policy that

[15] Cairo, 1994
[16] From Cairo to Beijing: *Women's Conference Amplifies ICPD, United Nations (1995*), http://www.un.org/popin/unfpa/taskforce/icpdnews/icpdnews9510/cairo.html (last visited Feb 25, 2017).
[17] Fourth World Conference on Women, Beijing 1995, United Nations, http://www.un.org/womenwatch/daw/beijing/ (last visited Feb 25, 2017).

is being universally followed by the countries. Each follows its own policy regardless of these conventions.

### 4.3 Abortion as a Reproductive Right

Abortion forms an integral part of reproductive rights; it is a subset of maternal health as well as a woman's right to form her own choices. It is an important area of birth control and was talked along with the family planning methods for controlling the increasing population.




REPRODUCTIVE RIGHTS

In 1920, it was Soviet Union that became the first Nation to legalize abortions in order to provide access to safe abortion services conducted by trained medical staff instead of traditional and dangerous means.[18]

Later on United Kingdom followed the example and enacted one of the most liberal laws on Abortion in Europe in the form of Abortion Act of 1967, which legalized abortions for women under various circumstances,[19] and its example was closely followed by Canada, which legalised abortions in 1969. The Abortions in Canada were permitted only when there was a danger to the life of a pregnant woman, which

[18] David M. Heer, Abortion, Contraception, and Population Policy in the Soviet Union, 2 Demography 531–539, (1965), www.jstor.org/stable/2060137. (last visited Feb 25,2017)
[19] Expert Participation, Abortion Act 1967 Legislation.gov.uk (1979), http://www.legislation.gov.uk/ukpga/1967/87/contents (last visited Feb 25, 2017).

was restrictive in nature and was struck down by the Supreme Court of Canada in **R v. Morgentaler (28th January, 1988)**[20] as it infringed Canadian Charter for Rights and Freedom by infringing the life, liberty and security of the women. Abortion was decriminalized in Canada and was liberalized.

United States legalized abortion with **Roe V. Wade**[21] and a Federal Law was passed to protect the right to abort; the court held that the foetus is not a person protected by the Constitution of US[22] and women were allowed to have an abortion until the foetus became viable.

The FWCW[23] in 1995 talked openly about women's equality and her right to have control over her fertility. The women rights groups and activists considered it a huge recognition to their efforts that the issues of 'Inequality' between the genders was discussed and the governments were urged under the Action Plan to form policies addressing the same issues. It recognised inequalities in every field; inequalities of health, decision-making, power sharing, economic, social etc. all were brought at the surface. In September 2016, the UN declared that repealing the 'anti-abortion laws would save the lives of at least, 50,000 women a year.[24]

Today, despite the fact that abortion rights are considered to be one of the most important parts of reproductive rights of women, abortion is still illegal and criminalised in many countries of the world, as a result of which women are dying everyday, all around the world. The fact is that no international law or treaty can ensure a woman of a safe abortion; it is only the access to these health services that matters and that can bring a change.

## 4.4 Indian Scenario

India is a complex society with vast cultural as well as social differences that impact the phenomenon of reproduction and abortion. The history of reproduction in India

[20] R. v. Morgentaler - SCC Cases (Lexum), https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/288/index.do (last visited Feb 26, 2017).
[21] 22 Jan.,1973, Supreme Court Of USA
[22] Roe V. Wade 410 U.S. 113 (1973), Justia Law, Https://Supreme.Justia.Com/Cases/Federal/Us/410/113/ (Last Visited Feb 26, 2017).
[23] Fourth World Conference on Women
[24] Repealing Anti-Abortion Laws Would Save The Lives Of Nearly 50,000 Women A Year – UN Experts, UN News Center (2016), Http://Www.Un.Org/Apps/News/Story.Asp?Newsid=55141#.Wlbalxj96qa (Last Visited Feb 26, 2017).

lies in its traditions and its history of gender and sexuality as well as that of its colonial past.[25]

Sarah Hodges, in her essay[26] lists the following three phases of history of reproduction in India:

i. Medicalization of Childbirth- It discusses how the biological issues of maternity and childbirth became expertise of medical field and also discusses the relationship between the reproductive practices and hospitals.

ii. Social History of Reproduction in different groups- It is about the fact that different groups had different practices when it came to reproduction and how these practices contradicted with one another. It also talks about the political and hygienic changes brought in.

iii. National Efficiency- It talks about the phase of national planning policies and how it constituted of maternal and child welfare along with population control and national strength and women's health was solely connected with childbirth.[27]

The reproductive practices in India has seen a great change due to the efforts and impact of the British, from change in the values of hygiene and sanitation to the replacement of *dai(s)*/midwife with professionals. This somehow also made the dais or midwives more vulnerable and in 19th century began the phase of medicalization or hospitalization of childbirths in India.[28]

With 1860 came the Indian Penal Code that penalised causing miscarriages or injuries to the unborn children. Section-312 & 313 form a part of early law on causing termination of a pregnancy. Section-312 punishes 'any' person who 'causes a miscarriage' of a pregnant woman (not done in good faith to save her life) with 3 years of imprisonment and up to 7 years if the woman was quick with child.[29] The Explanation to this section also states that a woman doing this to her shall also be punished under this section.[30] The law clearly bans abortions in all cases except if there is a danger to the life of the mother. Section-313 of IPC punishes anyone who

[25] Sarah Hodges, Reproductive Health In India: History, Politics, Controversies (2006).
[26] *Towards a History of Reproduction in Modern India*
[27] Dagmar Engels, *Society and Ideology: Essays in South Asian History* (1993)
[28] Sarah Hodges, Reproductive Health In India: History, Politics, Controversies (2006).
[29] Sec-312 of *The Indian Penal Code*, 1860
[30] Ibid.

commits a miscarriage on woman without her consent with imprisonment up to 10 years.[31]

These were the only Laws governing the termination (miscarriage/abortion) of pregnancy in India. The British left India in 1947 and as a newly independent country dealing with the remnants and pain of partition & rape of hundreds and thousands of women struggling with unaccounted children, we realised that we needed causes to terminate unwanted pregnancies. Later, the agenda of population control came up with poverty and scarce resources and widespread illiteracy. As a result of which, we focussed on family planning and population control.

In 1971 'Medical Termination of Pregnancy Bill' was passed by Parliament and we got Medical Termination of Pregnancy Act, 1971, it was modelled after the UK Abortion Act of 1967 and allowed abortion by a registered medical practitioner up to 20 weeks if the pregnancy was risky to the life of mother or is grave injury to her physical or mental health; or there is a risk of child being born with serious abnormalities. In case of that a pregnancy is a result of rape or failure of a contraceptive device used by married woman/husband; it would be considered that it is an injury to the mental health of the woman.[32] Later on, India saw a rampant increase in sex selective abortions due to the desire to have a son and ultimately in 1994 Pre Conception and Pre Natal Diagnostic Techniques Act was enacted banning sex selective abortions and making it punitive.

Currently, MTP Act, 1971 governs the laws on abortions in India.

[31] Section-313 of *The Indian Penal Code*, 1860
[32] *Medical Termination of Pregnancy Act*, 1971

# 5. THE ABORTION LAW OF INDIA: THE MEDICAL TERMINATION OF PREGNANCY ACT, 1971

The Medical Termination of Pregnancy Act or the MTP Act governs termination of pregnancy in India. The Act was an attempt to legalize certain types of abortions in India and the objective to the Act states that *it is to provide for termination of certain pregnancies by registered medical practitioners for matters connected with it.*[33] This law directly affects women and their rights and came into being about 24 years after India gained independence. After the propaganda of hygiene and health that took place during the medicalization of childbirth, the concept of birth control and abortion had to be imbibed at policy level, which happened in the form of Medical Termination of Pregnancy Act, 1971.

## 5.1 The Making The Medical Termination of Pregnancy Bill, 1969

The issue of population growth and control was talked about in India ever since its first five-year plan.[34] The Central Family Planning Board of Government of India, in the year 1964 recommended a formation of a committee to discuss about all the aspects of abortion and to suggest alteration in laws existing then.[35]

The committee so formed submitted its report in the year 1966 in which it had studied abortion scenario in India keeping in mind the International background and later on specific questions were developed to seek the opinion of various experts.

This committee was of the view that the laws governing termination of pregnancy in India (S.-312 & 313 of IPC) were of restrictive nature and that the termination of pregnancy should be allowed by a registered practitioner in cases of life threat to the woman, risk to her physical and mental health, in case the child suffer serious abnormalities and in cases of rape or mentally ill girl; it recommended a qualified medical practitioner doing it at an approved place with prior written consent of the pregnant woman and parent/guardian in case under 18.[36]

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[33] Objective to MTP Act, 1971
[34] http://planningcommission.nic.in/ (last visited Feb 28, 2017).
[35] S. Chandrasekhar, *Abortion In A Crowded World: The Problem Of Abortion With Special Reference To India* (1974).
[36] *Report of Committee to Study Questions of Legalization of Abortion*, Recommendations, Ministry of

The committee recommended emphasizing on the issue of family planning, health & welfare and on promotion of responsible attitude towards sex, marriage & parent hood. The recommendations were accepted with a few changes by then Minister of Health & Family Planning and a bill was drafted by consulting the Ministry of Law in 1969.[37]

The bill was sent to the States for comments or recommendations, as health is a subject under the State List of the Indian Constitution. Many States accepted the recommendations on the said bill and many suggested reforms like considering termination in all cases regardless of rape or marital status of a woman.[38] Afterwards a Joint Committee decided on the said recommendations and the bill was passed in the Parliament as The Medical Termination of Pregnancy Act, 1971.

## 5.2 The Features of MTP Act, 1971

The Act liberalized pre existing restrictive laws on abortion that criminalised the doctor as well as the women seeking abortions and made India first developing country to legalize abortion. It was a step ahead for India in its aim of a being a Welfare State. The MTP Act, 1971 was in consonance with the Indian Constitution and fitted in our action plan for population control. It came as a pleasant surprise for the women activists.

While it wasn't exactly how they wanted it to be but it certainly expanded the rights of women and empowered them. It was supposed to make them in charge of their bodies and decisions with respect to that. The Act was propagated as a tool to women's freedom as it ensured freedom from unwanted and undesirable pregnancy.

The salient features of the Act are as follows:

1) It decriminalised abortions done in good faith- The Act legalised and liberalised its abortion laws, which were restricted and punitive in nature by allowing the termination of pregnancy of women by medical practitioners in selected circumstances[39].

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Health and Family Planning, New Delhi (1966)

[37] S. Chandrasekhar, *Abortion In A Crowded World: The Problem Of Abortion With Special Reference To India* (1974).

[38] Ibid.

[39] Section-3 of *MTP Act*, 1971

2) Shifted Responsibility on Registered Medical Practitioners[40]- The MTP Act allowed termination of pregnancy, to those medical practitioners who are registered and possess necessary qualifications under Sec.-2 of Indian Medical Council Act, 1956 with names entered into State Medical Register and have training/experience of gynaecology & obstetrics as per MTP Act.

   The Act also creates a safeguard for such registered medical practitioners from punishment under Indian Penal Code if the pregnancy is terminated under the provisions of this Act.

3) Decided the upper limit of termination[41]- The Act set an upper limit of termination of pregnancy in India at 20 weeks after which the termination is not allowed under any circumstance except by the order of the courts.

4) Consent[42]- The Act deems it mandatory to seek consent of the woman undergoing termination and creates an obligation on parent/guardian to consent in case the girl is lunatic or under 18 years of age.

5) Decided the place of conducting such termination- The Act states that such termination shall be carried only at the hospitals managed or approved by the government or at any other place approved by the Government.[43]

6) Power to make rules and regulations- The Act give power to the Central Government to make rules regarding the training of the medical practitioners under this Act or any other matter required under this Act.[44] The State Government can regulate the information given by and required by the medical practitioners before termination of pregnancy. It also regulates the disclosure of such information under the Act with notified reasons.[45]

7) Act done in good faith- The MTP Act, 1971 protects the medical practitioner from any suit or legal proceeding for any damage caused or likely to be caused by an act so done under this Act in good faith.[46]

The Table below depicts the situations and their status of termination under the MTP

[40] Section-2 of *MTP Act*, 1971
[41] Section-3 of *MTP Act*, 1971
[42] Ibid
[43] Section-4 of *MTP Act*, 1971
[44] Section-6 of *MTP Act*, 1971
[45] Section-7 of *MTP Act*, 1971
[46] Section-8 of *MTP Act*, 1971

Act, 1971 in India:

| Situations for Termination | If Termination of Pregnancy is allowed |
|---|---|
| The pregnancy is life threatening to a woman and she'll die unless aborted | Yes |
| If continuation of pregnancy is dangerous to her physical or mental health | Yes |
| In case Pregnancy is a result of Rape/Incest | Yes |
| Severe physical or mental defects are detected in foetus | Yes |
| Pregnancy is caused due to failure of a birth control method used by a 'married woman or her husband' | Yes |
| Pregnancy of a girl who is under 18 years of age (Married/unmarried) | NO* (unless parent/guardian permits and consents) |
| Pregnancy of a girl above 18 years of age but lunatic | NO* (unless parent/guardian permits and consent) |
| Pregnancy of an Unmarried Girl above 18 years of age | NO* (not mentioned in any law) |
| Demanded or requested by ANY pregnant woman without these circumstances | NO (not mentioned in any Law) |
| With any of these cases, if pregnancy exceeds beyond 20 weeks | NO (unless court intervenes) |

## 5.3 MTP Act, 1971: The Journey afterwards

The liberalization of Abortion Laws came both as a blessing and a curse to Indian soil. This Act was envisioned to achieve effective and planned population growth by granting the right to terminate pregnancies and to improve the health of India's women and children.

Little did we imagine that it will be used as tool by the society that favours male child so much that it won't think twice before eliminating its female children. This liberalizing law on Abortion paved a way towards unregulated and unchecked elimination of the female foetus in its mother's womb. The Act instead of a tool for a planned pregnancy became a pawn in the hands of the dark side of the society and was more often started being used as a *solution of not having a female child.*

For them, this Act was even better as it allowed them to kill their daughters even before their birth; they did not have to wait for another daughter to be born and then kill her. The discriminatory practices that India as a society (still) practises created a huge imbalance in the sex ratio of our country.

There was an increase in the number of females per 1000 males from the year 1971 to 1981, while there were 930 females in 1971, the figure increased up to 934 in the year 1981.[47] It was concluded that perhaps it was due to maternal and child healthcare programmes that were giving results and it was believed that the discrimination between male and female children would now decrease but later on, the year 1991 gave a shock. It became very clear that the increasing sex ratio was real and that the girls were going 'missing'. There were only 927 girls on 1000 boys. Some demographers argued that it was because of the sex selective abortions while others rejected this idea and blamed it on poor management.[48] To curb and eradicate the issue, later in 1994 **Pre Conception and Pre Natal Diagnostic Technique Act** was enacted which made it illegal to perform sex selective abortions and banned pre natal sex selection.

Currently, the abortions in India are governed by MTP Act, 1971 and can be conducted in the circumstances listed in it only. Any other abortion including the sex selective abortion is illegal. The social situations in our society have made the rules regarding MTP Act strict in order to ensure that no sex selective abortion takes place on the name of a termination of pregnancy.

## 5.4 The Issue of Termination of a Pregnancy of an Unmarried Girl

The MTP Act was introduced as a mechanism to control the population. The language

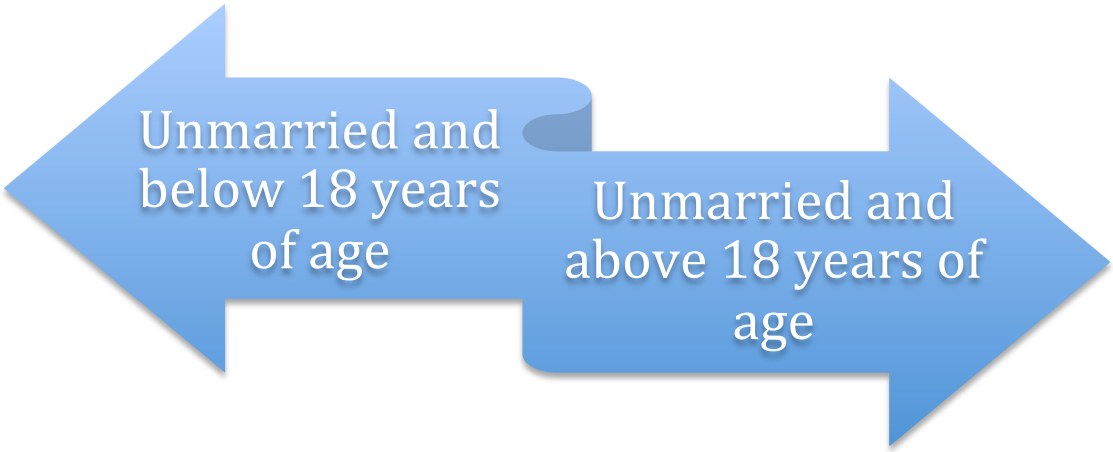
[47] Web Edition: *Provisional Population Totals*, Census of India 2001 Series 1, India, Paper 1 of 2001
[48] Kundu, Amitbah and Madesh K. Sahu, "*Variation in the sex ratio: development implications*", Economic and Development Weekly 26(41): 2341–42

used in the Act as well the restrictions make it very clear that the Act was not very motivated by the rights of women to a dignified life or their rights to their bodies and sexuality.[49] The fact that the final decision regarding the termination of the pregnancy doesn't remain with the woman, rather it is in the hands of the medical practitioner who has the final say.[50] Thus, it is very clear that the MTP Act does not encompass a fundamental right to abortion[51] and this restrictive liberalisation of Laws creates a lot of problems for the stakeholders as well as the beneficiaries of that law, which happened in the case of MTP Act, 1971.

The Act does not recognise the right to have an abortion on demand regardless of the conditions; in case a woman fails to prove any of the conditions falling into the Act, she will be denied a Legal Abortion; The Act also fails to 'acknowledge' the pregnancies incurred by unmarried women and the termination thereof (barring rape cases). The fact that the cases of unmarried women are not mentioned or discussed indicates towards the 'denial mode' of the Government towards these pregnancies.

It is only in the cases of Rape that if an unmarried girl gets pregnant, she can have a legal abortion under this Act.

If we leave the rape victims then unmarried women seeking an abortion might fall into one of these two categories:




49 Shilpa Phadke, *Pro-Choice or Population Control: A Study of the MTP Act*, 1971
50 Section-3 of MTP Act,1971
[51] Amar Jesani. Aditi Iyer, Abortion: *Who is Responsible for Our Rights?*

The Act incorporates old notions of chastity in its concepts for termination[52] of pregnancy in doing so.

The unmarried women who are under 18 years of age CANNOT have an abortion under this Act without the Permission/Consent of her Guardians/Parent.[53] Now, the stigma attached with the issues of unmarried sexual relations or pregnancy is too much to bear and a girl in such situation might not want to tell or approach her parents or anyone. In an Indian society, a girl would hide the fact of her pregnancy and would want to 'get rid of it' at the very first instance.

Fear is what such girl feels; fear of someone finding it out; fear for her life, fear of shattered dreams etc. *Roshni*[54] who is a respondent from Group-1 did undergo abortion when she was just 15 years old, the researcher interviewed her for the study; she could recall every detail of the fear and agony she felt when the secret of her pregnancy was known.

***"I wasn't as lucky as my classmate. My parents did come to know about my pregnancy. I was so afraid, my life was over. I wanted to die. My parents had a fight and they hit me. ME!! My father hit me, I couldn't believe it. They were asking for the boy's name, they wanted to know if I was raped. My mother called me a 'Randi'. I thought my life was over"***

***– Roshni* (unmarried & 15 when aborted)***

The presumption that 'all' girls in such shoes would approach their parents or guardians is unrealistic. This is an issue, which is also related to the 'Age of Consent'. The fact that under the Indian Penal Code, age of consent remains to be 18 and an underage person cannot consent to sexual activities; such a sexual relation will attract the penalty for Rape under IPC. This fact has been well debated in the Indian Parliament but the age of consent remains 18 for sexual activities.[55]

The issue of pregnancy of an unmarried minor girl further 'attracts' the provisions of Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and binds the Doctor or anyone whom the girl approaches for termination of such pregnancy to mandatorily report this incident (girl's pregnancy) to the police failure to do so would

[52] Shilpa Phadke, *Pro-Choice or Population Control: A Study of the MTP Act*, 1971
[53] Section-3, *MTP Act*, 1971
[54] Name changed to maintain confidentiality
[55] *Criminal Law Amendment Act*, 2013

attract penalty and the doctor or person might end in Jail.[56]

POCSO states that whoever commits penetrative sexual assault on a child, which in the case of female child, makes the child pregnant as a consequence of sexual assault shall be punishable with imprisonment of not less than 10 years.[57] This puts the person seeking abortion under MTP Act and the person who is providing abortion under a dilemma and conflict of Laws. The Doctors are afraid of these provisions and often hesitate to provide abortion services to underage girls. The researcher during the interview of respondents from Group-2 (doctors) found that the doctors rarely terminate pregnancy of underage girls.

***"We don't take cases of girls under 18. We don't. I have turned many girls down, on phone and in person. These cases are 'risky' to us, we might get in trouble… This is illegal. There are medicines, I tell them. I tell them the names of medicines that's it. No written prescription. No ultrasound and no abortion at all in my clinic."***

***-Dr. Amba[58] (female,37 & owner of a private clinic in Safdurjung Enclave)***

The unmarried women above 18 years of age and in need of termination of pregnancy ARE NOT discussed or talked about or acknowledged in the MTP Act, 1971 at all. The 'Legal Status' of abortion of unmarried women above 18 years of age is unclear and ambiguous in India.

They are neither allowed nor denied abortions under the MTP Act, 1971.[59] The issue of consensual Pre Marital Sex becomes too big a taboo to digest and the sexuality of women has been controlled and oppressed by patriarchal society of India [60] and denying her the recognition of her rights is one such tool of oppression and subjugation. Unlike the girls under 18 years of age, the women of this category have right to consent to a sexual relationship and also have a right to undergo a safe and legal abortion.

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[56] POCSO, 2012
[57] Section-5 of POCSO Act, 2012
[58] Name changed
[59] Simi Rose George, *Reproductive Rights: A Comparative Study Of Constitutional Jurisprudence, Judicial Attitudes And State Policies In India And The U.S.* (available on, https://www.nls.ac.in/students/SBR/issues/vol181/18105.pdf) (Last visited Feb 27, 2017)
[60] Renu Singh, *Patriarchy in Caste Society and Control over Women's Sexuality in India, 2015*

The 'non-cooperative' Law and policies, the pressure to hide, the stigma attached and the moral policing by some doctors (& lack of finances in some cases) forces these women to resort to 'unsafe', 'hidden' and 'dangerous' means which are often illegal.[61] A recent study from **Guttmascher Institute (USA)** has revealed that seven out of every 1,000 women aged 15–44 in developing regions were treated for complications resulting from unsafe abortion procedures. The study said that because many women who experience complications do not receive medical care for them, the actual number of women who suffer some complications due to unsafe abortions is high.[62]

***"I went to Agra. A small clinic. I was told everybody goes there, a college senior told me. I was scared. I thought I might die. I wanted to run away but I mustered all my courage and went in. The Doctor was a male, didn't ask me much questions. 30,000 Bucks it did cost. He did ultrasound. I was holding my tears the whole time. He asked me if I have time and if I would want a surgery or medicines. I had tried buying those medicines, I couldn't. I went to 3 shops, didn't have the courage to go to a 4th one... Medicines I took. I swallowed some there and came to my hotel. I put 1or 2 in my vagina, later that night. I remember seeing Taj Mahal through the window. Taj View Room… I recall the pain. I recall the blood. Pain, Blood and Taj, I recall all three."***

***- Sumedha (22, persuing Post Graduation now, 21 when aborted)***

The 'social stigma' on unmarried woman's sexual and reproductive rights result in the need to hide the pregnancy and not asking directly for a safe abortion. This need for hidden abortions take women to 'Quacks' or 'Dr. Google' or make them desperate enough to buy unregulated and illegal drugs and swallow them without doctor's prescription. It can dangerously lead to consequences like suicide by the young women as a last recourse.

Recently, the High Court of Bombay stated that the women have the right to terminate their pregnancies regardless of any reasons. The court held that, "*the right to control their own body and fertility and motherhood choices should be left to the women alone and that the right to autonomy and to decide what to do with their own*

[61] Shilpa Phadke, *Pro-Choice or Population Control: A Study of the MTP Act*, 1971

[62] S Singh & I Maddow-Zimet, *Facility-Based Treatment For Medical Complications Resulting From Unsafe Pregnancy Termination In The Developing World, 2012: A Review Of Evidence From 26 Countries, 123* BJOG: An International Journal of Obstetrics & Gynaecology 1489–1498, 1489-1498 (2015).

*bodies, including whether or not to get pregnant and stay pregnant is the basic right of women*."[63]

In Ms X v. Union of India[64] honourable Supreme Court of India permitted a 23-week pregnant woman of termination her pregnancy; the court went beyond the time period declared by the MTP Act, 1971 (20 weeks). However, the Apex court did not clear the ambiguity regarding the autonomy of a woman on her own body, which the researcher believes to be an issue of great significance and hence, require immediate attention. The honourable Supreme Court (though) has tried to remove the stigma related to unmarried women's pregnancy by recognising their infants as 'legal'[65] and by giving rights of a lawfully wedded wife in cases of 'long cohabitation' with a partner[66] but the researcher believes that it is the duty of the apex court to expressly grant the basic right of the autonomy of her body to women.

In the case of Bombay High Court, "*High Court in its own motion V. The State of Maharsahtra"*[67] , the court has provided no justification on the terms "marriage" and "husband and wife" that are used in MTP Act, 1971, however it has clearly declared the fact a man and a woman who are in live-in-relationship, cannot be covered under Explanation 2 (of MTP Act, 1971) whereas *it should be read to mean any couple living together like a married couple.*

This judgment has also not clearly justified the status of pregnancies incurred by unmarried women who are not per se living with her partner or the cases of unmarried women's pregnancies that are a result of a sexual encounter only.

Apart from these issues, the MTP Act read along with the PcPNDT Act, makes it mandatory for the medical practitioner to obtain necessary information that contains, the name, age, address of the victim and the reason for the termination for pregnancy. The PcPNDT Act mandates the clinic/hospital/registered practitioner to maintain a record for the very same purpose and that record need to be preserved for 2 years.[68] Often the unmarried girls seeking abortions do not reveal their true identities; they

[63] High Court in its own motion V. The State of Maharsahtra on 19 Sept, 2016
[64] 26 July, 2016
[65] IE Online, No child is illegitimate The Indian Express (2014), http://indianexpress.com/article/opinion/columns/no-child-is-illegitimate/ (last visited Feb 27, 2017).
[66] *Chanmuniya vs Virendra Kumar Singh Kushwaha*, 7 October, 2010
[67] 19 September, 2016
[68] The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules 1996

fake their names and addresses etc. out of fear and anticipation of complexities in future. This fear, shame and stigmatisation of Abortion make all these women do such activities. The cost of getting a hygienic, legal and confidential abortion done at a private clinic starts from Rupees 10,000, the fact that young adults who do not earn are hampered due to financial issues.

Abortions taking place during surrogacy have been reported to be sex-selective in nature and there are factual reports to prove the huge imbalance between the sex ratio of children born through surrogate mothers.[69] This further remained an issue in providing safe abortion services to surrogate mothers and was one of the major factors that India is banning commercial surrogacy

## 5.5 Other Aspects of MTP Act

The MTP Act, plays an important role in issues of women's reproductive health in India; in an age where a preventable mortality death is considered as a violation of human rights, it becomes all the way more important to focus on the right to health under Article 21 of the Indian Constitution.

Recently, In the case of *Laxmi Mandal vs Deen Dayal Hari Nager Hospital & Ors* [70] the court awarded a compensation of Rs 2.4 lakhs to the family of Shanti Devi (passed away during child-birth).The Court found the hospital in violation of the woman's right to life and health as her death was preventable.

In the case of *Parmanand Katra v. Union of India*[71] the court held that every medical practitioner is professionally obligated to treat emergency cases with expertise and cannot refuse to offer treatment to such cases. Hence, the cases where the hospitals reject a young woman for abortion due to any ethical or moral reasons must be criminalised. In *Paschim Banga Khet Mazdoor Samity and Ors., vs. State of West Bengal*[72] the court held that it is the primary duty of a welfare state to ensure that medical facilities are adequate and available to provide treatment.

The right to health of women ensures her a dignified life, hence, the medical, legal

[69] Michael Cook, *Illegal Sex-Selective Abortions Widespread In Indian Surrogacy* industry BioEdge (2013), https://www.bioedge.org/bioethics/illegal_sex_selective_abortions_widespread_in_indian_surrogacy_industry/10645 (last visited Mar 12, 2017).
[70] W.P. 8853/2008
[71] 1989(4)SCC 286
[72] 1996(4) SCC 37

and social implications of MTP Act, should be taken in such a view as to maximize women's right of life.

The proposed MTP (Amendment) Bill, 2014 is pending in the parliament, and increases the upper limit to get an abortion from 20 to 24 weeks but even then it does not talk about the ambiguity regarding the status of unmarried women.

At present, the MTP Act, does not guarantee a woman the right of choice and control over her body and deprives her of right to life under Article-21 of the Constitution.

# 6. ABORTION: PRO-CHOICE, PRO-LIFE AND FEMINISM

The debates have been long going on the relationship between abortion and feminism. It brings the whole debate of 'Pro-Choice versus Pro-life' into consideration. Pro- Life and Pro- Choice are two main perspectives and stands taken by people on the issue of abortion. These debates do not have much relevance in Indian context and are confined primarily to academic context only[73] because abortions are already legally allowed under MTP Act of 1971.

## 6.1 Pro LIFE

The people believing in Pro-life theory believe that it is wrong to 'terminate pregnancy' and consider it morally, ethically or religiously wrong to conduct or undergo abortions. They believe that the unborn foetus, from the moment of its conception, becomes a full-fledged member of the human community[74] and that it is a person since its conception. For them abortion is inherently a wrong thing just like stealing or killing, regardless of any cultural value.[75] Their arguments revolve around the questions like if foetus have a moral or human right or if abortion is ethically valid and how should a society limit or ban abortions.[76]

They argue that, the supporters of abortion should understand that morally the right to choose pertains to oneself and does not extend to another person, in this case, the foetus.[77] This perspective is often connected with religion especially religions like Christianity (Catholic) and Islam consider it wrong and immoral to terminate the pregnancy.[78]

The religions like Hinduism, Buddhism, Sikhism etc. have a philosophy of Karma and believe that it is the mother who commits the Karma and the foetus is unable to perform any Karma before its birth and hence, can be terminated; their views are also

[73] Anita Kar, *The Responsibility Of Choice The Indian Express* (2017), http://indianexpress.com/article/opinion/columns/abortion-legalisation-roe-versus-wade-case-mtp-act-the-responsibility-of-choice-4545170/ (last visited Mar 1, 2017).
[74] Francis Beckwith, Defending life: a moral and legal case against abortion choice (2007).
[75] Raquel, *Perspectives on Abortion: Pro-Choice, Pro-Life, and What Lies in between* , 27 European Journal of Social Sciences 511–517, (2012), http://www.europeanjournalofsocialsciences.com .
[76] Michael Tooley, Abortion: three perspectives (2009).
[77] Francis Beckwith, Defending life: a moral and legal case against abortion choice (2007).
[78] There is no one view in Islam, some scholars consider it completely forbidden while others think it can be allowed in the first trimester.

impacted by their theories of rebirth.[79]

## 6.2 Pro CHOICE

The believers of Pro Choice have a different stance than the former group. Their perspective raises various questions regarding the practices, social status of a woman and termination of her pregnancy. Pro-Choice in simple words, indicates the choice of a woman; the fact that a woman has the right to decide for herself and regarding her body. It is about personal autonomy of a woman, which the 'Pro-choice' believers think will be achieved through maximizing her options and choices.[80] Giving her the option of termination of the pregnancy by the State and the Laws, where by it is the woman who decides whether she wants to choose this option, does this or not, is 'Pro-Choice'.

Pro-Choice does not mean that a woman should terminate her pregnancy or should get an abortion done. It simply means, that if she wants to give birth, she should and in case she wants not to give birth, then she MUST have the option of a safe and legal termination. It is very common for the people to think that 'Pro-Choice' means ANTI-LIFE. Pro-choice believers are entitled to the moral or ethical view of abortion being a wrong practice, some of them hold this view as well; it simply mean that even if they think abortion isn't morally or ethically right, they still want to let the woman choose. In other words, they want her to have an option to it and not inherently ban it. Against the popular confusions, 'Pro-Life' is not about 'Saying YES to Abortions' but providing more options and choices to the women. Pro-choice writings also support the conclusion that there needs to be greater discussion about the abortion decision.[81]

A debate that should have been seen in the light of 'Free Choice' or the 'Autonomy of a woman' on her bodily decisions, due to lack of information and awareness, is largely seen just as a matter of 'Pro-Abortion and Anti-Abortion', which defeats the whole purpose of the concept of 'Free Choice'.

[79] Early Medical text on Hinduism Like Charak and Shusruta's work permits abortion to save the life of mother and Jatak Kathas of Buddhists depict incidents of terminated pregnancy.
[80] Jennifer Denbow, Abortion: When Choice and Autonomy Conflict, 20 Berkeley Journal of Gender, Law & Justice (2013).
[81] Ruth Colker, Feminism, *Theology, And Abortion: Toward Love, Compassion, And Wisdom*, 77 California Law Review (1989).

## 6.3 Feminist Perspective

The general analysis of the human condition has tended to overlook women's conditions and hence, Feminism argues that a critique must begin from the perspective of women.[82] Female sexuality has always been a taboo in the society and so has been the issues related to it like pregnancy and abortion. The feminist and the women rights' movements from time to time have fought for the share of females and for their 'equal' place in society. Abortion or the termination of pregnancy being a controversial topic, has divided the views of 'feminists'.

The early leaders of the feminist movement viewed abortion as 'child murder[83]' and as a means of exploiting both women and children. As much as they believed in 'equality' of sexes and genders, abortion was still considered a non-feminist and presumed to be 'anti-choice' notion. Abortion along with the statues of marriage and divorce, rape, bigamy etc. was said to be made by men[84] and was considered as "the ultimate exploitation of women"[85]

The popular belief behind their voices and opinion was that women do not want to abort or terminate the pregnancy; it is under the pressure of several circumstances that causes her to opt for such practices. They focussed more on finding solutions to such problems that drove women to abort; they also consider it (abortion) against the core feminist principles of justice, non-violence and non-discrimination.

Contemporary Feminists take into consideration the abortion law and the new reproductive technologies that grant new powers to the medical profession. Their writings question the long-held beliefs and values about birth, life, death, culture, morality and motherhood.[86]The issue of Abortion being represented as 'EQUAL' and 'Non-Discriminated' by a certain group of feminists is considered problematic, since men cannot biologically get pregnant[87].

Susan Sherwin argues that, a woman knows what's best for her and therefore, it must

[82] Ruth Colker, Feminism, *Theology, And Abortion: Toward Love, Compassion, And Wisdom*, 77 California Law Review (1989).
[83] By Susan B. Anthony
[84] James C. Mohr, *Abortion In America: The Origins And Evolution Of National Policy*, 1800-1900 (1979).
[85] Alice Paul, the famous American feminist made this statement.
[86] Marianne Githens and Dorothy McBride Stetson, *Abortion Politics: Public Policy In Cross-Cultural Perspective,* 1996
[87] Ibid.

be her 'choice' while deciding how to deal with the situation she is in.[88] If a woman wants to be free from male dominance then she must take control of her reproductive choices which starts from whether to abort or not; she argues that it is a woman's responsibility and privilege to determine the social status of the foetus since it is the body of a woman where its development and growth takes place and that women aren't pro abortions but they support sexual and reproductive freedom of females. [89]

The different opinions of Feminist give rise to the question that why should we then, include 'feminist perspective' while discussing the issue of abortions?
It is because its inclusion will help in fighting against gender discrimination in a much more logical way. The feminist views are necessary to be read and included, as they will bring the desired social transformation.[90]
It is also important to note that, the issue of pregnancy and abortion starts with 'sexual relations' and in traditional patriarchal societies the sexuality of women is not liberated or free; they are responsible for 'not keeping their legs closed' or of not using a proper birth control method. This view is highly responsible for 'Shaming' of women and creating a mental pressure on them to hide and 'get rid of' the problem as soon as possible.

## 6.4 Choice or Free Choice

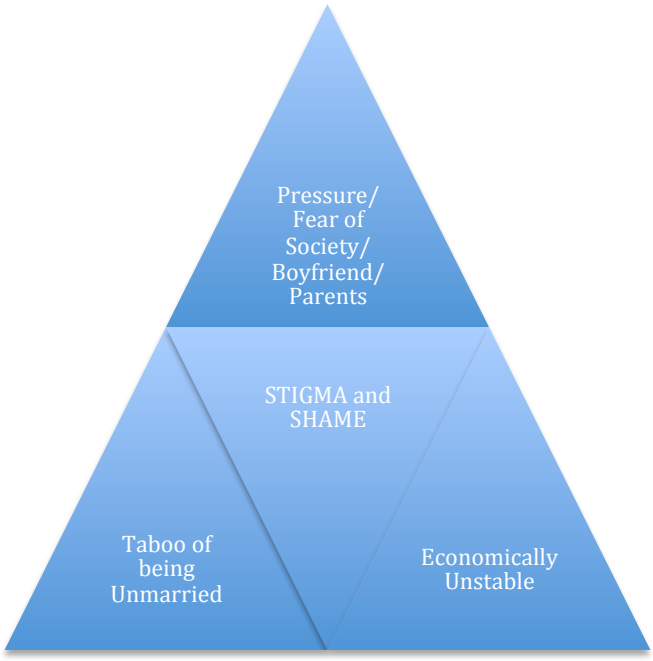
While the whole 'Pro Choice' argument is based on increasing the availability of options so that a woman can exercise her right to choice in real sense. But the concept of choice here means a choice that is 'informed' and 'freely made' by the woman. The concept of informed choice means that a woman must be educated and informed about the choices available to her. The data collected by the researcher indicates that more than half of the people in New Delhi did not know about the choices or options available to them. The women must be informed by different ways like educating them or by organising awareness drives, so that they know before they can choose. An uninformed choice is dangerous and makes the women vulnerable.

[88] Susan Sherwin, *Abortion Through A Feminist Ethics Lens* ,1991
[89] Ibid.
[90] Manisha Gupte, *A Walk Down Memory Lane*, (http://asap-asia.org/blog/a-feminist-perspective-in-india/#sthash.H3qGheXF.dpbs), (Last Visited on 28 Feb. 2017)

The concept of free choice is that the choice of woman must be free from any coercion or pressure, be it physical or mental. The concept of free choice sounds a myth seeing the Indian society. The researcher found a desire to give the child for adoption after the birth was brought up on more than one occasion by the respondents.

***"I felt guilty afterwards (abortion). I have a cousin who cannot have kids; I have seen how much she wants them. I felt bad. I wish I could have helped her, giving birth to it secretly somewhere and giving it to my cousin… I think about imaginary situations where I could have pulled it off! I wanted to get rid of it then because I did not have a choice, I was single, unmarried, living in Delhi. I had my career to look forward to. I wish I had a choice. I am okay now, I guess but sometimes… it just happens."***

***- Vandana[91] (27, works in a MNC, 25 when aborted)***




These are a few factors that effect decisions taken by women.

## 6.5 Canada: A Case Study

Recently, Canada has pledged up to $20 million for contraceptives, family planning and comprehensive sexuality education, and access to post-abortion care, making up

[91] Name changed

loss of U.S. international development funding tied to abortion-related projects.[92] Canada has one of the most liberal abortion law that believes that it is a woman's right to choose and decide. It does not criminalise abortion and provides access to safe abortions.

It was in 1869 that Canada criminalised abortions; later on contraception and birth control methods were also banned. It was revealed that approximately 4,000 to 6,000 Canadian women died as a result of unsafe abortion or complexities arising out of it, till the year 1947[93]; many people were arrested for giving birth controls or information about them or doing illegal abortions. The estimation of 'abortions' during that time goes up to almost 10,000-12,000 abortions an year.

In the year 1969, the Canadian government permitted abortion under limited circumstances and they were to be provided only at a hospital if a group of doctors affirmed that the continued pregnancy would endanger the mother's life; but abortion was not decriminalised by the government.[94]

**Women's Movements:** This 'limited' Law on abortion did not help the women, especially those who were poor and had no access to hospitals; this was a Law for rich women who had access to the hospitals. Moreover, at times women couldn't find a group of doctors to certify for their needs of abortion the different doctors interpreted the situation differently. Dr. Henry Morgentaler argued that women have basic right to choose and to abort if they want and hence, they must be given the choice[95]. He started providing women with safe abortion services against the Law. Having done 5,000 abortions illegally, he was arrested multiple times and was let off.[96]

In 1970's a movement to raise awareness regarding the right of a woman to choose for her began with 'Abortion Caravan' where thousands of women marched on the streets and protested in front of the people and the Parliament against the restrictive

[92] Mike Blanchfield, *Abortion Funding: Canada's Liberals Will Help Fill Global Gap From Trump's Ban,* cbc.cn (Last visited March 3, 2017).
[93] National Abortion Federation - Canada, http://www.nafcanada.org/legal-abortion-ca.html (last visited Mar 2, 2017).
[94] National Abortion Federation - Canada, http://www.nafcanada.org/legal-abortion-ca.html (last visited Mar 2, 2017).
[95] Legal Abortion in Canada, http://www.nafcanada.org/legal-abortion-ca.html (last visited March 2, 2017)
[96] The Struggle for Abortion Rights, http://www.morgentaler25years.ca/the-struggle-for-abortion-rights/ (Last visited March 2, 2017)

laws on abortion.[97] It helped in politicizing and activating the women throughout Canada and the protesters were successful in creating a public opinion on the women's rights to choose.

Later on in 1974 the Canadian Alliance to Repeal the Abortion Law, (CARAL) was formed later became the Canadian Abortion Rights Action League worked in favour of women's right to have safe abortion.[98]

The organization along with Dr. Morgentaler and other women's groups spent the next 15 years opening and running abortion clinics across Canada, violating the law; the doctors working there were arrested on the charge of 'conspiracy to procure a miscarriage' and a jury trial began in 1984 which was later quashed and restarted.[99]

Dr. Morgentaler appealed to the Canadian Supreme Court in 1988 and the court repealing the abortion law in practice, entirely, pronounced the historical judgment for **R v. Morgentaler**[100].

It was held that the abortion law in practice was unconstitutional and violated a woman's right to 'life, liberty and security of person' under Section-7 of Charter of Rights and Freedom, 1982.[101] It was declared by the court that it is a profound interference with a woman's body and a violation of her 'security of the person' to force her by threat of a criminal sanction and deny her a right to control her own body, unless she meets a 'criteria' so decided by others which is not related to her priorities and aspirations.[102]

This was a historic decision for women in Canada, they were now free to choose for themselves and abortion became just like any other medical service where they could just ask for it. It was governed by provincial medical regulations.

Canada brought 'abortion care' in line with its Canada Health Act and has approved the use of Mifepristone as an abortion method in 2015, though 'accessibility' to the health centers remains a concern in Canada but due to its liberal laws, it is committed to provide women with their right to safe choice.

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[97] Karissa Patton, *The New Abortion Caravan*, http://activehistory.ca/2015/05/the-new-abortion-caravan/ (Last visited March 2, 2017)

[99] Joyce Arthur, *Abortion In Canada*, http://www.prochoiceactionnetwork-canada.org/articles/canada.shtml (last visited March 2, 2017)

[100] Legal Abortion in Canada, http://www.nafcanada.org/legal-abortion-ca.html (last visited March 2, 2017)

[101] Ibid.

[102] Chief Justice Brian Dickson in *R v. Mongentaler,* 1988, Supreme Court of Canada

## 6.6 Abortions in Ireland

Unlike rest of the United Kingdom, abortions are largely banned in the Ireland[103] (in north as well as in south). The Abortion Act, 1967 that governs abortion in UK does not apply to the (North) Ireland. It is the "Offences Against the Person Act 1861", as well as the Criminal Justice Act (Northern Ireland), 1945" that applies to the Ireland (North). Ireland has a restrictive policy on abortion and allows it only if the life of pregnant woman is threatened due to her pregnancy; there also exist a lot of confusion among the society in Ireland regarding its policy on abortion.

Under the Protection of Life During Pregnancy Act, 2013, the department of Health in Ireland has issued guidelines and allows for abortions only if a woman's life is immediately threatened.[104] The age of consent in Ireland is 17 years as per its law[105]; this does not sync with the restrictive laws on abortion. The laws are proving to be harmful for young women who have the freedom and right to have consensual sex from the age of seventeen but in case they get pregnant, as a result of a sexual activity then they have no legal right to terminate the pregnancy unless the pregnancy causes an immediate threat to their life. The Irish laws currently penalise buying or selling of abortion medicines or pills as well, as a result of which it becomes almost impossible for young pregnant women to have a safe abortion.

According to Amnesty International, women in Ireland can undergo as long as a 14 years long imprisonment in case of illegal abortions; it reports Ireland to have one of the most strict laws on abortion in the whole Europe.[106]

But this does not stop women in Ireland to have an abortion. They travel to other parts of UK, preferably to England and Wales to avail a safe abortion service. Almost 15,500[107] women travelled to England or Wales[108] for the procedure. In the cases,

[103] Republic of Ireland and North Ireland are different. Republic of Ireland is a sovereign State while Ireland or North Ireland comes under United Kingdom but both of these have restrictive laws on abortion; while the researcher has covered the situation in North Ireland as well as the Republic of Ireland.

[104] Abortion & Irish Law, Abortion & Irish Law | Irish Family Planning Association, https://www.ifpa.ie/Pregnancy-Counselling/Abortion-Irish-Law (last visited Mar 10, 2017).

[105] Criminal Law Amendment Act, 1935 (Ireland)

[106] Alexendra Sifferlin*, How Women Use Medication Abortion in Ireland and Northern Ireland,* Time *(*Oct. 18, 2016), http://time.com/4531429/medication-abortion-ireland/ (last visited Mar 10, 2017).

[107] Ibid.

[108] it is not illegal to terminate a pregnancy there.

these women cannot afford to travel to have an abortion they use the services of online non-profit organisations[109] to get the abortion pills delivered to them. Almost around 5,600 women in Ireland tried to buy abortion pills online over period of five years[110] but this does not guarantee them their right to have access to safe abortion service, as there is always a possibility of being penalised for the same and prosecuted.

Section-22 of Protection of Life During Pregnancy Act, 2013 (Ireland) states that *it is an offence to intentionally destroy unborn human life and that any person who is guilty of this shall be liable to a fine or imprisonment for a term not exceeding 14 years, or both.*[111] Hence, the women obtaining abortion pills or engaging in any method of induced abortion are always under the scrutiny of the law enforcement department of Ireland.

It was the death of Dr. Savita Halappanavar (an Indian living in Republic of Ireland) due to refusal of abortion service by the hospital at Galway University that made the whole world question Ireland's abortion policy. Dr. Halappanavar was 17 weeks pregnant and did miscarry but she was denied an abortion, this happened not only because of the failure of medical staff t recognise the danger but also because of the fact that the doctors did not want any criminal liability for an induced abortion on themselves.[112]

The midwife manager[113] of the hospital gave the statement that Ireland being a catholic country does not permit abortion and on October 22, 2012, Sarita died after a week's struggle. This case has brought the state of confusion, that exists in the Irish society, on the surface, where not even the doctors are clear about the status of abortion in the country and remain in a moral as well legal dilemma regarding providing an abortion service to the women.[114]

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[109] Such as http://www.womenonweb.org - It supplies mifepristone and misoprostol free of cost with directions to use it.

[110] Paul Cullen, Over 5,600 Irish women sought abortion pills online The Irish Times (2016), http://www.irishtimes.com/news/health/over-5-600-irish-women-sought-abortion-pills-online-1.2831914 (last visited Mar 10, 2017).

[111] Section-22 (1) & Section 22 (2) of Protection of Life During Pregnancy Act, 2013

[112] Bruno Waterfield, *Irish Abortion Law Key Factor In Death Of Savita Halappanavar, Official Report Finds* The Telegraph (2013), http://www.telegraph.co.uk/news/worldnews/europe/ireland/10119109/Irish-abortion-law-key-factor-in-death-of-Savita-Halappanavar-official-report-finds.html (last visited Mar 10, 2017).

[113] Ann Maria Bruke

[114] Nicene Guy, The Strange Case of Savita Halappanavar IGNITUM TODAY (2015), http://www.ignitumtoday.com/2012/11/20/the-strange-case-of-savita-halappanavar/ (last visited Mar

Since then, there have been demands from the world community (including India) to Irish government, to liberalise the abortion laws; but the same old provisions govern abortions in Ireland today.

The researcher feels that India should learn from both the countries and liberalise its laws on abortion in order to give its women a right to dignified life.

10, 2017).

# 7. EMPIRICAL FINDINGS

The researcher collected data from different stakeholders using different methods; the broad methodology of which has been discussed in the 2nd chapter of this dissertation. The data so collected has been analysed in an unbiased manner to reach different findings.

## 7.1 The Data Collected From The Field

The researcher collected data from different areas of New Delhi in the month of October- November of 2016. Not all the stakeholders who were contacted by the researcher agreed to be a part of the study.

The participant stakeholders were divided into three different groups by the researcher, based on the method of data collection used. They are as follows:

1. **GROUP-1**

| **Group-1[115]:** The participants were four (4) young women who had undergone abortion when unmarried and one (1) father of the aborted foetus who is married to one of the participants. | |
|---|---|
| **Vandana*** | A 27 years old female, currently Single and works for a MNC in Gurgaon |
| **Sumedha*** | A 22 years old female, currently Single and is a pursuing Post Graduation from a university in Delhi[116] |
| **Divya*** | A 30 years old female, currently married to Vivek and works as a lecturer in a private college in Delhi |
| **Roshni*** | A 17 years old female, currently single and has just finished school |
| **Vivek*** | A 31 years old male, married to Divya and works as an engineer in a private company. |

- The areas of interviews varied as per the requests and availability of the participants.
- The researcher did not plan or ask for the interview of the last participant of the group i.e., VIVEK; it was him who approached the researcher while the

[115] The names of the participants are changed to maintain confidentiality
[116] Not named to maintain confidentiality

researcher was interviewing his wife at their house in Dwarka, New Delhi and it was after that the researcher thought of interviewing him. The researcher believes that including his perspective in the study has made the study more balanced and comprehensive in nature.

- The researcher conducted in-depth interviews with Group-1 participants with a feminist methodology as demanded by the subject and focused on uncovering the social as well as legal issues that denied the lived realities of the participants.

2. **GROUP-2**

| **Group-2:** The participants were doctors, lawyers and organizations | | |
|---|---|---|
| | **Names** | **Location/Expertise** |
| **Doctors[117] and Hospitals (4 hospitals, 3 doctors)** | Dr. Jaya* | Private Clinic, Lajpat Nagar |
| | Dr. Amba* | Private clinic, Safdurjung Enclave |
| | Dr. Sarika* | Govt. Hospital, Rohini |
| | Abha* Government Hospital[118] | Govt. Hospital, Daryaganj |
| **Lawyers[119] (2 Lawyers)** | Ms. Malini* | She works with HRLN, on the issue of reproductive rights |
| | Ms. Sadhvi* | Practising advocate at Delhi High Court on women's rights |
| **Organisations/Foundations** | CREA | A feminist Human Rights Organization based in New Delhi |
| | International Planned Parenthood Federation (IPPF) | A global Non- Governmental Organization, Delhi office |

[117] The names of the doctors and hospitals are changed to maintain confidentiality
[118] Doctor was not available for the interview, observed the ward and hygienic conditions. Name of the hospital is changed
[119] Names are changed

| | | |
|---|---|---|
| | SAMYAK | Non-Governmental Organization based in Pune |
| | Asia Safe Abortion Partnership (ASAP) | Asian Network of 13 countries working on safe abortions, Mumbai |

- A total of 10 participants were a part of Group-2.
- The researcher interviewed these participants of Group-2 in person as well as telephonically. A lot (3) of private clinics/doctors refused to be a part of the study telling the researcher that they did not want any legal trouble.
- The researcher chose the participants purposively based on the fact that they are closely working with the issue of abortion in medical, legal and social field.

**3. GROUP-3**

| **Group-3:** It comprises of the common members of the society who participated in the focussed group discussions | | | |
|---|---|---|---|
| | **Area** | **No. of Participants** | **Names** |
| PRIMARY GROUP-1 | Karol Bagh | Five | *Akhil*<br>*Bodhi*<br>*Chaand*<br>*Darshan*<br>*Eshita* |
| PRIMARY GROUP-2 | GTB Nagar | Seven | *Rajo*<br>*Suman*<br>*Anu*<br>*Sumitra*<br>*Snatosh*<br>*Shamsher Singh*<br>*Naresh* |

| | | | |
|---|---|---|---|
| PRIMARY GROUP-3 | LSR College for Women | Seven | *Bobby*<br>*Ritu*<br>*Priya*<br>*Neha*<br>*Gauri*<br>*Shreya*<br>*Nidhi* |
| PRIMARY GROUP-4 | JNU | Seven | *Shruti*<br>*Khadija*<br>*Swati*<br>*Aarti*<br>*Bhavya*<br>*Shama*<br>*Roma* |

The Researcher asked various questions from the participants and noted their response with their permission. The Researcher herself moderated these sessions.

The researcher asked some structured questions from the participants and some were impromptu added as per the direction of the discussions and the responses of the participants. While some participants were actively participating in the discussions others weren't very active.

## 7.2 Findings on the Women who did undergo abortions

The Researcher met four women who underwent abortion when unmarried and interviewed them to know their perspective and has collected the data regarding different aspects (medical, legal and social) of abortion from doctors, lawyers and organisations. The whole data from the field has been comprehensively analysed and conceptualised to reach the findings.

### A. Background of the Women

The Abortion changes the lives of the women in various ways, it impacts both physical as well as mental health of the women.

The women interviewed by the researcher were between the age group of 17 to 30, making the average age as 24 years. They belong to different societal background and

are all educated.

| NAME | AGE AT PRESENT | AGE WHEN ABORTION TOOK PLACE | NATIVE AREA | EDUCATIONAL QUALIFICATIONS |
|---|---|---|---|---|
| VANDANA | 27 | 25 | Dehradun, Uttarakhand | B.Tech |
| SUMEDHA | 22 | 21 | Delhi | B.A, pursuing PG (M.A) Now |
| DIVYA | 30 | 27 | Bundi, Rajasthan | B. Tech |
| ROSHNI | 17 | 15 | Delhi | Finished School, looking for admissions in colleges |

All of these women were living in New Delhi at the time of their pregnancies but only one out of these four had an abortion in Delhi. Rest three went outside the city to terminate their pregnancies. While *Divya** had a self-induced abortion at her flat in New Delhi using medicines, *Vandana** and *Sumedha** went to Kota and Agra respectively. *Roshni** was given abortion medicines by her mother at her grandparents house in UP. She was not taken to any hospital or doctor. The fear of someone knowing and the trust issues with the Doctors and staff constantly roam in the minds of young girls. In order to maintain maximum safety they try to travel to different cities where they are sure no one knows them and get an abortion done there. The researcher finds it ironic that the stigma, shame and guilt associated with abortion forces women to find a sense of ease in an entirely foreign setting, howsoever dangerous it may be, when the support of her loved ones is what she needs the most

**B. The Health and Well Being of Unmarried Pregnant Women**

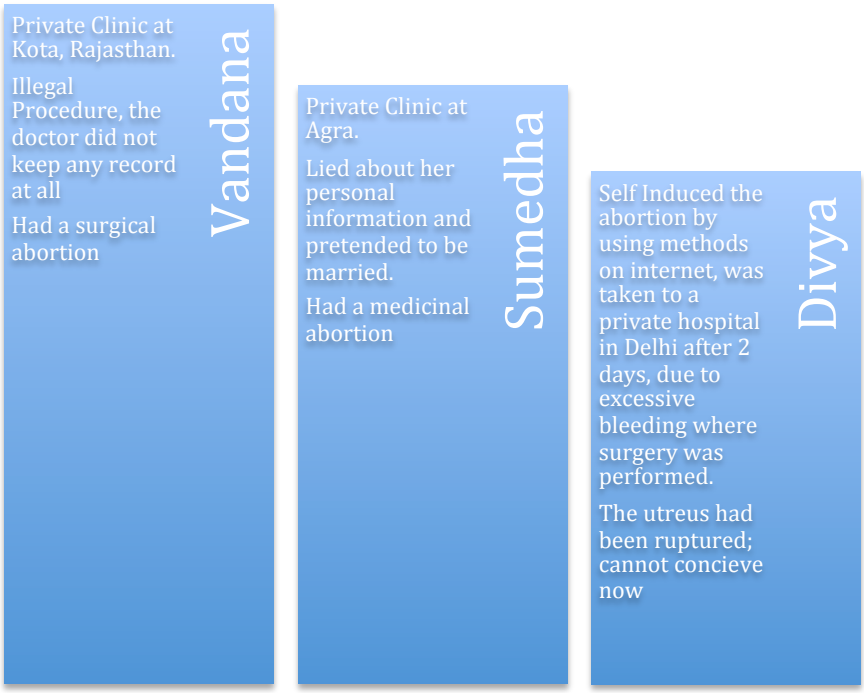
The stigma attached with the word 'Abortion' is so big that even married women aren't saved from it, let alone the unmarried ones. The pressure to 'hide' these things from everyone and to deal with everything on their own is higher on unmarried girls than the married ones. Moreover, many reports suggest that unmarried young woman run the risk of undergoing an unsafe abortion. One woman dies in every two hours in India due to unsafe abortions.[120] Hence, the unmarried girls in such situations aren't just fighting the society; rather they are also fighting the frightful statistics for their lives. The researcher found that none of the women who participated in the study took the services of the government hospitals or doctors, they rather went to 'shady' clinics than risking going to the government hospitals. *Vandana** tried going to a government hospital but did not avail its services as she felt being judged and questioned.

***"I could not gather the courage to buy a pregnancy test kit, a friend did it for me. We were scared. She was there for the whole time. Both of us cried when the result came positive. It took me great effort to visit a 'Sarkari Hospital' and I freaked out there. It was nasty, filthy. It smelled awful. I cannot forget the looks I got and the questions I was asked. When my turn came, I was almost weepy, I wanted comfort. I wanted someone to tell me that it wasn't my fault and that everything is going to be okay. I narrated everything to the doctor and hoped her to tell me that the stick was wrong. She was mean, cold and rude. She questioned my character and lectured me about being responsible. I ran. I took my bag and papers and ran from there."***

***-Vandana[121] (27, works in a MNC, 25 when aborted)***

[120] Meena Menon, Unsafe abortions killing a woman every two hours, The Hindu, May 6, 2013 (Updated on Aug. 10, 2016), http://www.thehindu.com/news/national/unsafe-abortions-killing-a-woman-every-twohours/article4686897.ece (last visited Feb 13, 2017).

[121] Name changed




Roshni did not go to any doctor and hence, is not included in the chart*

There is a general belief that the Private Clinics are less hassle and the doctors there are way less judgmental than the Government ones. The unmarried girls prefer to visit the Private clinics and believe that they more hygienic and professional than the government ones. There are women who go for 'shady' clinics and 'quacks' due to fear and shame of being judged. The unsafe homemade remedies are quite commonly used as well.

***"I read stuff on the internet, I had cups after cups of black coffee, engaged myself in heavy physical stuff, tried to jump & fall and even beat my own lower abdomen when no one was watching. It was after the abortion that I came to know, how dangerous it was!"***

***-Sumedha****

*Dr. Pathak* [122] informed the researcher that it is a common practice for women to undergo unsafe abortion with the help of herbs and '*desi medicines'* and it has multiple reasons for it; either there is refusal by the doctor to conduct an abortion or it is the stigma associated with abortions that the women cannot approach the doctors.

[122] Programme Specialist- Medical & Abortion at IPPF, New Delhi

**C. Lack of Sex Education**

The researcher found that there was lack of sex education as well as that of awareness regarding sexual health and contraception methods. None of the women used any contraception method during the sexual act. None of the women knew about the status of abortion in India or the fact that they would be able to get it safely terminated in a legal manner or not.

Moreover, all of them found out of their pregnancies after they missed their first menstrual cycles.

| Name | Method of Prevention Used | Time when pregnancy was discovered | If they have been using Contraception afterwards |
|---|---|---|---|
| Vandana | None | 4 to 5 weeks | Sometimes |
| Sumedha | None | 38 days | YES, Always |
| Divya | None | 6 weeks | Sometimes |
| Roshni | None | 1 month | Is not sexually active since then |

***"I don't need to be afraid of pregnancy anymore, I cannot get pregnant. I've lost it." -Divya* (Lost the capacity to conceive after unsafe abortion)***

Divya's husband Vivek* who was her boyfriend at the time of pregnancy feels guilty of the fact that they did not use a contraceptive device. They had been using the 'withdrawal method', which is proved to be ineffective in this case. *Roshni** and *Divya's** periods have been irregular since her childhood, it was normal for their cycles to get delayed, hence, they did not suspect it at all. Moreover, *Roshni** did not know that pregnancy can occur without 'penetration' due to sheer lack of sex education.

***"We couldn't get condom. We were trying to have it (sex) but could not because it pained a lot and I cried. We rubbed outside and he climaxed outside my organ; that's it. Nothing went in, we did not do it at all but nobody believes me."***

***-Roshni* (She told her parents the facts but was not believed)***

Dr. Jaya* told the researcher that it is a myth that pregnancy requires deep penetration of the penis into the vagina.

***"Different women have different fertility, the fact that we do not teach anything to the girls regarding their own bodies is atrocious. It is not impossible to get pregnant without penetration"***

***-Dr. Jaya* (Check table for details)***

**E. The Stigma Attached**

There is a stigma attached with unmarried women's sexual freedom as well as with abortion in the society. As explained in previous chapters, unsafe abortions have been one of the highest causes of maternal mortality in India. The stigma does not just stop women from exercising their right to have a consensual sexual relationship but also at times, cost them their lives.

The fact that young adults do not have an easy access to contraception makes them vulnerable not only to pregnancies but also to sexually transmitted diseases. There are many programmes and workshops that are conducted by Organisations like IPPF to spread awareness regarding sexual health and education.

***"We conducted a workshop on sexual awareness and education where we asked the participants who were school children, to go to the chemist shops in Delhi and buy a condom and then share their experiences. They told us that the shopkeepers denied them condoms and some of them even lectured about morality and threatened to tell their parents. This is a dangerous trend, if a person is not able to get a condom then this does not stop him from having sex, rather this pushes them towards unsafe sex and vulnerability like pregnancy." - Dr. Pathak (IPPF)***

The data also reveals that despite suspecting about their pregnancies, (after missing the periods) the women took time to buy a pregnancy test kit in order to ensure the status of their pregnancies. They were hesitant to go out and buy the pregnancy test kits. None of them bought a pregnancy test kit on the day they suspected. *Sumedha** used to stay in a flat in Dwarka with her classmates from college and she couldn't risk her reputation being tarnished. She didn't trust the

chemist to keep it a secret and thought that her whole college will come to know hence, she decided to buy the pregnancy test kit from somewhere far.

***"I was scared, from Dwarka (South-West Delhi), I went to Connaught Place (Central Delhi) and roamed around the place for 2-3 hours and bought the kit from a chemist's shop with my face covered with my friend's dupatta that I borrowed for this very purpose. I was so scared of people recognizing me that I did not wear the things I was wearing while buying the kit for 1 month" -Sumedha****

Roshni* was just 15 and stayed with her parents, she feared the chemist would complain to her parents and after an advice from a classmate ordered a pregnancy test kit from an e-shopping website but her package came in front of her parents and she suffered the wrath of them.

***"I was living with my parents, I waited, They had to go on a trip to Balaji Salasar, I ordered the kit online in such a manner that it would be delivered on the day when my parents are not at home. I was unlucky, my parents came back at the exact moment of the package, they found out." -Roshni****

The stigma forces and compels the women to hide their pregnancies and also to lie about their marital status in front of the doctors or in the hospitals. Sometimes, the doctors deliberately addresses them as 'Mrs.' instead of 'Ms.'

Dr. Jaya* told the researcher that, the unmarried kids, they are scared; they are tensed & they fake being married. Couples, at times, go to the length of wearing **mangalsutra** and **sindoor**. The girls may come here with partners or with their friends but mostly alone. We try to make them comfortable.''

Hence, the stigma at first hampers the possibility of youngsters having a safe-sex without risking pregnancy and then it hampers the availability of safe abortion services to them.

### F. The Financial and Emotional Burden

The researcher found that it becomes quite a problem for young women to arrange for the finances in order to get the pregnancy terminated using a safe method. Two of the four women interviewed by the victims were earning but there savings weren't

enough to cover the cost of abortion, so they had to ask for financial help.

*Divya** and *Vandana** were the only ones who had a source of income but they found their savings insufficient and had to borrow money. *Sumedha** also borrowed money from friends as well as parents.

The doctors told the cost of an abortion to be around 10 to 20 thousand rupees at the most but the women who had abortion told that 20 thousand was the minimum. They spent as much as 30 to 40 thousand rupees.

Not only, they faced a financial crunch but also faced an emotional turmoil as an after effect of abortion. **Relief and Guilt** were two of the significant and common feelings that all of these women felt. Relief was the immediate feeling that they experienced immediately after the abortion; getting rid of the pregnancy without anyone knowing was a mammoth task accomplished for them. Guilt came after relief, sometimes late and sometimes early. It was observed by the researcher that the time period a woman spends on her guilt trips after abortion depends on various circumstances. The guilt of not being a good mother due to abortion was fairly high in the women and on more than one occasion they told the researcher about it.

When it comes to personal relationship the researcher observed that none except Divya* could survive the relationships they were in during the time of pregnancy and abortion[123]. While one (Divya*) is married, rest all are single and did not have any long-term relationship post abortion. *Sumedha** is the only one to avail post abortion services and counselling.

[123] It was a shocking finding for the researcher as she expected to find the contrary.

| Divya | Vandana | Roshni | Sumedha |
|---|---|---|---|
| • Costed around 25-30 thousand<br>• Regrets having an abortion due to the fact that she cannot bear a child now. | • Costed around 30-40 thousand<br>• Does not regret it but feels guilty when she thinks about her cousin who cannot have a child | • Her mother gave her the medicines, does not know the monetary cost.<br>• Still has nightmares, feels guilty all the times.<br>• Is happy that it is over. | • Costed around 30-40 thousand<br>• Does not regret at all, feels guilty about her broken relationship, had to undergo coundelling. |

***"I am just happy that it is over, but it doesn't end the nightmares and the insults."*** ***- Roshni****

## 7.3 Law, Doctors and Abortions

The researcher has analysed the data from the field (all the groups) and has found various trends and perspectives from the field. The researcher here talks about these trends and perspectives.

### A. The Difficulty posed by intermixing of Laws

The researcher has already explained in previous parts how the mixing of certain laws like POCSO Act and PcPNDT Act with the MTP Act creates problems for the doctors as well as the women who desire to avail the abortion services. The researcher also elaborated the example of Ireland where the restrictions on abortion laws have created a confusion that is responsible for the deaths of many women. The researcher found the same trend in the field. The participant women who underwent abortion as well as the private doctors told the researcher that a patient has to take an appointment before visiting the clinic and they ask questions to assess the date of pregnancy. They do not

involve themselves with the cases of underage (minor) pregnant girls and also hardly risk an abortion if the case is complicated.

Section-29 of the Pre Conception & Pre Natal Diagnostic (PcPNTD) Act talks of maintenance of records by such clinics or laboratories. This section states that all the records, charts, forms and reports etc. shall be maintained and preserved under the Act for two years or as prescribed and in case of any criminal proceedings the very same shall be preserved till the final disposal of such proceedings.[124]The researcher found that the doctors maintain their registers anyway; even when they know that the case is under MTP Act and is of 'normal' abortion not that of sex-selective abortion, they STILL keep the record including the documents, reports, consent form stating the name and age (among other things) of the patient. This is for saving their headache. *Dr. Amba** told the researcher that they do it as a common practice as it is very easy to allege a normal abortion of being a sex selective one.

***"Of Course we do that, that's the practice. We do not want Authorities to come and harass us."*** ***-Dr. Amba****

No doctor or hospital agreed to the fact that underage girls for abortions ever approached them. The researcher when asked if it is really true or if they are denying this information due to the 'mandatory reporting' under POCSO Act, was not answered and it was evaded by the doctors. *Miss. Sadhvi** who is an advocate at Delhi High Court was of the view that, "***no one is going to accept the fact that they know about the pregnancy of underage girls, it would make them liable under POCSO Act and that an underage girl cannot have consensual sex as per Indian Penal Code, 1860. It would be statutory rape."***

The cases of sex-selective abortion are generally of second trimester and hence, the doctors are hesitant to take up the cases of women in their second trimester of their pregnancy. Dr. Jaya* told the researcher about the fact that small clinics generally turn away the cases of 2nd trimesters.

***"I receive distressed girls' calls stating the problems, I ask them when did it happen, if it is below 5 weeks, it is an easy case, no complications, beyond that surgery, I generally do not suggest Mifepristone after 5-6 weeks, it generates complications. We are a small clinic we don't take complicated cases. I have***

[124] Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, (1994), Section-29

***pushed away 2-3 girls who were too late; they were in 2nd trimester; I had to. Mera kya jaayega ek-do case nahi lungi toh! Although as a woman I do try to take up all distressed cases but I cannot always do so. Sex Selective Abortion is a reality, we don't do it but others do. We have to be very cautious these days."***
***– Dr. Jaya***

It is evident from the findings that it is very important to de-link these laws in order to reform the abortion services.

### B. The Pending Bill

The researcher found that the MTP (Amendment) Bill, 2014, that is pending in the Parliament and extends the right to perform abortions to midwife, nurses and *Dais* etc. is welcomed by the doctors. The bill also increases the upper limit for termination of pregnancy from 20 to 24 weeks. The members of civil society and various organisations have also welcomed this Bill. *Miss Malini** from HRLN said ***that the bill if passed would liberalise the abortion law in India and would help a lot of people including the women and increasing the upper limit from 20 to 24 weeks is a positive step as there are certain deformities and diseases that cannot be detected till 20 weeks.***

Even though, the Bill brings a significant change, it does not however, clears the ambiguity regarding the status of abortion of unmarried women.

### C. Post Abortion Care

The researcher has already talked about the victims and their status of post abortion care. Here, the researcher mentions the findings from the doctor and the importance of post abortion care. It was only Dr Sarika* who thoroughly explained the need and things included in post abortion care; the research found that there is a lack of awareness in the medical community itself when it comes to this. It includes the steps a woman should follow after getting an abortion.

**Physical Care**- Bigger risks are involved if some part of the foetus still remain inside the uterus and aren't completely flushed out. It happened with Divya* who suffers the loss of her reproductive capacity now.

It is very important to keep in touch with the doctor after Abortion to ensure that it

was a complete success and no damage is done to the reproductive system. In case of an uncompleted abortion must be offered 'Vacuum Aspirations' as quickly as possible.[125]

Not only this, but the minute details of RhoGAM shots (an injection) MUST be taken care of which the researcher was talked about just by one doctor. Dr. Sarika* told the researcher about the RhoGAM shots.

***"If the mother is RH negative then she MUST be given RhoGAM shots after the abortion as if the baby was a RH positive and its blood was mixed with the mother's then her (mother's) blood would develop antibodies against it for future purposes. Hence, it would harm her subsequent pregnancies. It would cause complications. The shady places girls go to do not tell these things hence, they run a bigger risk. They know not of the dangers they are getting themselves into."*** ***-Dr. Sarika****

**Counselling-** Emotional care and support are very important for a woman at such stage. She is under intense pressure and is traumatised, she is constantly scared of someone finding out and in most of the cases she deals with this all alone with no one to talk to or provide her support. All the women who had abortion suffered and were interviewed by the researcher suffered some kind of emotional trauma but only one (*Sumedha**) got counselling.

Post-traumatic stress disorder, suffering from anxiety, guilt, thoughts are suicide, numbness, eating disorders etc. are commonly seen post-abortions.[126] These side effects could run deep and longer depending upon the circumstances of each case. Such women must be given proper professional counselling so that they can come out of this dark phase. *Sydna Masse*, the Author of the book, *Her Choice to Heal* says that the burden of guilt is too much to bear for (such) women and their experiences must be shared and trusted; they need validation and help. Counselling helps before as well as after the abortion. *Sumedha** was definitely doing better than the other girls interviewed by the researcher.

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[125] *Handbook on Medical Methods of Abortion to Expand Access to New Technologies for Safe Abortion, Ministry of Health and Family Welfare*, Government of India (2016)

[126] Sydna Massé & Stephen Arterburn, *Her Choice to Heal: Finding Spiritual and Emotional Peace After Abortion (2009).*

This trend isn't very popular in India. The researcher has mentioned the fact that only one out of four girls interviewed did go for counselling.

**Future Contraception-** In the words of *Dr. Amba**, "*It is very easy to get pregnant after the abortion, the chances increase and conceiving becomes more quick and easy process."* The contraception/prevention methods must be discussed. The **Technical Update on Post Abortion Family Planning** 2016 by **Family Planning Division Ministry of Health and Family Welfare, Government of India** provides that a woman, after abortion, shall be asked about her choice of '*family planning method'* and the same should be provided to her.

## 7.5 Status of Society: Findings

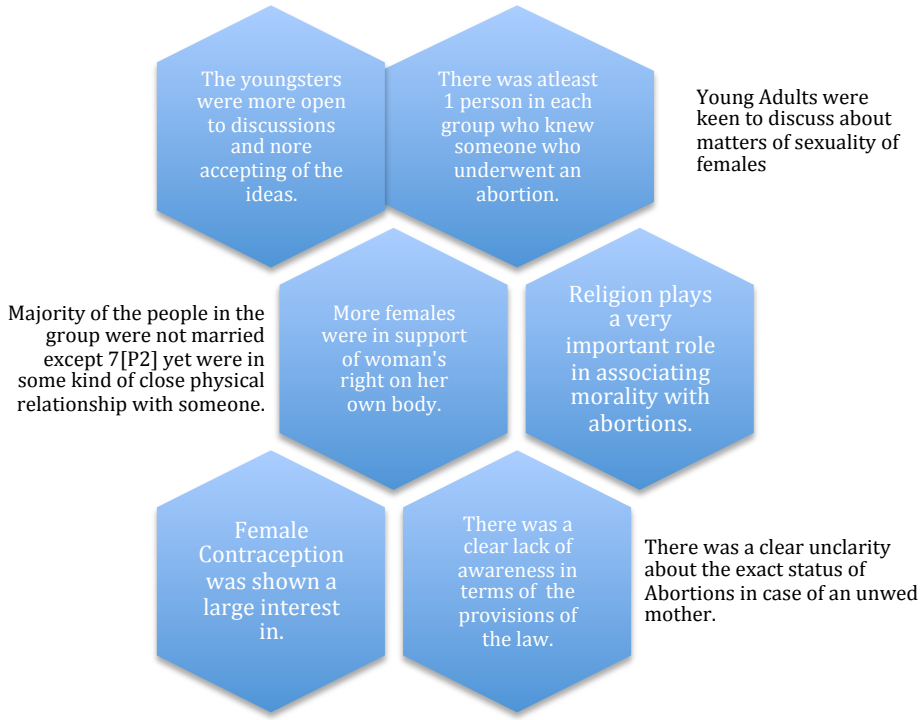
The researcher presents here, the findings so obtained by analysing the data from the common public through focussed group discussions.

The chart below depicts the participants in each sub groups and the different marital statuses they had:

| Group | Total Participants | Married | Unmarried/Single | In Relationship |
|---|---|---|---|---|
| P1 | 5 | 0 | 3 | 2 |
| P2 | 7 | 7 | 0 | 0 |
| P3 | 7 | 0 | 4 | 3 |
| P4 | 7 | 0 | 2 | 5 |

**Observations from the FGD's:**

The diagram shows the observations made during the FGDs by the Researcher




### A. Lack of awareness

The researcher found that there was a clear confusion about the 'legal status' of Abortion in our county. While the participants were aware of the fact that abortion is legal and is allowed in the cases of rape, they however, were confused when it came to abortion of an unmarried woman. This lack of knowledge is shocking given the fact that India had an Abortion Law in place since 1971. It so happens that Abortions are presumed and perceived in general to be sex selective and hence, the concept of abortion as a matter of choice sounds foreign and complicated. The researcher was not expecting such a low level of awareness in the society. From the P1 only 2 people out of 5 knew that abortions are legal under MTP Act, 1971.

*"I didn't know. Even unmarried people can have it?" -Darshan* (Male, P1)*

P2 participants were sure about the legality of married women's abortion but there was an utter confusion when it came to unmarried women's right to abort where one of the participants asked following:

***"No-No, How can an unmarried woman be allowed to have abortion?" -Sumitra* (Female P2)***

*Neha** a participant of P3 and currently a college student responded that abortions are not legal but a lot of them take place and later on when she came to know about the fact that abortions in India are legal her response was ***"Wait, what? Is it legal? Abortion is legal?"***

The researcher found that there is a lack of knowledge and awareness regarding the status of abortion among the majority members of the society; the status of abortion of an unmarried woman becomes secondary if there is a severe lack on abortion in general, though a satisfactory number of people knew that abortion id permitted in the cases of rape.

**B. Morality and Abortions**

There was no uniform opinion on the relationship between Abortions and Morality. The researcher found that there is a difference in attitude of young adults and the old mature adults, whereby the young adults were more 'open-minded' regarding the idea that abortion is not per se immoral but the latter were stern on their notions of morality and that abortion is an immoral act per se.

***"Abortion has been sold to us on the name of family planning. It is not Indian culture. If you don't want a child, don't make one, why murder? Abortion is a sin. Killing a child!" - Naresh (Male, 62 years old, P2)***

Two young adults out of all the participants believed that abortion as an immoral act based on their religious values.

***" Yes, it is (immoral). It is haram in my religion. It can be done before the soul enters the body of the child if there is danger to mother's life, else not. It is a sin. Why should we take someone's life when it is Allah to give us the gift of life and take that away?" -Chand* (Female, 25 years old, P1)***

While another participant *Khadija** (P4) expressed that it is basically the man who exploits the woman through abortion. However, she too considers abortion an immoral act per se.

***Abortion is a sin and immoral act. It should be avoided unless the life of a woman is in danger due to that. Now, times are changing, females are exploring their sexuality before marriage, it is strange. It's actually the male who derives all the pleasure of the act and the woman is left to suffer. Young, Unmarried and pregnant***

***alone… Then she commits the sin of abortion. Woman must realize when a man uses her. –Khadija* (Female, 28 yeas old, P4)***

The fact about female sexuality being a bigger taboo than anything else was largely accepted, especially by the females; the old-mature adult females were more concerned about the issue of women's health.

***"It is a taboo. People don't talk about it. I have not had a chit-chat ever about abortions. Sex- Yes but Abortion- No. For a society like us, it must be a very heavy topic to digest and largely immoral.***

***–Bobby (Age-20, Female, P4)***

***"Humari umar mein aaoge toh pata chalega kitna harm hota hai body ko. How moral is Abortion! It has become a necessary evil now."***

***-Suman (58 years, female, P2)***

When asked about the choices available to unmarried pregnant women in Delhi in today's world, getting married as soon as possible, adoption or even keeping the child was suggested. However, some of the participants expressed their concerns about the feasibility of the latter two indicating that it cannot happen in the Indian Society of today.

***"I would like to keep the baby but the society won't go easy on me. It would be a large scandal" -Nidhi (Female, 22, P3)***

There were mixed views from the participants about the change in society. Some saw it changing while others did not. However, the Researcher saw a lot of hope for a better society after these discussions.

The Researcher found that abortion is not a choice in case of unmarried women, they know that they cannot go ahead and give birth to the child in our society as they would be shamed, questioned, disowned and might even be killed. Hence, abortion for them is at times, an only way to live and they want to live a normal dignified life just like every one.

# 8. CONCLUSIONS AND SUGGESTIONS

***"Restrictive Laws Do Not Stop Women From Having Abortions; They Mainly Make The Procedure Clandestine And Often Unsafe. Restrictive Abortion Laws Endanger Women's Health."***

- Guttmascher Institute

The honourable Supreme Court of India has affirmed that the **Right To Life**[127] under the **Indian Constitution** promises of a dignified life and not merely of animal existence[128]; a life free from exploitation[129] and that it must include protection of the health and strength of men and women under its ambit.[130] A dignified life is inclusive of a healthy life and it is the duty of the State to take care of the health of its citizens; it has been established by the experts that 'reproductive health' is of great importance and must be improved and take care of.

The recent acknowledgment and inclusion of 'Sexual and Reproductive Rights' as 'human Rights' by the United Nations proves the fact that 'having a right' to decide for one's body is an important aspect of 'dignified life'. These rights are applicable in the cases of termination of pregnancy by a woman, which being a subset of 'reproductive rights' also effects the 'right to health' as well as the 'right on one's body'.

MTP Act, 1971 governing the laws related to termination of pregnancy in India does not give the women in India, the autonomy to choose for their bodies. The Researcher tried to highlight the problems faced by a section of women due to the insufficiency of the provisions under the said Act. The right to life of the mother (woman) prevails over the right to life of an unborn in India and forms the basis of the provisions on abortions in the country yet there exist numerous direct and indirect causes contributing to Maternal Mortality Rates in the country or to the negligence of a woman's right over her body. The said Act is negligent towards the right of unmarried women in India and does not acknowledge the issue of their right to a dignified life by completely ignoring their right to make an informed choice and their right to health, as a result of which these girls suffer.

[127] Article 21, Constitution of India, 1950
[128] Maneka Gandhi v. Union of India AIR 1978, 597
[129] Bandhu Mukti Morcha v. Union of India 1984 AIR 802
[130] Ibid.

The Researcher came to the following conclusions:

1. There is a clear difference between permitting a woman to undergo an abortion as a matter of 'family planning' to keep difference between kids or to not start a family and 'granting' a woman her right to abortion. The latter is granting a woman liberty to choose by increasing her options. If the Laws of a country offer 'abortion' as an option for planning a family or in restrictive circumstances then they exclude a large number of women from accessing such services and deny all women their right to sexual and reproductive health. Moreover, such policies do not stop the women excluded, from having an abortion; rather they compel such women to look for other methods, which are highly unsafe and dangerous to their health.
2. The current law i.e., MTP Act, 1971 does not grant the Right to Sexual and Reproductive Health, to the women. It needs to be reviewed and amended as per the current needs of the Indian society. The Researcher studied one aspect to it, which is its insufficiency to provide safe abortion services to unmarried women; during her research the researcher came to know the other flaws in the Act that compel women (married also) to undergo unsafe and uninformed abortions, thereby compromising with their health. This Law needs an effective amendment.
3. The Act along with other provisions on abortion has constructed a web of difficulties for unmarried women. They are uninformed and there is no awareness about the provisions of the Act and are already afraid due to the stigma attached with sexuality, pregnancy and abortion of an unmarried woman. The character assassination of such women is done in the hospitals as well. Furthermore, their options to safe and legal abortions are very limited and costly with private clinics charging them anything from 10,000 to 30,000 for everything. All of these result in such women going for unsafe procedures. They do everything from trying to take the abortion pills without prescription to eat/insert different herbs.

   Their mental, emotional as well as physical health is affected. It is very common for them to feel cornered and lonely; they withdraw from everything for a few days.

***"All I wanted was someone to tell me it is okay, that I am not wrong and I am not the only one. Someone to tell me that I have had it too and it isn't bad. Just take care..."*** ***-Vandana****

- The researcher concluded that the Law not only needs an amendment but also there is a need to spread awareness about it. Since there is no 'sex education' available in our country and abortion is not covered under the NCERT curriculum in the schools, the youngsters grow without reading or knowing about it; whatever little knowledge they acquire comes from rumours shared between friends, this hampers the knowledge and makes it even more dangerous subject.

## Suggestions

1) The Parliament should make desired changes in the present law and make abortion services accessible to all. The options should be increased for women, because unless they have a genuine access to abortion and health services including post abortion care, and adequate support to raise the kids (in case a woman wants to choose childbirth), women cannot make a real and informed choice between abortion or childbirth.
2) All the stakeholders including doctors, lawyers, civil society must be sensitized towards the need of women and must be trained to not be judgmental so that the women can open up to them.
3) It must be taken into regard that pregnancy is a result of 'sexual intercourse' and not marriage hence, interpreting the word marriage as relationship in nature of marriage or a live in relationship would not help the unmarried women at all; rather this would create another category of women i.e., those who are unmarried and not in any relationship and are pregnant due to an act of sexual intercourse only. Then such women will be discriminated against. Hence, to avoid that, the Parliament should look into the matter and make the desired changes as soon as possible. The researcher also suggests the courts to realise the need of the hour and interpret the provisions of MTP Act, 1971 in the suitable manner. We should liberate our Laws and give the women their legal and fundamental right to life with dignity where they are free to choose for their own body.

4) The adolescents and young adults must be imparted knowledge regarding sexual and reproductive health as well as rights and the Government should devise necessary mechanisms to spread awareness campaigns for the same.
5) It must be realised that restricting abortions do not solve the problem instead it promotes illegal and unsafe abortions and hence, the laws require liberalisation.

***"Once a woman decides she doesn't want the kid, she does not want it. She will do anything for it then by hook or by crook. If safe abortion is not available then she will go for unsafe one, but she will have it. Be it legal or illegal."***

***-CREA***

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