

A Comparative Overview of Abortion's Ethical, Legal, Medical, and Social Dimensions

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Abstract

Abortion has always been discussed and debated for a long time, and to this day, people disagree about it. The debate revolves around two terms: Pro-life and Pro-choice. Both terms support two different things. When we say Pro-life, it means that an unborn child also has a right to live, but when we say Pro-choice, it means that a woman has a right to decide whether or not to have a baby.

Abortion has always been a complex issue because it is connected to religion, ethics, medicine, and law. It is also a social issue because it gives women both freedom and control over their own bodies and decisions.

In India, the discussion about abortion is incomplete without addressing the serious problem of female foeticide, which means the practice of aborting the female fetus just because it's a girl child. So, when we say abortion can empower women, then it is important to balance women's freedom and right to the unborn child.

Medical Termination of Pregnancy is a global law that allows abortion on 6 grounds: (1) To protect the women's life; (2) any danger to women health either physical or mental; (3) If the pregnancy is there because of rape or incest; (4) if there is any risk to the child born with serious abnormality; (5) upon the request of women; (6) Lasty if there is any social or economic problem.

Keywords: Abortion Rights, Female Feticide, MTP Act 1971

1. Introduction

The rights of women relating to sexuality, fertility and reproduction are rarely taken into consideration while making a policy related to abortion.¹ As abortion deals with taking away human life, it is considered one of the most controversial ethical issues. When we examine the conventional arguments against abortion, we typically find that each is motivated by either legal or religious considerations. On the opposite side of the debate, those who support abortion typically contend that it is a woman's right to decide whether or not to carry a pregnancy to term.²

The people who are anti abortionist will generally argue on the grounds of religious beliefs. Throughout history, women have used different methods to control birth and terminate pregnancy. These practices have led to strong moral, ethical, political, and legal debates, because abortion is not just a medical issue. It is part of a larger conflict involving the meaning of family, the role of the state, motherhood, and young

¹ Amar Jesani & Aditi Iyer, Women and Abortion, 6 Econ. & Pol. Weekly 123, 124–30 (1971), <https://www.jstor.org/stable/4400452> (last visited Jan. 8, 2026).

² Bhavish Gupta & Meenu Gupta, The Socio-Cultural Aspect of Abortion in India: Law, Ethics and Practice, ILI L. Rev. (Winter 2016), https://ili.ac.in/pdf/p10_bhavish.pdf (last visited Jan. 10, 2026).

women's sexuality.³

2. Abortion human rights dimension

The Universal Declaration of Human Rights is a "common standard for all people and nations," according to its preamble. Additionally, it states that members of the UN have reaffirmed their commitment to fundamental human rights, the worth and dignity of every individual, and the equality of men and women.⁴ According to the second article, everyone has the right to freedom, regardless of their humanity. Therefore, everyone has an equal right to all of the freedoms and rights outlined in this statement. According to Article 3 every everyone has a right to life.⁵ All other human rights are based on the right to life. The declaration does not establish a legally binding obligation, even though it clarifies the world community's understanding of human rights⁶.

The right to life is upheld and implemented by the International Covenant on Civil and Political Rights (ICCPR). Every person has the right to life, and the law ought to uphold this right. This right cannot be unilaterally taken away from anyone.⁷ The phrase "Human Being" is clearly mentioned in the ICCPR. The unborn are no longer legally protected in the United States due to court interpretations of the term "person." However, some contend that the fundamental principles of human rights texts prohibit abortion or, at the very least, do not acknowledge the right to an abortion because the term "human being" is interpreted scientifically to relate to living beings.⁸

Few jurists contend that, historically, a new life's birth marks the beginning of the right to life guaranteed by the International Bill of Rights. The history of international human rights treaty negotiations supports this viewpoint. A few states proposed including language protecting life from conception during discussions for a number of regional and international human rights treaties. But the majority of these suggestions were turned down.⁹

While other rights in the Covenant refer to "everyone" or "every person," Article 1 of the ICCPR declares that "every human" has the intrinsic right to life. The question of whether every human has a broader connotation that may encompass the unborn child is thus raised by this change in phrasing. It is also acknowledged that criminalising abortion may have an impact on the right to life, even if there is no credible material supporting this interpretation. This is corroborated by a case where a young woman killed herself because she was unable to have an abortion since it was illegal, which is a clear violation of the right to life. Article 12 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) provides an additional definition, stating that nations must take the necessary steps to

³ Rosalind Pollack Petchesky, *Abortion and Women's Choice: The State, Sexuality, and Reproductive Freedom* 39 (Northeastern Univ. Press 1991).

⁴ Universal Declaration of Human Rights, G.A. Res. 217 A (III), art. 2, U.N. Doc. A/810 (Dec. 10, 1948), [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_217\(III\).pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_217(III).pdf) (last visited Jan. 8, 2026).

⁵ William Saunders, *The ABC of International Right to Abortion*, 52 *Hum. Life Rev.* (Summer 2010), <https://aul.org/wp-content/uploads/2021/06/WilliamSaundersSanJoseArticlesandIn27IRighttoAbortion4AveMariaIntlLJ-2015.pdf> (last visited Jan. 8, 2026).

⁶ Bhavish Gupta & Meenu Gupta, *The Socio-Cultural Aspect of Abortion in India: Law, Ethics and Practice*, *ILI L. Rev.* (Winter 2016), https://ili.ac.in/pdf/p10_bhavish.pdf (last visited Jan. 10, 2026).

⁷ International Covenant on Civil and Political Rights, art. 6.

⁸ *Ibid.*

⁹ Human Rights Watch, *Human Rights Law and Access to Abortion* <https://www.hrw.org/news/2022/06/24/qa-access-abortion-human-right> (last visited Jan. 8, 2026).

end discrimination against women in healthcare. Additionally, it guarantees that men and women have equal access to health care, including family planning services.

3. Abortion and the Constitution of India dimension

The framers of the Indian Constitution made sure that everyone would be shielded from the abuse of governmental power and authority. They also made sure to include fundamental rights, which are found in Part III of the Indian Constitution. Under Article 21v of the Constitution of India, it talks of the right of personal liberty. This is regarded as one of the most significant and fundamental rights that everyone is entitled to. It represents the ideals of Indian society and restricts the authority of the government. In this regard, every woman has a personal right to life, liberty, and the freedom to choose what makes her happy, all of which uphold her right to an abortion.

Women are capable of reproducing, so they should even have the right to decide on their sexual and reproductive health. The international community acknowledged women's reproductive rights in order to promote women's access to human rights and to further global development. Numerous governments worldwide have acknowledged this and created laws and policies to safeguard women's rights. As a result, it is acknowledged that every woman has an unalienable right to regulate her body and her reproductive choices.

4. The Act of Medical Termination of Pregnancy 1971

In the American case of *Roe v Wade* (1973).¹⁰ At a time when abortion was strictly prohibited in Texas, unless it was essential to save the mother's life, a pregnant woman wished to end her pregnancy. Roe claimed that the law infringes on her constitutional right to privacy. The U.S. Supreme Court ruled that a woman's right to an abortion is part of her right to privacy. The Texas law was declared unconstitutional by the court, which also established a Trimester Framework in which women are free to choose during the first trimester and the state cannot interfere; in the second trimester, the state may regulate abortion for mental health reasons; and in the third trimester, the state may prohibit abortion unless it is necessary to protect the mother's life or health. In this instance, it is evident that the United States has begun to legalise abortion. Since 1970, numerous nations have begun to liberalize their abortion regulations during the past thirty years. *Planned Parenthood v. Casey* later changed the *Roe* ruling.¹¹ According to a U.S. Supreme Court ruling, the viability of the fetus rather than the third-trimester standard established in the *Roe* case now determines whether an abortion is permissible.

The Central Family Planning Board, on August 25, 1964, in India, suggested that the Ministry of Health be established as a committee to examine the necessity of abortion laws. The group, which included representatives from both public and private organisations, endorsed the recommendation at some point in the second half of 1964. The "Shantilal Shah Committee" was the name of the committee. After analysing the extensive statistical data, the committee released a report on December 30, 1966. Based on the study, the government implemented the Medical Termination of Pregnancy Act 1971, which liberalised abortion in India. The Committee acknowledged that there were insufficient medical professionals and infrastructure to support a large-scale abortion program, and that these resources were unlikely to become available anytime soon. The committee also emphasised a few aspects, such as the fact that legalising

¹⁰ 410 U.S. 113 (1973).

¹¹ 505 U.S. 833 (1992).

abortion only for population control is impractical and may potentially undermine the beneficial strategy of family planning through the use of contraception.

The Medical Termination Act was first put into effect in April 1972, and it was updated in 1975 to eliminate delays in the approval of abortion facilities and to facilitate access to services. In 2002 and 2005, it received amendments. According to the act, certain pregnancies may be terminated by licensed medical professionals for connected reasons.

The act is primarily divided into eight sections that address different aspects, such as the time, location, and conditions under which medical professionals may end a pregnancy. The statute allows abortion in specific situations where the woman's bodily or mental health will be harmed by the pregnancy or when the contraceptive method fails. It is crucial to keep in mind that the woman's agreement is required for pregnancy termination. However, a guardian's approval is necessary if she is a minor or mentally ill.¹²

The act authorises medical termination up to twenty weeks of gestation in certain circumstances. However, the act does not completely address the social realities where a woman may not be able to make a free and independent choice; instead, it demands the pregnant woman's written approval before the treatment begins. The act does not uphold the equitable balance between the woman's freedom to choose whether to carry the pregnancy to term and the unborn child's right to be born.

In *Nikhil D. Dattar v. Union of India*¹³ The Medical Termination Act's sections 3 and 5 were contested for failing to cover specific medical conditions. In this instance, the petitioner requested a 26-week pregnancy termination after the fetus was found to have a total heart block. The petitioner contended that in extraordinary circumstances, termination should be allowed even after twenty weeks by reading section 5(1) of the statute in conjunction with section 3. The petitioner asked the court to order the authorities to permit the termination.

However, the court ruled that it cannot create or amend the legislation. According to the statute, sections 3 and 5 only permit termination under certain circumstances, and relief under section 5 is only permitted when the pregnant woman's life is in danger. The petition was denied because the court ruled that it could not authorise a pregnancy termination under section 3 of the act because the pregnancy had progressed over twenty-six weeks. The ruling also recognised the various physical and psychological traumas that the women in this scenario endured, as well as the moral conundrum that the doctors faced when faced with intricate medical and legal restrictions.¹⁴

5. Social and ethical concerns

Abortion is one of those issues that covers social, religious, economic and political aspects and its impact on society can be seen in both positive and negative aspects. At the very beginning stage of the abortion policy the Western societies have mainly opposed this practice; also, for nineteen centuries, many countries have brought their laws regarding the prohibition of abortion. In the late twentieth century, it was observed that women's rights were starting to gain importance. Many awareness movements were created in some countries, including the United States, and they also started to legalise abortion then.

India is a country that has so many deep-rooted social issues, such as poverty, uneducated and social stigma, and the consequences of this MTP Act need to be examined in the light of these changing

¹² Medical Termination of Pregnancy Act, 1972 (Act of 1971), s. 3.

¹³ S.L.P. (Civ.) No. XXXX of 2008 (Sup. Ct. India), <https://www.legitquest.com/case/drnikhil-ddattar-others-v-union-of-india-another/F70B> (last visited Jan. 8, 2026).

¹⁴ Centre for Reproductive Rights, Human Rights Law Network, available at: <https://www.womenpeacesecurity.org/member/crr/> (last visited on Jan.8, 2026).

conditions, values and attitudes. The social impact of the act can be broadly understood by dividing into two heads: one is abortion done by married women, and the other is abortion done by unmarried women, as both have very different social meanings.

Abortion for married women is something that is generally accepted by society, but abortion for unmarried women is something that is still a stigma. Because of this lack of acceptance, there are many difficulties faced by women in relation to safety and timely abortion; sometimes it also weakens the objection to the abortion law of protecting the health and well-being of women. It is also observed in the rural area because of a lack of medical facilities; the women of that area are often taken to a distant place for termination, and also to save their family honour and social reputation

Even with so many challenges, the abortion law, i.e. the MTP Act, has had a positive impact. It has improved women's health and safety, reduced the incidence of unsafe termination and suicides, and encouraged wider acceptance of family planning.¹⁵

However, the MTP Act even have the negative implication mainly due to the inconsistent compliance with the prescribed medical standard. This problem is mainly observed in rural areas where there is no proper tracking and monitoring. Therefore, the safety and effectiveness of the medical termination process remain uncertain. In many cases, because of this lack of medical facilities, many complications are faced by the patients, which may lead to serious health problems such as infertility, menstrual disorder, pelvic inflammatory disease. In extreme cases, these unsafe practices will even result in death.¹⁶

The major issue lies in the implication part of the law and the regulatory framework. It is the responsibility of the government to ensure that the medical termination of a patient is carried out by a registered medical practitioner and is done in a registered hospital or clinic. Another major challenge faced by the authorities is that it is to identifying the genuineness of the reason given for medical termination. There have been many cases reported where the abortion has been very little or non-medical grounds, such as family function, travel plans, etc. It is also observed that in many cases, medical practitioner also performed these practices for their financial gains, and they even unchecked the fabricated medical report. Such practices can have serious short-term and long-term consequences. In a way, it is abortion is also sometimes used as a substitute for the regular family planning methods.¹⁷ These concerns can be effectively addressed by the government policies and awareness programs. It is important to maintain the balance between the positive and negative aspects of this social legislation.

The debate relating to the prevention of unwanted pregnancy has continued across many years. Even in India, despite having legislative and judicial regulations, there is a controversy relating to the medical termination of pregnancy permits. Still, many consider abortion to be morally wrong, but today it is considered the right of women, which cannot be denied.

The Supreme Court in the case of *Suman Kapur v. Sudhir Kapur*¹⁸, abortion done by the woman without the consent of his husband amounts to mental cruelty and it is one of the grounds for divorce. In this case, the court explains¹⁹ Mental cruelty is something that gives you long-term mental pain, suffering, because of which you cannot have a happy married life. Because of looking it all these judgments, it is believed

¹⁵ Government of India, Report of Ministry of Health and Family Welfare on Rural Health Care System in India (Ministry of Health & Family Welfare 2005).

¹⁶ Government of India, Annual Report 2000–2001 (Gov't of India Press, Ministry of Health & Fam. Welfare 2001).

¹⁷ Ministry of Statistics & Programme Implementation, NSSO 60th Round, Report No. 507 on Morbidity, Health Care and the Condition of the Aged (Nat' l Sample Survey Org. 2004).

¹⁸ A.I.R. 2009 S.C. 589.

¹⁹ Ibid.

that in India, women do not have an absolute constitutional right to abortion. The MTP Act 1971 allows abortion, but the right is limited and not unrestricted.

The Supreme Court even made an important decision and said that a serious problem in the foetus can be a valid reason for termination of pregnancy even after twenty weeks of pregnancy. In *Ms X v. Union of India*²⁰ The court allowed a twenty-four-week rape survivor pregnant to terminate her pregnancy. The court believed that forcing a woman to continue such a pregnancy can cause her mental and physical suffering. Even the International Federation of Gynaecology and Obstetrics (FIGO)²¹ recognises that it is ethically right to allow abortion if the foetus faces abnormalities. The FIGO also states that the final decision lies in the hands of parents²².

6. Psychological Perceptive

A very famous birth control activist, Margaret Sanger, once said that women cannot truly be free unless they decide for themselves whether they really want to become a mother. It is observed that women have come a long way from the time when abortion was illegal and socially unacceptable. In those times, these issues created a serious mental stress to the pregnant women and their family members as they went through with fear and uncertainty about the future. But in today's scenario, abortion is legally accepted in many countries, which reduces the physical and psychological stress of women. Because of this, it also gives a positive impact on women, as now they feel they have a sense of control over their lives and even have the right of choice. It is observed that women going through an abortion in a supportive environment usually feel relief rather than guilt, which women used to feel when it was illegal. However, there might be some cases where women still feel stress and depression after going through an abortion.²³

In past, if the pregnancy was causing danger to the woman's life, the abortion was still not considered as a valid reason for abortion if the pregnancy continued for the full term. Forcing a woman to carry on with such a pregnancy violates her bodily autonomy and fundamental human rights, even though this step was not openly acknowledged. Numerous international human rights rules safeguard each person's freedom to control their own body. Ensuring that every woman has the right to an abortion becomes crucial as a result.²⁴

Pro-lifers oppose abortion and contend that since life begins at conception, abortion is equivalent to murder because it involves the taking of human life. The concept of the sacredness of human life is directly violated by abortion, which is not acceptable in any civilised society. Any person to kill or injure another person. Adoption is their solution to an undesired child, and they think that millions of parents who are childless wish to adopt a child. They contend that abortion punishes the unborn child, who did not commit any crimes, in cases of rape, incest, etc.

Their fundamental tenet is that women who want total control over their bodies should be able to prevent unintended pregnancies by using contraception responsibly or, in the case that this is not feasible, by exercising self-control. To put it briefly, abortion ought not to be utilised as a substitute method of birth

²⁰ *Ms X v. Union of India*, Writ Petition (C) No. 593 of 2016 (Sup. Ct. India), decided July 25, 2016, <https://indiankanoon.org/doc/127922243/> pdf (last visited Jan. 8, 2026).

²¹ International Federation of Obstetricians & Gynaecologists, Recommendations on Ethical Issues in Obstetrics and Gynaecology 58 <https://www.figo.org/sites/default/files/2020-08/FIGO%20ETHICAL%20ISSUES%20-%20OCTOBER%202015%20%28003%29.pdf> (last visited Jan. 8, 2026).

²² *Id.* at 75.

²³ Siddhivinayak Hirve, Abortion Policy in India: Lacunae and Future Challenge, Abortion Assessment Project (Ctr. for Enquiry into Health & Allied Themes, Bombay 2004).

²⁴ *Ibid.*

control.²⁵ Pro-choice advocates, on the other hand, Favour abortion and contend that since a foetus cannot exist independently of its mother during the first trimester, it cannot be considered a separate creature. This is because it cannot be considered a separate entity because it cannot exist outside of the mother's womb and is linked to her via the placenta and umbilical cord. As a result, its health depends on the mother's health.²⁶

The idea that personhood and human life are completely different is another argument they make. Human life begins at conception, yet fertilised eggs used for in vitro fertilisation are frequently discarded rather than implanted. If it doesn't qualify as murder, how can abortion be? Additionally, they think that adoption is not a viable substitute for abortion. Contraceptive pills are useless in instances where a woman is either uninformed that she is pregnant or is too scared to discuss it, even in cases of rape, incest, etc. According to this group of people, pregnancy can occur even with responsible contraceptive use, even if abortion should not be used as a method of birth control.²⁷ An additional point on which they base their argument. One is that teens who become mothers have difficult future prospects, including dropping out of school, health problems, poor prenatal care, and societal stigma. As a result, they think it goes against the core ideas of civil rights and the freedom of choice.

7. Conclusion

It would be crucial to comprehend the fundamental goal of abortion legislation before making any conclusions. It follows that the primary goal is to give all women access to high-quality abortion treatment that is considerate of their needs by raising features that include the affordability and ease of access to safe abortion services. This can be accomplished by expanding the number of trained individuals and well-equipped abortion facilities, as well as by mobilising human, financial, and material resources for the provision of care and safety in abortion procedures. Additionally, by incorporating abortion services into primary and community health facilities, investing more in public amenities, expanding the pool of abortion providers by training paramedics to do first-trimester abortions, streamlining registration processes, integrating policy with modern technology, attending to the requirement for suitable post-abortion care, etc.

The MTP Act, which legalised abortion in India in 1971, has not produced the anticipated results. The majority of women continue to have unsafe abortions despite the existence of moderate policies. The burden of maternal illness and mortality is significantly increased by this. Section 3 of the MTP Act currently includes explanations saying that terminations because the suffering brought on by both rape and contraceptive failure qualifies as a "grave injury to her physical or mental health," they are both acceptable. The MTP Act must acknowledge that a diagnosis of fetal disability may cause anguish that constitutes a serious harm to mental health, and that such an exemption must remain during the whole pregnancy period, because during the designated 20th week of pregnancy, several fetal abnormalities cannot be identified. "The touch of children is the delight of the body; the delight of the ear is the hearing of their speech," remarked the renowned Tamil saint Thiruvalluvar. A mother's natural responsibility is to give her children the best. Nevertheless, she occasionally engages in such behaviours that have a negative impact on the

²⁵ Abortion Arguments from Pro-Life and Pro-Choice Sides & Main Points of Debate, About.com (last visited Jan 10, 2026), <https://www.thoughtco.com/pro-life-vs-pro-choice-721108>

²⁶ Abortion Arguments: 10 Arguments For Abortion, 10 Arguments Against Abortion, About.com, <https://www.britannica.com/procon/abortion-debate> (last visited Jan. 10, 2026).

²⁷ Ibid.

fetus. It can happen as a result of ignorance, carelessness, or even deliberate actions. Abortion raises a number of ethical, financial, and social concerns. Therefore, it can be said that a mother's ability to end her pregnancy is restricted.²⁸ The law is responsible for protecting both the unborn child's life and the mother's independence and freedom. The Women who become pregnant unexpectedly should receive love and support from the medical community and society, as well as help in finding compassionate alternatives to abortion.

²⁸ Rosalind Pollack Petchesky, *Abortion and Women's Choice: The State, Sexuality, and Reproductive Freedom* 13 (Northeastern Univ. Press 1991).