



RIGHT TO ABORTION: A LIBERTY OF RIGHT AND CHOICE

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ABSTRACT

The medical termination of pregnancy used to terminate the pregnancy by safety and efficacy in clinical practices in India. The word 'aborting' is not used as such in the law; instead, use the term medical termination of pregnancy. The curious choice of words which used in the colonial period for the technical jargon in-laws, but the use of MTP which aimed at ensuring the abortion laws in the country has not implemented as to grant women a choice or a right to undergo safe abortions. It is a procedure that would protect the doctor's against prosecution. The choice of a woman or her right to terminate the pregnancy is a dream in India.

Many of the countries that restrict the laws as a right of women because of the health aspects. Some of the law which says about the women's request is universally acceptable and fit for purpose. But the road to the law reform is long and complicated. It will be the right to give a woman a choice for her abortions, but it is the biggest challenge that if at all with all these technologies, abortion can affect the health of the women. The termination of pregnancy can be achieved as a right by the collective efforts of many people and women themselves- so that everyone with the unwanted pregnancy who seeks an abortion can have it, as early as possible and as late as necessary.

Keywords: MTP ACT, Right of termination, Weeks of Pregnancy, Amendment Act, Judicial activism, Article 21

INTRODUCTION

"No woman can call herself free until she can choose consciously whether she will or will not be a mother." — Margaret Sanger

In India, the majority of women are still unable to obtain access to safe abortions, following 50 years of legislation which have passed, it is still many women's in many districts have problems with the abortion. The Medical termination of pregnancy amendments has already made in 2002, 2014, 2020. The district abortion control, punitive steps are taken, physical criteria for pre-natal abortion facilities and medical care, where all intended to expand safe services.

The medical termination of pregnancy is the method of separation of unwanted pregnancy. Abortion becomes legal in India in the year 1971. It is keeping in mind the advanced technologies that might make safe abortions in the field of medical science. The framers of the bill wanted the women/girl to have such abortion thinking that if not performed, it will make serious consequences' in the life of the pregnant women. To avoid such problems, that might affect the women's body the parliament has constructed the law which makes safe abortions so that it will not affect those mentioned above. So for terminating the pregnancy lawfully, the Shantilal Shah Committee was appointed to look after the case.

The committee studied the legal, health and socio-cultural implications of the abortions and proposed legally- termination. The recommendations of the committee led to the



act that has passed by the parliament came to know as “ Medical Termination Of Pregnancy Act, 1971.” However, the punitive provisions¹ were not invalidated, even though the MTP Act was adopted.

Abortion discussed in many ways or multi-subjects in the world. Like that of theology because most of the religions are having something to say about the abortions and their issues. The ethics are one of the important things as we know that human conduct and the moral side of it having the problems that involve in it. The law is a regulation which is made by the humans as sanctions which are enforced by the state. The abortion is classified into many categories depending upon the circumstances it occurs, i.e. include artificial or induced, natural, spontaneous or accidental. All those except the induced abortion makes it punishable by the law because it is an abortion that makes delivery voluntarily procured (any time before natural birth) with intent to destroy the foetus. That's why it has made punishable so that people with intent would not kill the fetus inside the body. Abortion is the destruction of life after conception and before the delivery. Before these two times, life has already begun. However many peoples in our society have a different point in this, some people say that life will start at the moment of conception. But this is a religious tenet that makes no scientific truth at all. Others say they don't believe in fertilised ovum instead they think that human life begins at birth. Or we can say that when the foetus is sufficiently developed and starts moving and removed from the mother's womb.

Some may argue that if there were no life before a child was born, that would be no need for any legal prohibition or penalty for infusion, with the exception that small degree that such intervention avoided or the purpose of the wellbeing of the mothers. Each of the views mentioned above is at different and are at a high level. This first view based on the fact that life begins at birth with contact with fetus unless we take it because of the moral law doesn't accept the right to life which are considered immoral in every part of his fetal development.

‘only the child has the right from the moment it is born to be protected by the law.’ this is technically right, but pragmatically it is not workable. It is having less severe when any ethical or legal relevance given to the peoples who are in the category of the individual therapeutic questions whether a mother should be free to abort or not.

No country will give an independent opinion to the mother at the time of pregnancy. But almost countries will forbid the contact with the fetus except on medical grounds in the second or trimester period. They consider this contact of the legal condemnation of the foetus because only on the basis that some kind of life deserving needs protection.

GROUND FOR TERMINATION OF PREGNANCY

Before knowing the grounds for the termination of pregnancy, we should remember that abortion is legal throughout much of the world. But each countries law varies. Around 61 countries, including much of the European countries, allow abortion without any restrictions. Twenty-six

¹ Section 312 of I.P.C.



countries ban abortions altogether, with no exceptions. The remaining countries to save mothers life and protect the mother's health allow abortions with restrictions. The abortion is of two types, i.e. Medical and Surgical.

Medical abortion is also known as medication abortion, which uses pills to abort.² The medicine that you take should be done at home if one is pregnant for less than ten weeks. If one is above ten weeks, it should be taken at the hospital.

Surgical Abortion is the aborting by operating to remove the pregnancy from the womb. The lifting is done with the local anaesthetic (to the numb cervix), Conscious Sedation (you are relaxed but awake) and Deep Sedation or General Anesthetic (sleep). There are two methods of surgical abortion, i.e. Vacuum and Suction abortions. If at all, there are many types of abortions everyone can terminate the pregnancy. The termination of pregnancy can be done as per Section 312 of the Indian Penal Code. The framers of the code do not use the word 'abortion', as it speaks about miscarriage only. However, Miscarriage is having synonymous with abortion, i.e. miscarriage refers to spontaneous abortion and Voluntarily causing miscarriage means it's a criminal abortion. In the advance stage, to protect the life of mother, Section 312 of the penal code allows termination of pregnancy of therapeutic (Medical) grounds. The unborn child must not be killed in the womb, except to protect the mother's precious life because that the fetus has the right to life and if the pregnancy caused without the women's consent is punishable by law.

Under Section 3 of the Medical Termination of pregnancy act 1971, Act says, when the Medical Practitioner may terminate the pregnancy.³

Notwithstanding anything contained in the Indian Penal Code (45 of 1860) a registered medical practitioner shall not be guilty of any offence under that Code or any other law for the time being in force if any pregnancy is terminated by him in accordance with the provisions of this Act. It is clear that the provisions of the MTP Act so far as abortion is concerned suppresses the provisions of the Indian Penal Code.

Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner, where the length is of twelve weeks, and in case, the duration of the pregnancy twelve to twenty weeks by two or more registered medical practitioners are, of opinion, formed in good faith, that-

1. The physical and mental health of Pregnant women will affect if the pregnancy takes place, so much risk is there to do that.
2. A grave injury in pregnant women to physical or mental health
3. If the pregnancy caused by rape
4. The substantial risk that is involved that, If the child born would suffer physical and mental abnormalities.
5. For limiting the number of children, failure of any devices which was used by the married women and her husband, caused by unwanted pregnancy constitute grave injury on her.
6. Such a pregnancy would involve, such risk of harm to the health of a pregnant woman's actual or reasonable foreseeable environment.

² https://en.wikipedia.org/wiki/Medical_abortion

³ <https://indiankanoon.org/doc/1836566/>



The termination of pregnancy is not allowed after the twenty weeks, and a medicinal opinion is given in good faith, as mentioned in Section 52 of the Penal Code. It is to be noted that the risk involved in the abortion which affect the mother's mental health, where the term 'grave injury' or 'substantive risk' has unidentified and has left to the interpretation of the clause by the medical practitioner.

CONSENT OF ABORTION

The Medical termination of pregnancy act, 1971 clearly defines in Section 3(4) as to whose consent would be necessary for such termination of pregnancy.⁴

It clearly says, no pregnancy can terminate who:

- (i) has not attained eighteen years of age minor
- (ii) is a lunatic

Except, parent or guardian should give consent in writing.

It also mentions to save the Clause discussed above; no pregnancy can be terminated except with the consent of the pregnant women.

So, it is clear that if termination of pregnancy has to be done, the essential factor is that there should be the consent of the pregnant women. The husband or relatives of husband/pregnant women consent is irrelevant as per this section. So if the husband wants to terminate and women don't, it cannot be terminated. And if the women wish to and Husband doesn't want to terminate, it can be terminated, as because it is the consent of women necessary and valid.

WHERE CAN PREGNANCY TERMINATE?

Other than the procedure mentioned in Section 5(1) of the Medical Termination of Pregnancy Act, 1971,⁵ all the pregnancies can only be terminated either:

- (i) A hospital established by the Government or
- (ii) A place approved by the government for the Act.

Section 5 (1) says, the termination of pregnancy as done by the opinion and venue with two medical practitioner does not apply, because, it is done immediately and also necessary to save the life of the pregnant women. The real problem lies where there is contrary between the Indian penal code and the MTP Act, i.e. the Section 312 of the Penal code says that anyone for saving the life of the pregnant women is permitted for abortion. In the MTP Act, only a Medical Practitioner (Doctor) can terminate the pregnancy.

Section 4 (b) Of the Act says about the Approval of a Place, i.e. No place shall be approved under Clause unless:

(i) the Government is Satisfied, termination of pregnancy done under safe and hygienic Conditions

(ii) the following places :

- (a) an operation table and instruments for performing abdominal gynaecology surgery
- (b) Anaesthetic, resuscitation and sterilisation equipment.
- (c) Drugs and parental fluids for an emergency.

PERMISSIVE ABORTIONS

Therapeutics:

It is the type of abortion in the old Indian law to save the mother's life. It allows abortion when the mother's life not threatened, but when continued pregnancy causes many

⁴ <https://indiankanoon.org/doc/1836566/>

⁵ <https://indiankanoon.org/doc/1891528/>



problems to the mental, physical health of the mother (reformed law).

Eugenics:

The basic theory of eugenic abortion is that abortion can be justified if it suspected that an infant would be born psychologically or physically deformed before conception. The life of suffering needs to alleviate the unborn child.

Pregnancy caused by Rape:

The mental health of the mother will affect a pregnancy problem caused by rape. It victim (mother) doesn't want the child to bear from the criminal activity in which she was not guilty.

Social and Economic Consideration:

The women's absolute right to regulate the use and control of her body is a common claim in support of abortion. She has the right to abortion on request, and if she determines that she does not want to end the pregnancy. The power to regulate the use and control of the body is founded on ideals of equality, and limits on it can be a violation of the privacy.

Abortion is a very safe operation with highly trained medical practitioners and well-equipped infrastructure, medical facilities, types of equipment. In the countries where abortion is legal, the death rates are usually below 1 per 1,00,000 procedures. In the developing countries like India where the infrastructure described above, equipment and other facilities are limited to availability the abortion procedure possesses a heavy burden on the health care system. About one-third/ one-quarter of the deaths in abortion is due to the complication, i.e. illegal/ induced abortions.⁶ In developing countries, about 2.5

crores of unsafe abortions are taking place every year. In these around 80 lakhs carried out in the least or hazardous or dangerous conditions.

Between 2010-2014 an average of 5.6 crore induced abortions occurred worldwide. When we see that 35 induced abortion per 1000 women aged between 15 years to 44 years is a surprising value. The annual cost of treating significant complications from unsafe abortions is US\$553 million.⁷ Women's and adolescents lead to unsafe abortions because they are not getting access to the safe abortion which include

- (i) restrictive laws
- (ii) poor availability of services
- (iii) High Cost
- (iv) Social stigma
- (v) the objection of the health care providers
- (vi) unnecessary requirements(third-party authorisation, waiting, mandatory counselling etc.)

JUDICIAL BEHAVIOUR

Through numerous judgments the courts in India have played an essential role in the development of rights of women, it has profoundly contributed to the position whereby those who infringe the rights of women/ wife to terminate to pregnancies through their various judgments. It has also said that, until women assert and demand the control of her body and reproductive process, there shall be no freedom, equality, full dignity and personhood possible for women. The right to abortion is an individual conscience and conscious choice of a woman. Article 21 of the constitution says about the Right to life.

⁶ <https://www.who.int/news-room/fact-sheets/detail/preventing-unsafe-abortion>

⁷ Vlassoff et al. Economic impact of unsafe abortion-related morbidity and mortality: evidence and

estimation challenges. Brighton, Institute of Development Studies, 2008 (IDS Research Reports 59).



The right to personal liberty is the most precious, inalienable and fundamental rights to citizen.⁸ It enshrined in the Indian Constitution.

The Article 12 of UDHR⁹, Article 17 of ICCPR¹⁰, Article 11 of the American Convention, and Article 8(1) of the European Convention says that it is protected under the freedom from interference in one's own privacy and family.

The Judgments which were delivered by the European Commission of Human Rights in *Bruggemann and Scheuten v. the Federal Republic of German*¹¹ and *Paton v. the United Kingdom*.¹² It has said that the decision of one makes about one's body, particularly one's reproductive capacity, lie squarely in the domain of private decision-making.

In *Kharak Singh v. State of U.P. and others*,¹³ the Supreme Court has undoubtedly interpreted article 21 and recognised that a person has complete rights of control over his body organs and his 'person'. Thus, right to procreation and to have control over one's reproductive organs gives birth to another right, i.e. the right to abortion.

In *Satya v Siri Ram*¹⁴ Supreme Court held that termination of pregnancy twice at the instance of wife despite the insistence on the part of the husband and his parents to have a child in family amounts to cruelty.

*S.k Verma v. Usha*¹⁵ it was held that aborting foetus in the very first pregnancy by a deliberate act without the consent of husband could amount to cruelty. The court in S.k case ignores the MTP Act, where the concern is not material.

In *Mrs X v. Union of India*¹⁶ the supreme court allowed the termination of pregnancy to a 22-week old mother. It was done after the seven-member board opined that allowing pregnancy to continue women's physical and mental health.

Similar cases in *Tapasya Umesha Pisal v. Union of India*¹⁷ (24 weeks), *Meera Santhosh Pal and vs. V. Union of India*¹⁸ (23 weeks), *Mamta Verma v. Union of India*¹⁹ in all these the Hon'ble supreme courts referred the matter to Medical board to know the opinion of the board.

In *Murugan Nayakkar v. Union of India*²⁰ the apex court allowed termination of 32-week pregnancy of a 13-year-old rape victim considering age, trauma during sexual abuse, mental agony at present and report of the medical board constitute the termination allowed.

In *Suchita Srivastava v. Chandigarh Administration*,²¹ the court said that, that a women's right to make reproductive choices is also personal liberty as meant in Article 21 of the constitution of India.

⁸ Sunil Deshta and Kiran Deshta, Fundamental Human Right - The Right to Life and Personal Liberty, Deep & Deep, New Delhi, 2003, p. 1

⁹ Universal Declaration of Human Rights

¹⁰ The International Covenant on Civil and Political Rights

¹¹ 3 EHRR 244 1977

¹² 3 EHRR 408 1980

¹³ 1963 AIR 1295, 1964 SCR (1) 332

¹⁴ AIR 1983 P&H 252

¹⁵ AIR 1987 Del 86

¹⁶ WRIT PETITION (CIVIL) NO. 81 OF 2017

¹⁷ WRIT PETITION (CIVIL) NO.635 OF 2017

¹⁸ WRIT PETITION (CIVIL) NO.17 OF 2017

¹⁹ WRIT PETITION (CIVIL) NO.627 OF 2017

²⁰ Writ Petition(s)(Civil)No(s).749/2017

²¹ (2009) 9 SCC 1, 22



In *Sharda v Dharmpal*²² the judgment clearly shows that till the year 2003, the women's right to privacy was not explicitly recognised and thus further her say in medical examinations or in terminating the pregnancy was denied.

In *Anil Kumar Malhotra vs Ajay Pasricha*,²³ Supreme Court Upheld Punjab and Haryana HC's Ruling and said That A Woman Does Not Need Her Husband's Consent To Abort. It is a progressive step in recognising and implementing the reproductive rights of women because it recognises their autonomy. In *Rakesh Kumar v. Prem Lal*,²⁴ the Himachal Pradesh HC said that the fetus is a part of the body of the deceased and no separate compensation is applicable on the ground of loss of the fetus.

Under section 165 and 166 of the Motor Vehicles Act,²⁵ the Bombay HC held that the unborn child in the womb is not a person within the meaning of the sections.

In-State of Rajasthan v. S. (Name Withheld)²⁶ the Rajasthan HC held that the Reproductive Choice of a woman is a fundamental right flowing from Article 21 of the constitution.

In *Alakh Alok Srivastava v. Union of India*²⁷ at that stage continuation of pregnancy was less hazardous than the medical board opined termination. Accordingly, the apex court did not allow the termination of a ten-year-old 32-week pregnant rape victim.

In the *Savita Sachin Patil v. Union of India*²⁸ the court rejected termination of 27-week pregnancy by giving medical opinion that there is no physical risk to mother, but the fetus had severe physical anomalies.

In *Ms Z v State of Bihar*,²⁹ the apex court declined the order of termination of pregnancy since a substantial amount of time (32 weeks) was passed due to negligence of authorities and ordered a compensation of Rs. 10,00,000 (Ten Lakhs).

ABORTION LAWS OF OTHER COUNTRIES

United States of America:

In *Jan Roe v. Henry Wade*³⁰ in which the court held that Right of a married woman to terminate her pregnancy as a part of the Right of personal privacy.

Following the judgment and subsequent related ruling, the current law on abortion in the U.S. is that abortion is legal but can be limited to varying degrees by the states. The states have adopted regulations on the prohibition of abortion at late-term, which allowed the notification to the parents of Minors and allowed the parents to be informed of abortion risk in detail before the procedure.³¹

European Nations

In most of the European countries, abortion is legal, given a wide range of restrictions under which it is permitted. The exceptions are the mini-state of malta.³² And the micro- statutes of the Vatican citadel, san Marino,

²² (2003) 4 SCC 493

²³ CIVIL APPEAL No.4704 OF 2013

²⁴ 1996 A.C.J 980, 23.

²⁵ Motor Vehicles Act of Indiana, Pari Materia to Motor Vehicles Act of India (Herein after referred as MVA)

²⁶ D.B. Spl. Appl. Writ No. 1344/2019

²⁷ WRIT PETITION (C) No.76 OF 2018

²⁸ Writ Petition (Civil) No.121/2017

²⁹ Civil Appeal No. 10463 of 2017

³⁰ 410 US 113 (1973)

³¹ Interactive maps comparing US abortion restrictions by state, LawServer

³² In Malta abortions are de facto allowed to save the mother's life through observance of the principle of double effect.



Lichtenstein and Andorra where the abortion is illegal or severely restrained.³³ Most of the EU require abortion in the first quarter on demand, with more extended timescales for Sweden and the Netherlands.³⁴

Common-Law Countries:

The *UK* abortion act says it allowed termination of a pregnancy at any time if there is a significant risk of the baby being born severely disabled and is purely in the hands of doctors in good faith.³⁵

In *Australia*,³⁶ abortion law is a state subject, and there is no need for the spousal or counselling for the termination of pregnancy. In *Canada*³⁷, *France*³⁸, and *South Africa*³⁹ in these countries there is absolutely no legal restrictions and abortion is a sole concern of a woman.

In *Denmark*⁴⁰ on a case danger, after 12th week of pregnancy has elapsed granted authorisation. On account hereditary condition or of an injury or disease during early or fetus life, the child will be affected by a severe physician or mental disorder.

IS FOETUS IS A PERSON? DOES RIGHT TO LIFE IS EXTENDED TO AN UNBORN?

In *Case William L. Webster v. Reproductive Health Services*⁴¹ the Missouri statute in which The Supreme Court upheld and declared that “*the life of each human being begins at conception*”, and that “*Unborn children have life interest, health and well being which is protectable.*”

Without any doubt, we can say that the fetus of an infant in the womb of the mother is not a natural person. But equally, there should not be any doubt that it is ‘*Juristic*’ or ‘*Juridical*’ person. A child in a mother’s womb recognized as a legal person who can inherit or acquire and hold property and other legal rights in all jurisdictions. And there should be no question that only that person has the rights, whether natural or legitimate. In India and England, the law of the will recognises that the child that is present in the mother’s womb and Section 99(1) of Indian Succession Act 1925, states explicitly that “*all the words expressive of relationship apply to a child the womb who is afterwards born alive.*”

In *Queen Empress v. Ademma*,⁴² in which the Madras High Court Pointed Out that both Lexically and logically, *an unborn child is a person having a life.*

³³ Ostergren, Robert C.; Le Bossé, Mathias (7 March 2011). *The Europeans: A Geography of People, Culture, and Environment*. Guilford Press. p. 203. ISBN 978-1-59385-384-6. Retrieved 30 December 2011.

³⁴ "Malta now only EU country without life-saving abortion law". *The Malta Independent*. July 14, 2013.

³⁵ Section 1(1)(d), United Kingdom's Abortion Act, 1967.

³⁶ *R. v. Davidson*, 1969 VR 667; *R. v. Wald*, (1971) 3 DCR25; *R. v. Bayliss & Cullen*, (1986) 9 QLR 8 (Aust)

³⁷ *Morgentaler v. R.*, (1976) 1 SCR 616; *R. v. Morgentaler*, (1988) 1 SCR 30

³⁸ The Act that decriminalised abortion is the Veil Law of 1975

³⁹ The Act that authorises termination of pregnancy on demand is Choice on Termination of Pregnancy Act, 1996

⁴⁰ Ch. 25, Denmark Health Act, 2005.

⁴¹ 492 U.S. 490 (1989)

⁴² (1886) ILR9 MAD 369



MEDICAL TERMINATION OF PREGNANCY- A VIOLATION OF ARTICLE 14?

Article 14 of the constitution says about Equality before law.

The state shall not deny any person equality before the law or equal protection of laws within the territory of India. The State shall also Prohibit the discrimination on the grounds of religion, race, caste, sex or place of birth.

The failure of any device or procedure that a married woman or her husband use to limit the children may be considered to be a significant injury to the pregnant women's mental and physical health. The MTP act would allow abortion if the child conceived of as a result of an inadequate instrument used for restricting the number of children because of the anguish and concern caused by such a pregnancy is significant harm to mental health and well being of the pregnant women. The legislature has not comprehended that the agony or anguish should term as severe injury to the prospective women's mental and physical health. Therefore there is discrimination between the fetus situated in a similar position. The act, as mentioned above, violates Article 14 of the constitution of India.

In *Air India Etc. Etc. v. Nergesh Meerza & Ors.*⁴³ It has said that the destruction of the female fetus does not uphold the equality principle enshrined in the constitution of India.

In *Health & Allie Themes (Cehat) and ors. v. Union of India*⁴⁴ It is a landmark Judgment which at the paternal stage itself criminalises

sex- determinations to eradicate the infanticide between women. The judgment reflects on how it focused on the law and not remedy, and it emphasises the importance of regulation and execution

In *Vijay Sharma and Mrs Kirti Sharma v. Union of India*⁴⁵ the court said that foeticide of a girl child is a sin. Such tendency offends the dignity of women. It violates the right of the women's right to life; also, it infringes Article 39(e) of the constitution of India. It also noted that 'life' exists in the fetus while in the womb of the mother and context of article 21 of the constitution of India applies to an unborn person as well. Thus it can be considered as the most significant argument for validating the MTP act as unconstitutional.

In *State of Tamil Nadu and ors. v. Ananthi Ammal and ors.*⁴⁶ When the law challenged against the Guarantee enshrined in Article 14, the first duty of the court is to examine the purpose and policy and then to know what legislature seeks to obtain by discovering whether the classification made by law has a reasonable relation to the object which.

THE MTP (AMENDMENT) BILL, 2020

The MTP (Amendment) Bill, 2020 was introduced in Lok sabha in March, 2020. The bill amends some of the sections of the MTP Act, 1971. The amendments in certain pregnancies by registered medical practitioners and also the time limits and the termination of a pregnancy by using medical or surgical methods.

Actually, under the act, the pregnancy can be terminated within 12 weeks by one registered medical practitioner:

⁴³ 1981 AIR 1829, 1982 SCR(1) 438

⁴⁴ Writ Petition (Civil) No. 301 of 2000

⁴⁵ AIR 2009 bom 29

⁴⁶ 1995 AIR 2114, 1995 SCC(1) 519



(i) if the pregnancy may risk the life of the mother, cause grave injury to her health.

(ii) there would be a substantial risk that the child would suffer physical or mental abnormalities (if it was born)

When the pregnancy terminated between 12 to 20 weeks, two medical practitioners are required to give their opinion.

Now, in the amendment bill, it has been said that due to advanced technologies the provisions of the said pregnancy may be terminated within 20 weeks for one medical practitioner and with two medical practitioner at 24 weeks.

The abnormalities in the foetal will not apply to the upper limit of termination of pregnancy. The medical board will diagnose these abnormalities. The medical board consist of (i) A Gynecologist (ii) A Radiologist or Sonologist (iii) A Pediatrician (iv) any other member as notified by the state government.

In the light of the judgment of Privacy⁴⁷, to ensure that no women use unsafe means approaches to end the pregnancy because she cannot access reliable abortion. As the woman's reproductive choice, privacy and dignity and to provide services free of bias and judgment. What will the amendment allow if women to receive abortion on request? Would it increase access to safe abortion or unsafe abortion? Even if the right to privacy is not absolute and reasonable, it is nevertheless a basic or fundamental right rather than a statutory right or a common-law right.

To ensure that right of women to reproductive decisions incorporated into the public health plan, the state will take its actions. The laws which affect the sexual and reproductive health and rights in India,

particularly the MTP Act, should urgently be amended.

CONCLUSION

The importance to legalise abortion because it will encourage illegal means or practices. It is unfair that a person who received legal help from the courts have not achieved justice. "every mother has an obligation to better give her offspring the best as she can. Yet it is in bad condition that when she indulges in the illegal activities, which injures the foetus by the carelessness or ignorance of the mother. If the women had given the right to terminate at any point in time, it would affect the mother and the foetus in one way or other. So the abortion is performed solely at the discretion of the medical practitioner to have a safe abortion. Otherwise, it would amount to the substantial risk to the pregnant women and her mental and physical life.

The increase week or time for the termination of pregnancy is at the opinion of the medical board. After considering the pregnant women's health, the medical board can give guidelines on whether to terminate the pregnancy or not. There is no doubt that the women's right to make the reproductive choice by herself. As it is enshrined in the Constitution under Article 21 " Personal Liberty." So it is up to the pregnant women whether she should bear the child or abort the child is her privacy. But the point is, If she chooses to, she should be able to access abortion on request at any point of time within the legal gestation limit.

⁴⁷ Justice K. S. Puttaswamy v. Union of India WP (C) 494/2012

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