



**RIGHT TO ABORT: A
JUXTAPOSITION OF LAWS IN INDIA
AND THE UNITED STATES OF
AMERICA**

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Historically, the notion of abortion has been stigmatised and debilitated, and used as a tool to control the reproductive decisions and sexual conduct of women. The formulation of laws governing medically terminable pregnancies has been an iterative process involving a multitude of medical, political, societal, socio-cultural, and economic factors. This paper purports to examine the history of illicit and unsafe abortions, the evolution of laws governing medically terminable pregnancies, the essence of the legislative framework governing legally permissible abortions, the statutory pre-conditions enabling women access to safe abortions and aims to analyse the landmark precedents wherein aggrieved women invited the intervention of Courts to fill the lacunas in law in context of the legislative landscape of India and the United States of America.

Keywords- *Abortion, Medical Termination of Pregnancy, India, United States, Public Health, Legislation.*

I. INTRODUCTION

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

Doctor Alan Guttmacher, who played a pivotal role in advocating for reproductive rights in the United States, scrutinised the criminalisation and strict laws of abortion by setting out that the public had been exhibiting a clandestine rebellion, throughout the nation, against the stringent laws of abortion which were proposed by medical and divinity professionals and framed by the legislators.¹ Even though the medical fraternity was acquainted with the pervasive extent of abortion racket in the nation and cognizant of the fact that the antiquated laws were incongruous and discordant with the interests of the population, they failed to demonstrate any leadership in such rebellion.² Historically, the liberalisation of laws concerning abortions across the world has been a complex problem comprised of multifarious legal, social, medical, economic, and religious factors, which did not lend itself to simplistic and homogenous solutions. The criminalisation of abortions in several countries meant there was a glaring dearth of reliable statistical data pertaining to illicit abortions and maternal mortalities pursuant to such unauthorized and often unsanitary medical procedures. Spiralling maternal mortality rates and the incongruity with family planning policies however prompted a global shift towards decriminalisation of abortions.

This paper examines the evolution of the abortion laws prevalent in India and the U.S.A., prominent instances of judicial intervention, and areas where the penal enactments have atrophied rights to life

¹ SHRI SHANTILAL H. SHAH, *Report of the Committee to Study the Question of Legalisation of Abortion*, 14 (December 1966)

² Id



and liberty necessitating a further leap towards liberalisation of abortion laws.

II. AN INSIGHT INTO THE LEGISLATIVE HISTORY AND THE LAWS GOVERNING ABORTION IN INDIA

The criminalisation of abortions in India can be traced to the principles entrenched in U.K. common law which form the cornerstone of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”). In terms of Section 312 of the IPC, a woman who causes herself to miscarry faces imprisonment up to 3 years, save cases where such miscarriage was induced to save the life of the mother.³ Section 312 of the IPC and the Explanation thereto are couched in a manner that encompasses both spontaneous and induced abortions. The penal prohibition of abortion under the IPC is primarily attributable to the following factors:⁴

1. Preserving the life on an unborn child
2. Safeguarding the interest of society in order to continue the human race
3. Moral objection stemming from sentiment to prevent the annihilation of potential human life and
4. Preservation of the life and health of the mother life and health of the mother.

In India, voices advocating legalisation of abortions intensified in the 1960s in the backdrop of rising maternal deaths, illegal abortions and discernible benefits of liberal

abortion policies that were promulgated in Western nations. It was also undeniable that a blanket criminalisation of abortion was antithetic to a pervasive family planning programme implemented across the nation in 1952. Originally, the idea of liberalisation of abortion policies also arose as a part of the Family Planning Measure.⁵ According weightage to the foregoing factors, the Central Family Planning Board, in 1964, recommended the formation of a committee to study the legalisation of abortions thus laying the foundation for medically terminable pregnancies in India. In order to conduct an in-depth study of the matter, the Health Ministry in 1964 formed the Shantilal Shah Committee, which consisted of lawyers, social workers, and doctors. The Report of the Committee to Study the Question of Legalisation of Abortion, also known as the Shantilal Shah Committee Report was released and conducted a thorough study of the socio-cultural, medical, economical, and legal components surrounding abortion and recommended that it be legalised and regulated. In the course of its examination, the Committee extrapolated that approximately 3.9 million induced abortions occurred annually amongst the Indian populace, which was devoid of legal sanction and attracted penal consequences.⁶ The staggering numbers, emerging in the course of the findings of the Committee, indicated that Indian women took recourse to extreme measures to circumvent the illegality associated with abortion, often jeopardizing their life. The plight of Indian women was

³ The India Penal Code, 1860, §312

⁴ Law Commission of India, *Indian Penal Code*, Report No. 42, 250, (June 2, 1971) available at <https://lawcommissionofindia.nic.in/1-50/report42.pdf> (Last visited September 14, 2021)

⁵ Savithri Chattopadhyay, *Medical Termination of Pregnancy Act, 1971 : A Study of the Legislative*

Process, Journal of the Indian Law Institute 16, no. 4 (1974)

⁶ SHRI SHANTILAL H. SHAH, *Report of the Committee to Study the Question of Legalisation of Abortion*, 18 (December 1966)



further exacerbated by an inherent lack of awareness and myths coupled with unqualified and unlicensed medical practitioners who were entrusted with the termination of pregnancies.

The recommendations of the Committee culminated in the enactment of the Medical Termination of Pregnancy Act 1971 (hereinafter referred to as the MTP Act) which came into force on 24th September, 2021⁷. The MTP Act conferred legal sanction to termination of medical pregnancies that were performed by registered medical practitioners. It is well settled that the Statement of Objects and Reasons, appended to a legislation, can be referred to for the purpose of understanding the background, the antecedent state of affairs, and the surrounding circumstances in relation to the statute and the evil which the statute sought to remedy.⁸ The Statement of Objects and Reasons is indicative of the thought process of the elected representatives of the people and their cognizance of the prevalent state of affairs, impelling them to enact the law.⁹ On a perusal of the Statement of Objects and Reasons that was appended to the MTP Act, it emerges that:

1. The relevant provisions of the IPC which imputed penal consequences on termination of pregnancies were enacted over a century ago in consonance with the British Law, and were therefore draconian in spirit.
2. Despite its inherent illegality, several instances of breaches were observed across

the nation, including multiple cases where mothers were women from wedlock who did not face any particular necessity to opt for such abortions.

3. In the backdrop of expanding healthcare services and access to hospitals by all classes of society, doctors encountered pregnant women with uteruses that had been interfered with, which women often succumbed to such suffering.
4. There was a recognition that the criminalisation of abortions had culminated in an avoidable wastage of women's health, strength, and life.

During the 1960s and 1970s, as the world was impacted by the economic boom, India's GDP grew only by 3.5%, which when coupled with the high India's population growth meant the income gains per head were less than 1.5% per year.¹⁰ Since the 1950s, India had a policy for population control, mainly to achieve accelerated economic and social growth, which included Government sponsored fertility programs, which peaked in the period between 1955-1977, with 6 million sterilisations being reported in 1976.¹¹ The viewpoint of the Government in matters considering populations growth and the control thereof, combined with the timing of the passage of the abortion legislation demonstrate the aforementioned standpoint that abortion was legalised primarily to acquire a grasp on the growth rate of the population.

⁷ SCC, *Medical Termination of Pregnancy (Amendment) Act, 2021 to come into force on September 24, 2021*, September 22, 2021, available at <https://www.sconline.com/blog/?p=254539> (Last visited September 24, 2021)

⁸ *State of Maharashtra v. Bharat Shanti Lal Shah and Ors*, (2008) 13 SCC 5 at 26

⁹ *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat and Ors*, (2005) 8 SCC 534 at 572

¹⁰ Population Council, *India: Population Growth in the 1970s*, Population and Development Review Vol 7, No. 2 (June 1981)

¹¹ *Id.*



Although the Statement of Objects and Reasons propagates the liberalisation of abortion and development in the sphere of healthcare services, the MTP Act was a culmination of the egregious population problem and growing concern in the medical fraternity about the problem of illegal abortions. Equipping women with reproductive rights and bodily autonomy did not form a considerable extent of the rationale while legalising abortion. Thus, abortion was viewed more as a measure that could be opted apace with the use of contraceptives, with the combined goal of controlling the population rather than as a major leap for women's rights.¹²

Section 3 of the MTP Act commences with the expression "Notwithstanding anything contained in the Indian Penal Code (45 of 1860)". It, therefore, follows that Section 3 of the MTP Act is a non-obstante clause that prevails over and obliterates the offences qua abortions that have been legislated for under the IPC.¹³ Section 3 of the MTP Act proceeds to stipulate the grounds of a legally permissible abortion. In terms of Section 3 of the MTP Act, the presence of any one of the following ingredients is a sine qua non to claim immunity from penal consequences under the IPC:

1. Health measures: Termination of pregnancy when there is a risk to the life or grave injury to the physical or mental health of the woman
2. Eugenic grounds: Termination in circumstances where there is substantial risk that the child shall suffer from mental or physical abnormalities

¹² Varsha Chitnis & Danaya Wright, *The Legacy of Colonialism: Law and Women's Rights in India*, 64 Wash. & Lee L. Rev. 1315 (2007), available at <http://scholarship.law.ufl.edu/facultypub/174>

3. Humanitarian factors: Certain statutory presumptions that are specifically legislated for in the MTP Act. In accordance with such presumptions, pregnancy caused by rape and failure of birth control devices used by married women constitute grave injury to mental health.

It is apposite to highlight that any termination of pregnancy that falls within the confines of the MTP Act is fastened with the condition of consent. Absent consent of the pregnant women, the termination of pregnancy is legally unsustainable and is vulnerable to consequences under the IPC Act. In cases where the pregnant woman is yet to attain the age of majority, the condition of consent must be discharged in writing by the guardian.

The MTP Act is a self-contained code that provides for various other aspects governing lawful abortions. Key aspects that are legislated for under the MTP Act are as follows

1. In cases wherein the gestational period is up to 12 weeks, the termination can be performed if one registered medical practitioner forms an opinion that any of the ingredients of Section 3 are fulfilled.¹⁴
2. In cases where the gestational period lies between 12-20 weeks, the termination can be performed when two registered medical

¹³ Chandavarkar Sita Ratna Rao v. Ashalata S. Guram, (1986) 4 SCC 447 at 475-476

¹⁴ The Medical Termination of Pregnancy Act, 1971, §3(2)(a)



practitioners are of the opinion that the ingredients of Section 3 are fulfilled.¹⁵

It is discernible that as per the statutory mandate, a pregnancy is terminable only up to 20 weeks and not beyond. However, Section 5 of the MTP Act serves as a safeguard and dispenses with the conditionalities vis-à-vis opinion of two medical practitioners as well as the maximum gestational period of 20 weeks in a scenario where a medical practitioner, in good faith, opines that the abortion is an immediate necessity to save the life of a pregnant woman. This provision acts as a disadvantage for persons belonging to rural areas and areas which may be infrastructurally underdeveloped. If the gestation period exceeded the gestation limit of 20 weeks, the Act failed to allow the termination. As a result, the Courts were shouldered with the responsibility of adjudicating a decision.

III. INDIAN JURISPRUDENCE & JUDICIAL INTERVENTION

Met by the impenetrable letter of the statute, several pregnant women have sought the intervention of Writ Courts under Article 226 and Article 32 to protect their fundamental rights as guaranteed by the Constitution. The key jurisprudence on abortions that have evolved pursuant to implementation of the MTP Act has been set out below:

1. In *Z v. State of Bihar and Other*,¹⁶ a 35-year destitute woman, was HIV Positive and a victim of rape. Even though she

approached the medical authorities when she was approximately 14 weeks pregnant, they failed to terminate her pregnancy. Seeking Writ remedy the Petitioner approached the High Court, which declined to allow her prayer for medical termination of pregnancy under Section 3 of the MTP Act. Subsequently, the 20-week statutory limit prescribed under the MTP Act lapsed. Aggrieved by the decision of the High Court, Z filed a petition under Article 32 of the Constitution before the Supreme Court. The Apex Court ultimately ordered that compensation of Rs.10 lakh be provided to Z for the delay attributable to the medical authorities and the proceedings before the High Court which rendered nugatory Z's Option to secure a legally permissible abortion.¹⁷

2. In *Suchita Srivastava and Anr v. Chandigarh Administration*¹⁸, an orphaned woman who suffered mental retardation, was pregnant as a result of rape. Punjab and Haryana High Court passed an order stating that it would be in the best interest of the woman that the foetus be aborted, since is not equipped with the competency to raise a child. The Apex Court, however, stayed the order of the Punjab and Haryana High Court. The Supreme Court held that the right to make reproductive are constituted within the ambit of "personal liberty" enshrined under Article 21 of the Constitution. The 3 Judge Bench stressed it is an infringement of the right to privacy if such a choice is made on her behalf, not taking into consideration her consent.¹⁹ The Court acknowledged the rationale employed in pronouncing *Roe. v. Wade* [The case has been discussed in detail

¹⁵ The Medical Termination of Pregnancy Act, 1971, §3(2)(b)

¹⁶ *Z v. State of Bihar and Others*, (2018) 11 SCC 572

¹⁷ *Id.*, at 578

¹⁸ *Suchita Srivastava v. Chandigarh Administration*, (2009) 9 SCC 1

¹⁹ *Suchita Srivastava v. Chandigarh Administration*, (2009) 9 SCC 1 ¶ 57-58



in the latter portion of the Article], which stated that the State has an interest in both protecting and preserving the health of a pregnant woman and protecting the potentiality of human life, both such interests are separate and distinct.²⁰

3. In Chandrakant Jayantilal Suthar and Anr v. State of Gujarat²¹, a fourteen-year-old, who was a victim of rape approached the Gujarat High Court to abort her foetus in the 24th week of pregnancy. The Gujarat High Court, however, denied the petitioners permission to undergo termination of pregnancy.²² The aggrieved parties, filed a Special Leave Petition in the Supreme Court. Whilst the case was being argued in the Gujarat High Court, while denying approval to undergo an Court took cognizance of an array of factors which included the weak financial status of the family, the anguish, mental agony, and fear of social ostracism that the victim would bear, and the added disadvantage that her education comes to a halt, she had no legal option but to carry the pregnancy to term.²³ The rationale of this court clearly demonstrates that while it was aware all of the distress the fourteen-year-old would go through, her reproductive rights and bodily autonomy evidently took a backseat. The Apex Court, however, directed that the girl be examined by the three senior-most Gynaecologists and a clinical

psychologist and if they able to ascertain that the abortion is required to save the life of the girl and if the petitioners [parents of the girl] consented to the procedure, the doctors may perform it.²⁴ The team of doctors had then unanimously decided to perform the surgery.²⁵

4. In Savita Sachin Patil & Anr. V. Union of India and others²⁶, the Petitioner was a 37-year-old married woman, who was in her 26th week of pregnancy. Her foetus was diagnosed with Down Syndrome, which causes severe physical and mental retardation. A Medical Board was constituted which concluded that either continuation or termination of pregnancy would not pose a threat to the life of the woman. The Board also observed that a large population born with Down Syndrome has a low intelligence quotient.²⁷ Although the MTP Act contemplates termination of pregnancy based on eugenic grounds, the breach of the gestation period served as a stumbling block for the Petitioner. The Hon'ble Supreme Court, in accordance with the statutory mandate, declined to grant leave to the Petitioner qua termination of her pregnancy.²⁸

²⁰ Suchita Srivastava v. Chandigarh Administration, (2009) 9 SCC 1 ¶ 46-47

²¹ Chandrakant Jayantilal Suthar and Anr v. State of Gujarat, (2015) 8 SCC 721

²² Chandrakant Jayantilal Suthar and Anr v. State of Gujarat, 2015 OnLine Guj 976

²³ Chandrakant Jayantilal Suthar and Anr v. State of Gujarat, 2015 OnLine Guj 976, ¶42-44

²⁴ Chandrakant Jayantilal Suthar and Anr v. State of Gujarat, (2015) 8 SCC 721 at 722

²⁵ SCC Online, *Panel of doctors who were directed to examine a 14 year old rape victim, unanimously decide that her pregnancy can be terminated*, July 31,

2015, available at <https://www.scconline.com/blog/post/2015/07/31/panel-of-doctors-who-were-directed-to-examine-a-14-year-old-rape-victim-unanimously-decide-that-her-pregnancy-can-be-terminated> (Last Visited on September 15, 2021)

²⁶ Savita Sachin Patil & Anr. V. Union of India and others, (2017) 13 SCC 436

²⁷ Savita Sachin Patil & Anr. V. Union of India and others, (2017) 13 SCC 436 ¶7

²⁸ Savita Sachin Patil & Anr. V. Union of India and others, (2017) 13 SCC 436 ¶8-9



5. Dr. Nikhil Dattar & Ors. v. Union of India²⁹- The case stirred up substantial deliberations as to whether the upper limit of the gestational period ought to be altered. In this case, Nikita Mehta was a 22-week pregnant woman when her doctor detected foetal anomalies. However, she was asked to wait 2 weeks before another test to confirm the preliminary diagnosis. The tests performed in her 24th week of pregnancy confirmed fatal abnormalities in the heart of the foetus and the doctors were of the opinion that if she carried the pregnancy to term, the infant would require multiple surgeries and also predicted a high probability of sudden death. In accordance with S.3 of the Act, after the gestational period of twenty weeks, termination was allowed if it was to save the life of the woman. Therefore, the couple along with their medical practitioner sought the permission of the Courts. The Bombay High Court however denied them their request, despite the fact that medical practitioners repeatedly affirmed that carrying the pregnancy to term may culminate with foetal demise, or a lifetime of surgeries. The Court failed to take into regard the mental anguish that the couple would have to undergo. The Petitioner was thus blatantly denied the choice to practice a basic reproductive right.

6. In Mrs X & Ors v. Union of India and Ors³⁰, a 22-year-old pregnant woman filed a petition before the Supreme Court under Article 32 of the Constitution, seeking permission to undergo an abortion as her foetus had been detected with major foetal

abnormalities. The Medical Board constituted by the Court also opined that the foetus would not survive outside of the womb and there was a risk to the physical and mental health of the woman. The Court placed reliance on the judgement pronounced in Suchita Srivastava v. Chandigarh Administration, and reiterated a woman's right to make reproductive choices.³¹

It is evident that the Apex Court has laudably taken cognisance of a woman's autonomy over her body and administered the MTP Act in its true spirit. However, owing to the glaring legislative vacuum, the ability of Courts to give credence to socio-economic considerations and adopt a liberal approach whilst construing the mental and physical anguish of Indian women, is significantly atrophied. It is also transparent that the Courts have attempted to not adhere to a strict pro-life or pro-choice attitude in matters pertaining to abortion. An article published in the British Medical Journal referred to a study that had ruled out the possibility of a foetus experiencing pain before 26 weeks of gestation.³² There is substantial scientific data that conform with the above study. Due to such aforementioned factors, an exigent need was felt to amend the existing legislation.

IV. AMENDMENTS TO THE ACT

On 25th March, 2021, the Medical Termination of Pregnancy

²⁹ Centre for Reproductive Rights, *Fact Sheet: Dattar v. Union of India*, April 2, 2011 available at <https://reproductiverights.org/fact-sheet-dattar-v-union-of-india/> (Last Visited September 17, 2021)

³⁰ Mrs X & Ors v. Union of India and Ors, Writ Petition (Civil) No. 81 of 2017

³¹ Mrs X & Ors v. Union of India and Ors, Writ Petition (Civil) No. 81 of 2017, at 4

³² Derbyshire, Stuart W. G., et al., *Do Fetuses Feel Pain?*, British Medical Journal Vol. 313, No. 7060



(Amendment) Act, 2021 [hereinafter referred to as the “Amendment Act”] was brought into force which inter alia enhanced the gestational period for terminable pregnancies to 24 weeks.³³ Section 3 of the Amendment Act states that, if the pregnancy has not exceeded a gestational limit of 20 weeks the, the same may be terminated after one medical practitioner forms an opinion that the conditions laid down in S.3 are fulfilled.³⁴ If the gestational period lies between 20 to 24 weeks, the pregnancy can be terminated if not less than two medical practitioners are of the opinion that the conditions of S.3 are fulfilled.³⁵

The precipitative issues that led to the foregoing amendment are as follows:

1. A report was published by the Indian Journal of Medical Ethics, estimated that 10-13 percent of maternal deaths that occur in India are due to unsafe abortions.³⁶

2. A report published by The Lancet Global Health revealed that out of the cumulative 15.6 abortions that were carried out in India, 11.5 million abortions were performed outside of healthcare facilities.³⁷ Supplementary miscellaneous reports have also stated that close to 8 women in India die every day due to unsafe abortions and it is the third leading cause of maternal mortality in the country.³⁸

3. In the period between 2017-2018, a multiplicity of writ petitions was filed in the Courts, including 26 petitions which were filed solely in the Hon’ble Supreme Court seeking to undergo medical termination of pregnancy beyond the permissible 20-week gestational limit, on the grounds of either foetal abnormalities or pregnancies which were a result of sexual violence.³⁹

4. A writ petition was filed in the Supreme Court seeking to decriminalise abortion.⁴⁰ The petition stated that the right to conceive and carry a pregnancy to term or terminate it is an indispensable reproductive right. The Bench, led by the then Chief

³³ Medical Termination of Pregnancy (Amendment) Act, 2021

³⁴ The Medical Termination of Pregnancy Act, 1971, §3(2)(a), inserted vide The Medical Termination of Pregnancy (Amendment) Act, 2021 (wef from March 25, 2021)

³⁵ The Medical Termination of Pregnancy Act, 1971, §3(2)(b), inserted vide The Medical Termination of Pregnancy (Amendment) Act, 2021 (wef from March 25, 2021)

³⁶ LOK SABHA DEBATES, *Medical Termination of Pregnancy (Amendment) Bill, 2020*, 305, Seventeenth Series, Vol. VIII, Third Session, March 17, 2020 available at <http://loksabhadocs.nic.in/debatetextmk/17/III/17.03.2020r.pdf> (last visited September 17, 2021)

³⁷ LOK SABHA DEBATES, *Medical Termination of Pregnancy (Amendment) Bill, 2020*, 284, Seventeenth Series, Vol. VIII, Third Session, March 17, 2020 available at

<http://loksabhadocs.nic.in/debatetextmk/17/III/17.03.2020r.pdf> (last visited September 17, 2021)

³⁸ Singh S et al, New York: Guttmacher Institute, *Abortion and Unintended Pregnancy in Six Indian States: Findings and Implications for Policies and Programs*, 2, (2018), available at <https://www.guttmacher.org/report/abortion-unintended-pregnancy-six-states-india> (Last Visited September 15, 2021)

³⁹ LOK SABHA DEBATES, *Medical Termination of Pregnancy (Amendment) Bill, 2020*, 283-284, Seventeenth Series, Vol. VIII, Third Session, March 17, 2020 available at <http://loksabhadocs.nic.in/debatetextmk/17/III/17.03.2020r.pdf> (last visited September 17, 2021)

⁴⁰ The Hindu, *Supreme Court admits petition to decriminalise abortion*, July 15, 2019, available at <https://www.thehindu.com/news/national/supreme-court-admits-petition-to-decriminalise-abortion/article28448481.ece> (last visited September 13, 2021)



Justice of India, Ranjan Gogoi, issued a notice to the Central Government, expressing concerns and enumerating contentions that the Act is unduly stringent and restrictive.

Marching along with the tides of change, the Amendment Act attuned the clause granting immunity on account of contraceptive failure, to encompass “any woman and her partner”. Prior to the Amendment, the Act allowed for medical termination of pregnancy if the same occurred as a result of failure of any method of contraception for a married woman.⁴¹ The Amendment Act, substituted the word “married” for “any”, thereby, expanding the scope of the legislation to all women, regardless of their marital status.⁴² The alteration of merely a single word, made accessible to women everywhere in the country, the prospect of safe and legal abortion. The said amendment is a true reflection of progression as it:

1. Grants an increased level of bodily autonomy to women and enables them to make an informed choice, irrespective of their marital status.
2. Acknowledges the reality that an increased number of consenting adults participate in sexual activities and the sole reason that they are not traditionally married should not be a

criterion to deny medical termination of pregnancies.

The Amendment Act also adds a new safeguard purported at protecting the identity of a woman who opts for an abortion. By insertion of new Section 5-A, medical practitioners have been precluded from revealing the name and other sensitive information concerning a woman who has undergone medical Termination of Pregnancy, save to persons who are authorised by law to obtain such information.⁴³

An additional provision that has been added is the constitution of a Medical Board in every State and Union Territory under S.2-C of the Act.⁴⁴ The main aim of such Boards is to decide cases pertaining to termination of pregnancies that have surpassed the 24-week gestation period. The Statement of Objects and Reasons of the Amendment Bill highlights that due to the multiplicity of the cases being filed in Courts, the establishment of such Medical Boards was exigent.⁴⁵ The Board is conferred with the power of determining whether pregnancies that have surpassed the upper limit of the gestation period would be permitted to be terminated. The constitution of the Medical Board comprises of a

⁴¹ The Medical Termination of Pregnancy Act, 1971, §3, inserted vide The Medical Termination of Pregnancy (Amendment) Act, 2021 (wef from March 25, 2021)

⁴² Id.

⁴³ The Medical Termination of Pregnancy Act, 1971, §5-A, inserted vide The Medical Termination of Pregnancy (Amendment) Act, 2021 (wef from March 25, 2021)

⁴⁴ The Medical Termination of Pregnancy Act, 1971, §2-C, inserted vide The Medical Termination of Pregnancy (Amendment) Act, 2021 (wef from March 25, 2021)

⁴⁵ *Statement of Objects and Reasons of The Medical Termination of Pregnancy (Amendment) Bill, 2020* (“*Besides this, several Writ Petitions have been filed before the Supreme Court and various High Courts seeking permission for aborting pregnancies at gestational age beyond the present permissible limit on the grounds of foetal abnormalities or pregnancies due to sexual violence faced by women*”), available at http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/55_2020_LS_Eng.pdf (last visited September 15, 2021)



Gynaecologist, a Paediatrician a Radiologist or Sonologist and any other person as may be notified by the State Government.⁴⁶ Nevertheless, this is barrier-inducing provision. According to the Rural Health Statistics of 2019-2020 published by the Ministry of Health and Family Welfare,⁴⁷ there is a major shortfall of Gynaecologist, Surgeons, and Paediatricians. The Report gives state-wise statistics of the number of medical professionals required by each state, and the shortfall thereof. The numbers of the North-Eastern States are especially stark, with a sparse number of the requisite medical professionals in position.⁴⁸ This strip away at the autonomy provided to pregnant women as it makes it exceeding burdensome for them to obtain a termination of pregnancy. The Amendment Act also sets out to establish one Board per State, which means that pregnant women located in remote areas will incur additional travelling costs, which plainly adds to the burden and makes the process unfeasible. The Amendment Act is purported to make medical termination of pregnancy more accessible to women everywhere, however, such provisions augment the obstacles faced by women.

V. OVERVIEW OF THE AMERICAN LEGISLATIVE HISTORY AND JURISPRUDENCE ON ABORTIONS

A perusal of western history suggests that undergoing an abortion was largely, not criminal if performed before “quickening”, - that is before the foetus begun moving in the womb, and the same was believed to occur between 18-20 weeks.⁴⁹ Laws against abortion in America became widespread in the second half of the 18th century.⁵⁰ In 1828, New York enacted a legislation which thereafter, became a model for anti- abortion laws throughout the United States.⁵¹ The New York legislation laid down two concepts – it made abortion illegal for a foetus, whether the “quickening” has occurred or not, punishing the abortion of un-quickened foetus as a misdemeanour and that of a quickened foetus as manslaughter.⁵² It introduced the notion of “therapeutic abortions”, which excused the performance of abortions in circumstances where it was vital to preserve the life of the mother.

By the 1950s, abortion was largely illegal and criminalised, save if performed in circumstances to save the life of the mother. Fast forward to the 21st century, while indisputably abortion is largely legal in the United States due to monumental judicial pronouncements as made in *Roe v. Wade*⁵³ and *Planned Parenthood of Southeastern Pennsylvania et al v. Casey, Governor of Pennsylvania et al 1992*⁵⁴, each state in the United States is conferred with the power of

⁴⁶ The Medical Termination of Pregnancy Act, 1971, §2-D, inserted vide The Medical Termination of Pregnancy (Amendment) Act, 2021 (wef from March 25, 2021)

⁴⁷ Ministry of Health and Family Welfare, Statistics Division, *Rural Health Statistics 2019-2020*,

⁴⁸ Id.

⁴⁹ BBC, *Historical attitudes to abortion*, available at https://www.bbc.co.uk/ethics/abortion/legal/history_1.shtml (Last visited on September 14, 2021)

⁵⁰ Id.

⁵¹ N.Y. REV. STAT., pt. 4, c. 1, Tit. 2, 1828.

⁵² Id.

⁵³ *Roe v. Wade*, 410 U.S. 113 (1973) at 138-139

⁵⁴ *Planned Parenthood of Southeastern Pennsylvania et al v. Casey, Governor of Pennsylvania et al 1992*, 505 U.S. 833 (1992)



legislating laws surrounding abortion. The trend of passing restrictive abortions laws is an established one in the United States. Since 2011 alone, the various state legislatures have passed more than 400 stringent abortion laws.⁵⁵ However, one cannot talk about restrictive practices in the United States, without first, examining the judicial proclamations which revolutionised and liberalised abortion laws in the United States.

In *Roe v. Wade*⁵⁶, an unmarried, pregnant woman who was a resident of Texas, under the pseudonym of Jane Roe, instituted a suit against the District Attorney of Dallas County, Texas, challenging the constitutionality of the Texas Criminal Abortion Laws. In a federal appeal, the case was heard in the United States Supreme Court which led to the pronouncement of the landmark judgement legalising abortion in the United States. The Ruling of the Supreme Court of the United States laid down vital constitutional precedence pertaining to abortion. In its judgement, the Court opined that the practices of restricting and criminalising abortions were inherently draconian and were used to discourage illicit sexual conduct.⁵⁷ Thus, it could be inferred that the prohibitive practices of abortion were used as birth control devices to regulate a woman's sexual decisions and deprive her of exercising her reproductive rights. In a single brushstroke, the judgment conferred on women, albeit belatedly, the constitutional right to seek an abortion. The Court also stated explicitly that the right of privacy encompassed in the

Fourteenth Amendment to the U.S. Constitution would include the right to take a decision regarding the termination of a pregnancy⁵⁸. Whilst throughout the judgement, the Court focused on the imperative role that the State must play in protecting women's health along with the foetus, the right to abortion granted was not absolute. The Court laid down a framework trifurcating circumstances when a woman can seek abortion with and without state interference by stating that:

1. In a gestational stage prior to the end of the first trimester, the decision and effectuation of the abortion was a prerogative of the physician of the pregnant woman.
2. In a gestational stage that was subsequent to the end of the first trimester, the State may have an interest in the abortion and regulate laws that are for the welfare of maternal health
3. In the gestational stage subsequent to when the viability occurs, the State is conferred with the power to regulate and proscribe the law of abortion, barring the circumstances which require the preservation of life or health of the mother.

In an interview with National Public Radio (NPR), Assistant Professor of History at Tulane University, Karissa Haugeberg, stated that prior to *Roe v. Wade*, women turned to dangerous methods such as ingesting poison, throwing themselves off the stairs or resorting to unlicensed persons to

⁵⁵ Guttmacher Institute, *Policy Trends in the States, 2017*, January 2, 2018, available at <https://www.guttmacher.org/article/2018/01/policy-trends-states-2017> (last visited September 14, 2021)

⁵⁶ *Roe v. Wade*, 410 U.S. 113 (1973)

⁵⁷ *Roe v. Wade*, 410 U.S. 113 (1973), Justice Blackmun's opinion at 148

⁵⁸ *Roe v. Wade*, 410 U.S. 113 (1973), Justice Blackmun's opinion at 153



perform an abortion.⁵⁹ In a study performed by the Centre for Disease Control after the pronouncement of *Roe v. Wade*, data relating to abortion of three years surrounding the rule was examined and it was concluded that the number of illegal abortion procedures dwindled to 17,000 from a massive 1,30,000.⁶⁰ The number of deaths which were caused as a result of such illegal procedure fell to 5 from 39.⁶¹

Another landmark judgement for abortion rights in the United States is *Planned Parenthood of Southeastern Pennsylvania et al v. Casey, Governor of Pennsylvania et al 1992*⁶². In this suit, Planned Parenthood had challenged the constitutionality of certain provisions of the Pennsylvania Abortion Control Act of 1982, for instance:

1. a woman seeking an abortion give her informed consent and she be provided with certain information at least 24 hours before the procedure is performed⁶³
2. barring certain exceptions, the woman has notified her husband⁶⁴
3. other provisions which imposed reporting requirements on the clinics.⁶⁵

A mass of the Pennsylvanian law was held constitutionally valid, save the provisions which required that the husband be notified. The Court, rejected the trimester-

based framework that was laid down in *Roe v. Wade*, observing that if any law provides a “substantial obstacle”, in the path of a woman seeking an abortion, it thereby imposed “undue burden”.⁶⁶ The Court further opined that the provision which required the woman to notify the husband regarding the abortion, did, in fact, impose an “undue burden” and is therefore constitutionally invalid. A paramount concept of viability of foetuses and abortions was also concurrently laid down. The Court ruled that the viability of the foetus, which represents the time in the gestational period at which the foetus can survive separation from the womb, can appropriately be employed to determine at which point the State can interfere with the right of abortion. Thus, although each state’s power to legislate their own laws pertaining to abortion was affirmed, the state’s interest, was legitimate, when the viability of the foetus occurs, which is established to be not before 23 weeks. The Court perceived a woman’s right to abortion as a constitutionally protected liberty.⁶⁷

Nevertheless, abortion has often been an issue used by bureaucrats to leverage votes. In one such display of political one-upmanship, the U.S Congress passed the Hyde Amendment in 1976 introducing a fresh hurdle in access to abortions.⁶⁸ The Hyde Amendment banned

⁵⁹ NPR, *What Abortion Was Like In The U.S. Before Roe V. Wade*, May 20, 2019 available at <https://www.npr.org/2019/05/20/725139713/what-abortion-was-like-in-the-u-s-before-roe-v-wade>

⁶⁰ Willard Cates, Jr. and Roger Rochat, *Illegal Abortions in the United States: 1972-1974*, Family Planning Perspectives, Vol 8 No.2, (March-April 1976)

⁶¹ Id.

⁶² *Planned Parenthood of Southeastern Pennsylvania et al v. Casey, Governor of Pennsylvania et al 1992*, 505 U.S. 833 (1992)

⁶³ Pennsylvania Abortion Control Act, 1982, §3205

⁶⁴ Pennsylvania Abortion Control Act, 1982, §3209

⁶⁵ Pennsylvania Abortion Control Act, 1982, §3207(b), §3214(a), and §3214(f),

⁶⁶ *Planned Parenthood of Southeastern Pennsylvania et al v. Casey, Governor of Pennsylvania et al 1992*, 505 U.S. 833 (1992) at 878

⁶⁷ Id., at 869

⁶⁸ Henshaw SK et al., *Restrictions on Medicaid Funding for Abortions: A Literature Review*, New York, Guttmacher Institute, 2009



the fiscal coverage of abortion procedures given by Government Programs such as Medicaid, save cases where the life of the woman was endangered if she carried the pregnancy to term. The Hyde Amendment, in effect, placed an embargo on the ability of women belonging to lower income groups.⁶⁹ In the post legalisation period of abortion, the Government successfully financed 250,000-300,000 abortions.⁷⁰ The Hyde Amendment, conceptualised by an anti-choice Congressman, created inequity with respect to access to abortion. Thus, the predilection of the Government was fairly apparent, that even though women were legally granted the right, the aforementioned federal restrictions made it disproportionately arduous for women, especially for women economically weaker backgrounds.

VI. THE CURRENT STATUS OF ABORTION IN AMERICA

For a nation that is admittedly built on values of unbridled and untethered individuals, the legislators and a section of the citizens appear to be in an endless circuitous loop of attempting to deprive women seeking an abortion of those values.

In Texas, for instance, Governor Gregg Abbott signed Senate Bill 8,

which is also known as the Texas Heartbeat Act.⁷¹ The Texas Heartbeat Act prohibits performing abortions as soon as foetal cardiac activity is detected.⁷² In reality, a plethora of women have no inkling of their pregnancy at this preliminary stage. The bill came into force on 1st September 2021. The validity of the Legislation was challenged before the United States Supreme Court, however, the Court refused to act on it and denied any relief.⁷³ Such bills are popularly known as “heartbeat bills” and have been enacted in several other states. Heartbeat bills fail to carve exceptions for cases where the pregnancy has occurred as a result of sex crimes. However, Texas’ version facilitates further disparity, on the grounds that it empowers the private citizens to bring lawsuits against abortion providers, or any person who helps or aids another to obtain an abortion. The aftermath of this law would result in cascading lawsuits against family members, medical professionals and abortion funds. Essentially, it serves on a silver platter, the right to sue any person who would be related to the occurrence of an abortion performed after the 6-week limitation. An anti-abortionist would thus have the authority to bring lawsuits to further a personal agenda. The Bill, circumlocutorily, grants the status of an attorney general to every private citizen.⁷⁴

⁶⁹ Id.

⁷⁰ Emma Green (The Atlantic), *Why Democrats Ditched the Hyde Amendment*, June 24, 2019, available at <https://www.theatlantic.com/politics/archive/2019/06/democrats-hyde-amendment-history/591646/> (Last visited September 17, 2021)

⁷¹ The Texas Heartbeat Act, Senate Bill 8

⁷² The Texas Heartbeat Act, §171.204.

⁷³ Neelam Bohra (The Texas Tribune), *Justice Department exploring ways to challenge Texas’ abortion ban*, U.S. Attorney General Merrick Garland

says, September 6, 2021, available at <https://www.texastribune.org/2021/09/06/texas-abortion-ban-federal-challenge/> (last visited September 14 2021)

⁷⁴ Shannon Najmabadi (The Texas Tribune), *Gov. Greg Abbott signs into law one of nation’s strictest abortion measures, banning procedure as early as six weeks into a pregnancy*, May 19, 2021, available at <https://www.texastribune.org/2021/05/18/texas-heartbeat-bill-abortions-law/> (last visited September 14, 2021)



Further, the scarcity of abortion clinics itself is a barrier that pregnant women seem to have to navigate themselves to undergo a rather simple, albeit vilified medical procedure. Memphis, Tennessee has a population of 1.3 million people and situated herein, are merely two abortion clinics.⁷⁵ This appears to be privileged access to persons living in the State of Mississippi which has one such clinic. Mississippi doesn't stand in isolation, various other states, namely, Kentucky, Missouri, North and South Dakota and West Virginia have a single abortion clinic.⁷⁶ The Memphis Centre sees women coming in from various other states such as Texas, Tennessee, Florida, Georgia, and other states that suffer a dearth of abortion clinics or have restrictive laws and rules pertaining to abortion. The southern states in the United States also seem to have infelicitous and insensitive rules surrounding women attempting to have lawful abortions. The clinics are liable to perform intrusive practices, such as transvaginal ultrasounds, and show the same to women⁷⁷ The rationale driving such rules is to permeate guilt in women and overwhelm them into changing their minds. It is such practices that encroach

on a woman's right to bodily autonomy. The paucity of such clinics leads women to incur higher financial expenses for travelling, overnight accommodations and many times, arranging for help to look after their children.⁷⁸ It is worthy to note that women of varied financial, and social backgrounds may at some point, need access to abortion clinics and the stringent nature of the oppressive laws and arbitrary rules exacerbate the mental anguish faced by women.

The laws in the United States may become even more stringent as the Supreme Court of the United States has agreed to adjudicate a case that may overturn *Roe v. Wade*.⁷⁹ The suit, titled *Dobbs v. Jackson Women's Health Organisation*, is scheduled to be heard by the Supreme Court in October 2021. The origination of the case dates back to 2018, when the Jackson Women's Health Organisation challenged the constitutionality of the Gestational Age Act of the Mississippi State which restricts abortions at 15 weeks save cases of medical emergencies and foetal abnormalities.⁸⁰ The United States District Court for the Southern District of Mississippi, granted relief to the plaintiff stating that the precedence set by the United States Supreme Court does not allow

⁷⁵ Sarah Varney (NPR), *Long Drives, Costly Flights, And Wearying Waits: What Abortion Requires In The South*, August 2, 2021 available at <https://www.npr.org/sections/health-shots/2021/08/02/1022860226/long-drives-costly-flights-and-wearying-waits-what-abortion-requires-in-the-sout> (last visited September 14, 2021)

⁷⁶ Holy Yan (CNN), *These 6 states have only 1 abortion clinic left. Missouri could become the first with zero*, June 21, 2019 available at <https://edition.cnn.com/2019/05/29/health/six-states-with-1-abortion-clinic-map-trnd/index.html> (last visited September 14, 2021)

⁷⁷ Sarah Varney (NPR), *Long Drives, Costly Flights, And Wearying Waits: What Abortion Requires In The*

South, August 2, 2021 available at <https://www.npr.org/sections/health-shots/2021/08/02/1022860226/long-drives-costly-flights-and-wearying-waits-what-abortion-requires-in-the-sout> (last visited September 14, 2021)

⁷⁸ Id.

⁷⁹ Amy Davidson Sorkin (The New Yorker), *The Unique Dangers of the Supreme Court's Decision to Hear a Mississippi Abortion Case*, May 30, 2021, available at <https://www.newyorker.com/magazine/2021/06/07/the-unique-dangers-of-the-supreme-courts-decision-to-hear-a-mississippi-abortion-case> (last visited September 14, 2021)

⁸⁰ Id.



states to ban abortion before the 24 week mark, that is, when the foetus becomes viable, which was affirmed by the U.S. Court of Appeals for the 5th Circuit in an appeal.⁸¹ Therefore, the law was held unconstitutional based on the rationale that it is only when the viability of the foetus ensues, that the interest of the State in the matters pertaining to the foetus is constitutionally adequate to condone legislative interference.⁸² The law, was thus, invalidated. In 2020, the suit came up in the Supreme Court of the United States when the state filed a Certiorari Petition pertaining to the 15-week ban.⁸³ The Court is set to examine an eminently specific question of “Whether all pre-viability prohibitions on elective abortions are unconstitutional”. To reiterate, in *Planned Parenthood v. Casey*⁸⁴, the states were allowed to regulate abortion, as long as the law did not put an “undue burden” on women. The laws legislated by various states showcase a trend of paving the path of women who want access to safe abortion with hindrances, which take the form of arbitrary rules. Unarguably, the legion of cases decided by the Supreme Court which aim to liberalise abortion, primarily, *Roe v. Wade* and *Planned Parenthood v. Casey*, form the bedrock of reproductive rights of women and thus the outcome of *Dobbs v. Jackson Women’s Health Organisation* will have far reaching and extensive repercussions, influencing the laws of abortion in America.

VII. POSITION OF BOTH NATIONS AND WAY FORWARD

An elementary understanding of the prevalent status of laws in both nations is bound to suggest that while India has ameliorated its legislations surrounding medical termination of pregnancy and demonstrated a much-awaited progressive attitude, the United States has assumed a rather regressive stance towards abortions. The Amendment Act framed in India aims at granting a bolstered and multi-faceted rendition of autonomy surrounding reproductive rights to its women, barring the shortcomings. The glaring contention in the Amendment Act lies in the fact that medical practitioners still assume a lot of the decision-making power to perform the medical termination of pregnancy. A plethora of testimonies from women seeking medical termination of pregnancy concludes with doctors refusing to perform the procedure citing moral, religious and other reasons. Critics have argued that the Amendment Act does not advance the agency of pregnant women.⁸⁵ Pregnant women falling under the 20–24-week gestation limit can attempt to have access to the procedure only if they fall within certain categories, of which sexual violence is one of them. This creates a hierarchy of “victimhood”⁸⁶ The clause

⁸¹ *Jackson Women’s Health Org. v. Dobbs*, 945 F.3d 265 (5th Cir. 2019)

⁸² *Id.*

⁸³ Amy Howe (SCOTUS Blog), *Court to weigh in on Mississippi abortion ban intended to challenge Roe v. Wade*, May 17, 2021 available at <https://www.scotusblog.com/2021/05/court-to-weigh-in-on-mississippi-abortion-ban-intended-to-challenge-roe-v-wade/> (last visited September 16, 2021)

⁸⁴ *Planned Parenthood of Southeastern Pennsylvania et al v. Casey, Governor of Pennsylvania et al* 1992, 505 U.S. 833 (1992)

⁸⁵ Alka Barua, Anubha Rastogi, et al, *The MTP 2020 Amendment Bill: anti-rights subjectivity*, *Sexual and Reproductive Health Matters* Vol.28 Issue 1, (July 28, 2020)

⁸⁶ *Id.*



which sets out the requisite permission of two medical practitioners is bound to have a disproportionate impact on women belonging to the Backward Classes, Adivasi women, residents of rural areas and the economically backward classes.

The multi-faceted Fourteenth Amendment to the United States Constitution lays down the concept of Due Process, which ensures the right of privacy to its citizens. The Court, in *Roe v. Wade*, explicitly stated that concept of personal liberty that has been enshrined in the Fourteenth Amendment includes the right to privacy and is therefore broad enough to encompass a woman's decision whether or not to terminate her pregnancy.⁸⁷ This coupled with the Court's decisions in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, which recognised the right of a woman to obtain an abortion without "undue burden" and laid down that the State's interest in the abortion which precede viability of the foetus are not legitimate, make the restrictive abortion laws in the United States unconstitutional. For instance, the Texas law, which has been discussed above, is a testament that the legislators aim at framing laws that are exceedingly oppressive for women with the objective of curtailing their reproductive rights. Whilst comparing the laws of the two nations, it is fairly obvious that the abortion rights in India are liberalised with higher gestational limits, with exceptions carved out for rape or incest victims and other special prescribed categories of women. The legislative histories of both nations demonstrate that whilst India has amended the laws of medical termination of pregnancy, thereby making them, to some extent, more inclusive, several states of

America have sanctioned laws that are extensively more stringent. One of the upsides, however, of the procedural aspects of abortion in America is the establishment of abortion clinics wherein women can proceed to demand an abortion. In India, this is not the case as the final decision to perform the procedure rests with the medical practitioner. The origination of the Act in India was also derived from the exigent need to control the population. Medication termination of pregnancy or abortion, whatever one may term it, ought to be exclusively about the reproductive autonomy, fundamental rights and the right to self-determination of women or lack thereof.

The United States and India, conscientiously need to eliminate the stringencies in the laws pertaining to abortion. For this, both nations foremost need to take cognizance of the issues that are peculiar to each nation. For India, that may be eliminating infrastructural lacunas, making the procedures more accessible to women belonging to all backgrounds, conducting awareness programmes to aid in eradicating the stigma surrounding the concept of abortion and helping women understand their legal rights. For the United States, that implies not utilising an integral right of women as a tool in politics, abstaining from allowing religious beliefs to moderate public health policies, complying with the rights and concepts enshrined in the Constitution and laid down in landmark Supreme Court judgements, establishing more abortion clinics to facilitate ease of medical help.

⁸⁷ *Roe v. Wade* 410 U.S. 113 (1973) at 152-154



VIII. CONCLUSION

According to data quantified by the United Nations, countries that have restrictive abortion policies have four times the number of unsafe abortions as compared to countries that have liberalised abortion policies, and therefore, such restrictive practices are accompanied with higher level of maternal mortality.⁸⁸ The Turnaway Study, was a longitudinal study conducted by Dr. Diana Green Foster and her team of researchers, throughout the United States in a period from 2008-2010, with the main aim of examining the mental, physical, and socioeconomic consequences of women who received an abortion as measured against women who were denied one.⁸⁹ The Study was conducted as a result of the dearth of data surrounding the aftermath of unwanted pregnancies which were carried to term.⁹⁰

The Study reported that 95% women, who underwent an abortion, stood by it and stated that it was the right decision, post a period of five years after the procedure. It also refuted claims of misconceptions that women who underwent abortions sustained detrimental effects. However, the Study highlighted that, women who were denied abortions and forced to carry an unwanted pregnancy to term had four times the likelihood of living below the Federal Poverty Line. In addition to this, they were likely to experience anxiety, loss of self-esteem, poor physical health. The children

born as a result of such pregnancies were also susceptible to serious implications.

Thus, in accordance with the scientific data and literature available in respect of abortions and the denial, thereof, it is discernible that the grant of reproductive autonomy to women is an indispensable right and the disavowal of the same, is an infringement of fundamental rights and culminates in preventable hardships. The attempts of the people in power to preclude women from accessing abortions does not translate to them succeeding in de facto suspending abortions. Such restrictive practices are causative factors that restrain women from accessing healthy, safe abortions. Such restrictive policies disproportionately impair women health, and in turn strain public health capacities. It is long overdue that women's choices and rights are not politicised, derogated, debated upon with an ultimate aim to deprive and oppress women under the garb of safeguarding the society's moral fibre.

⁸⁸ United Nations, Department of Economic and Social Affairs, Population Division, *Abortion Policies and Reproductive Health around the World*, United Nations publication, Sales No. E.14.XIII.11, available at <https://www.un.org/en/development/desa/population/>

[publications/pdf/policy/AbortionPoliciesReproductiveHealth.pdf](https://www.ansirh.org/publications/pdf/policy/AbortionPoliciesReproductiveHealth.pdf) (Last visited September 17, 2021)

⁸⁹ Advancing New Standards In Reproductive Health, The Turnaway Study, available at <https://www.ansirh.org/research/ongoing/turnaway-study> (Last visited September 16, 2021)

⁹⁰ Id.