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SANCTITY OF LIFE V. RIGHTS OF WOMEN IN THE CONTEXT OF ABORTION: AN EMPIRICAL ANALYSIS

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Abstract

Sanctity of life and right of woman are highly debatable topic even in the past and the present. Although each person has a sovereignty over his body, till 1971 woman was not allowed to abort. It was punishable under section 312-316 of IPC, 1930. By 1971 the government had passed laws which legalized abortion in India and the act was known as Medical Termination of Pregnancy act, 1971. This act has certain limitations as it restricted woman who are unmarried from abortion and woman can abort before 20 weeks of pregnancy even in many other countries it was 24 weeks. This made India to rethink as the rate of abortion through unwanted ways increased is yet another reason. Thus, the amendment was done. This made a much-liberalized form as it is accessible to all woman and increased the time period to 24 weeks also. But coming to the question of sanctity of life it become again difficult as there are high chance of unwanted abortion. The root of sanctity of life is vague. It is considered to have the touch of religious perspective. For to check whether the amended act collides with the rights of woman we have done an empirical study focusing on the questions related to rights of woman, their concept of abortion as human right, sanctity of life, etc. Based on this we looked at the history of legalizing of abortion in India followed by the abortion as a human right where we discuss the right of woman in India. Then looked at the concept of sanctity of life in which we focused at concept of sanctity under Christianity. By the study we analyzed that the sanctity of life is based on natural law. The statements made are doesn't have any logical reasoning in it. It doesn't have any kind of importance. Also, the UDHR had said that the right begins once it is born which completely says that the fetus doesn't have any right. Thus, we can say that the amended medical termination of pregnancy act, 2021 doesn't affect the sanctity of life.

Keywords: Sanctity of life, Rights of woman, Medical Termination of Pregnancy act, abortion, religious, UDHR, IPC, ICCPR, POSCO, rape, etc.

1. Introduction

Abortion and Euthanasia are the challenging issues at the heart of culture. Till now we are unaware of the moral foundations that underlie these issues. To an extent, people believe that the issue of the sanctity of life which we argue is based on the core root of the natural order. This was a negative mediate between those who are conservative and those who support abortion and euthanasia. The conservative's belief on the ending of life is that even if it's one's own life it violates God's natural design which stains spiritual purity. Traditional Christianity promotes opposition to the supports in three perspectives: deductive moral reasoning, authoritative moral reasoning, and consequentialist moral reasoning. Not only traditional Christianity opposed but traditional morality also promotes the sanctity of life. Even though the element of the sanctity of life has been said to be a religious touch but still we don't have the correct proof for it. It is considered to be an invention of the 12th century. To Stephen Smith, there are two views on how to value life. They are the sanctity of life and the quality of life. Sanctity of life is mostly applied to issues of abortion and euthanasia but it is matter of life and death in health care.

At the same time when it comes to the right of women their right to determine sexuality, fertility, and reproduction, often comes only when it is the case of abortion. From the above, we understood that there were legal and religious arguments that support the sanctity of life but when it comes to people who favor it, they point it as the choice of women. As they are the ones who should decide whether to continue or abort. Looking at the ancient period, we can see that women had taken different ways to abort the child or had many birth control ways.

When one looks into abortion rights in India, they are memorized by the surprising history of the US which made the abortion right legalized as it was at the same time of this that India started its move. But now that surprising history might get overturned. Earlier in English common law, a mother could terminate before she could feel the movement of the fetus, and that was considered to be legal and practiced widely. During the 60s and 70s even though abortion was legalized but still women are put under a panel of doctors who will judge the situation why to abort and then decided upon it. But *Roe v Wade*¹ and *Doe v Bolton*² in 1973 made an end to this situation. This gave the women to decide as their choice. From that year it is been legalized but by 2016 when the presidential election took place Trump promised to

¹ Roe v Wade, 410 U.S. 113 (1973).

² Doe v Bolton, 410 U.S. 179 (1973).

appoint judges in the supreme court who will overturn the Roe v wade³ case. As promised, he appointed three judges who are from the conservative party. The draft opinion published by the respective person leaked and it shows that the majority of the judges intended to strike it down. If this comes true then all the efforts of Roe will be overturned and it will be like how it was in earlier times. This issue is a growing concern in the U.S. at present.

Coming to India, at present if we look at abortion rights it has been much liberalized by the amendment of the Medical termination of pregnancy act, 1971. The aim of the amendment was to give access to every woman to abortion and many other terms in which abortion could take place like by extending the time period of abortion, etc. But looking at the abortion rate in India, about 47.6% of people said that the reason for abortion is an unplanned pregnancy, and 10% says that the last child is still small. Around one-fourth of women in Ladakh, Lakshadweep, Tamil Nadu, and Telangana respectively with 40%, 33%, 31%, and 27% respectively said the reason was health-related issues. The NFHS shows that compared to the poor people the abortion rate that took place among the rich group is high at 4.1%.

So, won't there be a question that the liberalizing of the MTP act will increase the case to a higher level which will lead to other issues? If this is the case, are we actually doing a sort of murder? Does that mean there is no value in the life of a fetus? What about the sanctity of life? Looking at earlier times and present times when one makes laws with regard to the rights of women in perspective of abortion it gets conflicted with that of the sanctity of life and vice-versa. This is because when one took the rights of women the opponents will take the sanctity of life. This is actually creating a conflict that provokes a culture war at the heart of people. As we know wars will destroy the peace in one's mind if it outbreaks. So, for this, it is important to analyze the aspect of the sanctity of life and the rights of women in abortion to avoid conflict. Thus, can prevent the government from taking a wrong decision on this debatable topic.

The main aim of the paper is to check and analyze which is to be considered or given priority as per the present societal condition whether it is the sanctity of life or the rights of women. The research methodology used is the empirical method of study. A survey of around 53 people was taken for the study to be conducted. The survey was done with various questions in relation to the sanctity of life and the right of women which deals with the rights of women in abortion,

³ Supra note 1.

circumstances under which they support abortion, fetus rights, use of contraceptives, and so on.

“An unholy mess: Why ‘the sanctity of life principle’ should be jettisoned, David Albert Jones (2016): The paper aims to present the important element of medical law and ethics which is often confused or debated as it is often compared with the principle of sanctity of life. This element doesn’t have a root to say as such but is believed to have a religious touch. From the study, it was understood that it doesn’t have any label but was defined and termed by the different as per their views. This is more from a traditional concept and has nothing as such as a perfect base. To him, this language is thrown out from the study that he had conducted”.⁴

“The Socio-cultural aspect of abortion in India: Law, Ethics, and Practice, Bhavish Gupta, Meenu Gupta (2016): In the paper, the author was emphasizing abortion in India which is a debatable topic with two terms pro-choice and pro-life. He said abortion is multi-faceted with many aspects in it like ethics, law, religion, law, etc. Abortion provides liberalization to women and gives them the power to take their own choice. When it comes to India it is important to take into account this topic. His result was to establish an equilibrium point between the rights of women and the rights of an unborn child.”⁵

“The sanctity of life: The role of purity in attitudes towards abortion and euthanasia, Christopher, Carol, Chris, Danny, (2022): the paper was looking or trying to find the relation between conservatism and opposition to the policies of abortion. For this, the study concentrated on the people of New Zealand. Both abortion and euthanasia are considered to be highly debatable topics. Above all the origin of the sanctity of life is still vague, it is said to have a touch of religious perspective. From the research, he conducted it was noted that sanctity acts as a mediate between conservatism and policies. They also found that conservatism was influenced by the natural law (fetus is a son of God) rather than by thinking it reduces harm”.⁶

“Abortion Law and Policy around the world, Marge Berer (2017): The paper aimed at various laws and policies on abortion around the world. The paper supported abortion as it says that it won’t make any legal and public health issues. Abortion will become safe and no one can deny

⁴ Jones, D.A. (2006) An unholy mess: Why 'the sanctity of life principle' should be jettisoned, CORE. Available at: https://core.ac.uk/display/74225901?utm_source=pdf (Accessed: December 11, 2022).

⁵ Bhavish Gupta and Meenu Gupta (2016) *The socio-cultural aspect of abortion in India: Law, ethics and ... - ili, ili. ac.* Available at: https://ili.ac.in/pdf/p10_bhavish.pdf (Accessed: December 12, 2022).

⁶ Christopher Lockhart *et al.* (2022) *The sanctity of life: The role of purity in attitudes towards abortion ...*, wiley online library. Available at: <https://onlinelibrary.wiley.com/doi/10.1002/ijop.12877?af=R> (Accessed: December 12, 2022).

it when it is given as per the choice of women. For the study, it is important to look at all perspectives like the political, health system, legal, socio-cultural, juridical, etc. Finally, he concluded that to achieve access to abortion we should hold hands together with legal experts, parliamentarians, health professionals, etc. So, everyone who is conceived with an unwanted pregnancy can access it as early as possible”⁷ It is assumed that the amendment of MTP act (right of woman in context of abortion) doesn’t contradict with the sanctity of life.

1.1 Research Objectives

- To understand and analyze what makes India legalize abortion.
- What are the rights available for women for abortion in India?
- To deeply understand the word sanctity of life in the context of abortion and reproductive issues.
- Does the sanctity of life collide with the current amendment of the MTP act?

1.2 Research Question

- Does the MTP (amendment) act affects the concept of the sanctity of life?

2. Content

Abortion

Abortion is the expulsion of the fetus from the uterus before the stage of viability that is before the 20th week of gestation. An abortion can occur at any point and such cases are called miscarriages or if it is done purposely then it is an induced abortion. Miscarriage usually occurs for reasons like disease, trauma, genetic defect, and biochemical incompatibility of mother and fetus normally. The fetus dies in the uterus but fails to be expelled which is termed a missed abortion. Induced abortions are done mainly for four categories, for example, in the case of rape, or incest, the life of the mother is in danger, birth defect, economic hardships, etc. In India, at present, about 47.6% of people said that the reason for abortion is an unplanned pregnancy, and 10% say that the last child is still small. Around one-fourth of women in Ladakh, Lakshadweep, Tamil Nadu, and Telangana respectively with 40%, 33%, 31%, and 27% respectively said the reason was health-related issues. The NFHS shows that compared to the poor people the abortion rate that took place among the rich group is high at 4.1%.

⁷ Berer M. Abortion Law and Policy Around the World: In Search of Decriminalization. Health Hum Rights. 2017 Jun;19(1):13-27. PMID: 28630538; PMCID: PMC5473035.

History of abortion in India

*Roe v Wade*⁸, which was currently overturned is having a past. Before 50 years in 1973, this was a landmark case that decriminalized abortion in the U.S. Why I mentioned it here is because two years before this case, India got the right for women to seek an abortion that is in 1971. This was ensured by the act named Medical termination of pregnancy act, of 1971.

In the beginning, India was also against abortion like other countries as it was strongly censured in Vedic's, Upanishads, puranas, Manu smriti, etc. But by 1971 it was legalized by India but there were certain limitations which were imposed. It considers an abortion legal at certain times like the continuance of pregnancy may end up with the mother's life in danger, or affect the physical or mental health, above all the termination can only be done if the doctors qualify for it. To an extent, India was against legalizing abortion. Even after three decades the issue of morbidity and mortality due to unsafe remains as it is. Why was it like that? The abortion law actually looks more into sex-selective abortion, and decrease in the sex ratio, and mainly these were set up in urban areas which made the rural people difficult to approach. Another reason was the moral, ethical, and religious perspectives of the society to which they belong. This was considered a means to control the rapidly growing population of India, especially the lower socio-economic groups of the country. Because of the increase in female feticide cases in Punjab, Haryana, and Rajasthan India brought strict laws. But before this, in India, abortion was criminalized under **Section 312**⁹. The punishment was 3 years in prison or a fine or both for whoever voluntarily caused a pregnant lady to miscarry whereas the woman who avails was punished for 7 years or a fine or both. By the 1990s, abortion was legalized in many other countries which initiated India. There was an alarming abortion rate which made the government to set up a committee in 1964 which was led by Shantilal Shah. The recommendations made were accepted in 1970 and thus the bill of Medical termination of pregnancy act in august 1971. There were several arguments in favor of legalizing abortion which made India legalize abortion.

Arguments that are in favor

Some of the arguments that are in favor of legalizing abortion are as follows;

⁸ Supra note 1.

⁹ Section 312, Indian Penal code, 1930.

- The sovereignty that one has on their own body. Each woman has a right to take decisions that are related to her body. No one can force her either to continue the pregnancy or terminate the pregnancy against her will.
- At times when there is an emergency like when the life of the mother is in danger if the pregnancy continues or any such kind of risk involved.
- If abortion is banned then the woman who doesn't want to continue with the pregnancy should continue with it and finally abandon it. In such situations, it is better to have an abortion.
- If abortion is banned or restricted then the woman will go back to earlier times, where they used unhygienic ways to abort which risked the life of the woman.
- When it becomes necessary to abort to save the life of the mother. This doesn't mean that we are not valuing the life of the fetus, but if we didn't do that both the life will be in danger. So, aborting the fetus will at least save the mother.
- Over time passed that is from the widespread practice of abortion and savage practices to the time where the fetus was considered a human being and practice or any kind of ill-treatment to the pregnant woman was considered to be punishable to the present time where the sovereignty of woman, human rights instruments which protect the rights internationally, it becomes important to legalize abortion.

Current status of abortion

By the survey conducted by a department, it came to notice that around 6.7 million abortions take place but in that 5.7 million are illegal. The final conclusion of the study was that India has steep maternal mortality which is 498 per 100,000 women. The law that we are now looking into is of 51 years old law where it prohibits abortion after 20 weeks of pregnancy. Only in certain conditions abortions after 20 weeks are allowed. Also, most importantly pregnancy that is induced through rape or failure of contraceptives had made mental issues in the woman which was a grave issue. In the case of Nikitha mehta the court said that the gestational period was over and also 25 weeks is passed.

But when comparing India with other countries like China, Korea, Canada, France, Germany, etc. they have a much more liberal law. Canada doesn't even interfere with these matters. It is left to the choice of the woman. Korea provides abortion till 25 weeks. This is because they saw that the woman is having absolute sovereignty over her body and the fetus is just a part of her body that acquires status only after birth. As I said earlier, in India, legal abortion is

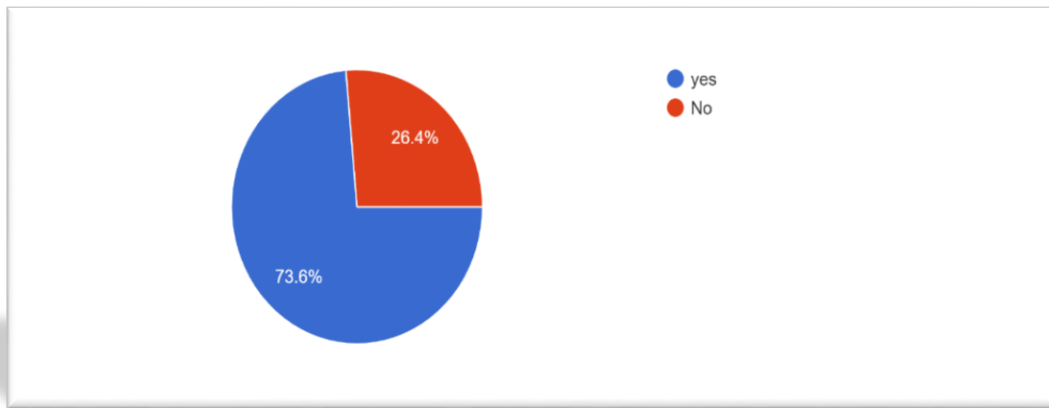
permissible only up to 20 weeks, after that certain conditions should be satisfied to abort. Through the case of Niketa mehta a new amendment was brought into force on the MTP act, 2021 which extended the period to 24 weeks and above in certain cases and it can be approached by a married and an unmarried woman that is the victim of sexual assault, widow, divorced, minor, disabled woman, birth defect, dangerous situations, etc. The present act also prohibited alternative medical practitioners from performing abortions. This was due to the death of a woman from Maharashtra. The act doesn't limit the woman from abortion in case of failure of contraceptives. This amended act expands the services like therapy, social care, rehabilitation, etc, and also gave more importance to confidentiality.

Rights of women (abortion)

Before looking into that it is important to speak about abortion as a human right. From the preamble of UDHR, we can see it better. They established a common standard for all people and nations thus affirming faith in the fundamental right and dignity of each people. Also, the article says that these rights will be available to everyone without any discrimination and it is the foundation of human rights. On the other hand, ICCPR emphasized the right to life. It states that no one can deprive it and everyone shall be protected under it. Some jurists say that the right to life of a being begins when a being is born. Even though many proposals have come to change the right to life begins from birth to conception but were rejected. The right to life is something that we get from inheritance compared to all other rights. But if we ban or restrict abortion or criminalize it, that will have a high issue. It is stated by article 12 of CEDAW that states should make appropriate measures to avoid discrimination against women in health-related matters.

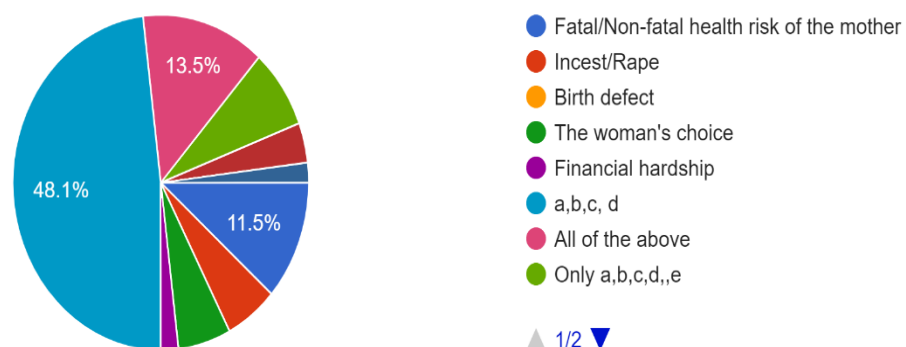
As per the survey conducted around 73.6 % people are in favor of abortion being a human right whereas 26.4% says no to it. From this we can understand that majority of the people needs it as human right. Below shows is a pie graph which says about the people who accepts abortion or a need abortion as a human right.

Fig (1) Graphical representation of should abortion be a human right



Now comes the question of why they want it as a human right. Under what circumstances do they prefer abortion to take place?

For this, the paper looks into the survey that is conducted among the people. The survey was conducted around different age groups. The majority was from the young generation which constitutes 94.3% of which 62.3% are females and 37.7% are male. They want it as a human right as it is because it is their life and they are the ones who need to take decisions, also because of the crime rates of rape, difficulties in the life of the mother due to changing lifestyle, economic hardships, etc the society prefers abortion to be a human right. The study conducted says that 48.1% of people prefer abortion in case of fatal/ non-fatal health risks to the mother, Incest/rape, birth defect, and in case of woman’s choice. Around 13.5% people prefer abortion at times of financial hardship also along with the above-mentioned circumstances. Fig (2) shows the pie graph of the circumstances under which they prefer abortion. 90.6% people prefer abortion in the case of rape, and risk in the life of the mother alone.



Abortion rights in India

- Constitution of India

Fundamental rights are given in Part III of the Indian constitution. In that, the most important is **Article 21**¹⁰, which says the right to life within which the right to privacy is also embodied. It makes a restriction the government from misusing its powers. From **Article 21** we can say that every woman has an individual right, right to life, liberty, and sovereignty. Women have reproductive features and so they have the right to decide it upon themselves as it is their body and they enjoy sovereignty over their body. So, to ensure this the international community acknowledged it as the right of the woman. They also said that they should make laws to promote reproductive rights. So, every woman all over the world can have a right to control over her body. Some of the cases which recognized it as a woman's right are *Srivastava v Krishnanan*¹¹ and *Laxmi Mandal v Deen Dayal Hari Nagar Hospital*¹².

➤ Indian Penal Code

Sections 312 to 316¹³ are some sections that deal with penal abortion. It is placed under the section on offenses. **Section 312** says about a person who voluntarily causes a miscarriage of a woman will be punished for 3 years or a fine or both. If the woman was at quick (movement of the fetus can be felt) then the punishment can go for 7 years and fine. If it is done with good faith then no punishment. **Section 313** says about the miscarriage done without the consent of the woman. The offense is cognizable, non-bailable, non-compoundable, and triable by the court. **Section 314** says about the person who does miscarriage with an intention and thus resulting in the death of the woman and **Section 316** says that if a person does an act which may cause death though he has not intended or desired, he will be punished under this.

➤ The Medical termination of pregnancy.

The medical termination of pregnancy act, of 1971 was passed due to the progress of medical science which provides safer abortions. In India, there were a lot of issues where the woman's mortality rate started decreasing due to the unwanted way of abortions. So, with an aim to avoid this act was passed with certain limitations like it allows abortions only before 20 weeks of pregnancy. But as many other countries have allowed abortions after 20 weeks also and due to the change in society, it becomes

¹⁰ Article 21, The Indian constitution, 1950.

¹¹ SLP (C) 5845/2009.

¹² W.P (C) Nos. 8853 of 2008.

¹³ Section 312 & 316, Indian penal code, 1930.

important to develop this act. Thus came the amended act of MTP in 2021. The aim of this was to allow the woman to access safe and legal abortion services. The amended act allows unmarried women to abort in cases of failure of contraceptives, rape, etc. Till 20 weeks of the time, the report of one medical practitioner is enough but between 20-24, it is two RMP. The confidentiality of women is given much importance. If this is reached then the punishment increased to Imprisonment of 1 year or a fine or both. After 24 weeks the medical board should diagnose it.

Some other laws are the POSCO and Pre-conception Pre-natal diagnostic techniques act regarding abortion. Does that mean that the fetus doesn't have a right? When does right of life begins? As per the UDHR very humans are born with rights and dignity. The word born was used to imply that the fetus doesn't have any right. Even though an embryo develops its heart starts its quick movement by the end of second and third trimester, still once it is born only it will have all the rights. As per the survey around 73.1% people opined that a right begins once it is born. Even though there are many rights given does that mean the people are getting access to it? Now comes the question of the sanctity of life. Are the laws saying that there is nothing as such sanctity of life? What actually is the sanctity of life? Let's look into that now.

Sanctity of life

For about five decades this phrase has been a part of a debatable topic in relation to abortion. The concept of origin of this is still unclear. It emphasizes the value of human life and sees that abortion or euthanasia is against the concept of this as they consider it as something evil. This topic had played a controversy in the U.S. January 22 is considered the National sanctity of human life day through the decision of the Roe v wade case. Several attempts were made to introduce the sanctity of life act bill in order to establish the right of personhood which begins from the period of conception. This has also emerged as a key principle in debates about end-of-life and abortion. John Sutherland Bonnell was the first to use the phrase bioethical. He entitled the sanctity of life in single sentence saying Christianity had never stopped from emphasizing the sanctity of life and it is the one which values the individual that includes the mind and body. He used it as a self-evident prohibition against the killing of life without giving a logical argument regarding the same. He thought this will serve the fundamental human right to life as those days they regard the right of a human being begin from the time of conception. Later Peter singer opposed the concept of the sanctity of life ethics and predicted it with quality of life and end to life. For this, the catholic people criticized and termed him as the architect of

the culture of death. Sanctity is actually misunderstood with the biological human life which makes it confusing. Since everyone looks into Christianity while saying about like the sanctity of life let's check what it actually says about the sanctity of life.

Christian concept:

At those times it was believed that God creates the universe and every creature, among them humans are the most beautiful creation. As per their belief humans are given the highest position. The nobility of human beings is seen in a divine manner stating that "Be fruitful and increase in number, fill the earth and subdue it. Rule over the fish of the sea and the birds of the air and over every living creature that moves on the ground"¹⁴. Humans are the custodians of the earth. So, from conception to death human life is valued, and respected, etc. Humans should obey God, as it is believed that once they die, they will be called judged on doomsday. In Christianity, abortion is said to be evil. It is not an acceptable alternative for birth control, population control, sex selection, etc. In the scriptures, they treat an unborn baby as a person who is under the care and protection of God. So, they believe that the personhood of a person begins from the time of conception.

In the bible, it is considered that the woman is having a child in the womb at the first stage of pregnancy. As in the bible, the angel had reported to Mary about the birth of Jesus and John, which they believe that from the time of conception they are considered as persons under the control of God. The Bible considers the pre-natal phase as life as a child itself. Even in the bible, a woman who is conceived through an illicit relationship is having the sanctity of life. This is explained through the case of Bathsheba who gave birth to Solomon through an illicit relationship. To them, God is an active creature. So, every person who is yet to be born has equal status before God. This was mentioned in Job's declaration. The Bible says that each creature that God created has some aim in the world even if it is not born. By killing them they are doing a sin and making the quality of life cheap. It is said as may be the one who is killed may find a cure for cancer by killing it you destroyed the way. There are some things that are above those of humans. Even if there are any kind of medical issues God's love won't be limited. So, it is not allowed to test before being born and decided whether that may live or not. It is said that "you shall not murder"¹⁵ is said as a moral imperative. This was highly rejected by the people as per the survey conducted. Out of 53 responses around 67.3% of people

¹⁴ Genesis 1: 28.

¹⁵ Exodus 20:13.

disagree with the statement only 32.7% of people agree with this who believe in the natural theory of God. Moses was inspired to include a law regarding the sanctity of life which states as follows; “If men who are fighting hit a pregnant woman and she gives prematurely but is no serious injury, the offender must be fined whatever the woman’s husband demands and the court allows. But if there is serious injury, you are to take life for life, eye for an eye, tooth for tooth, hand for hand, foot for foot”¹⁶. To an extent we can see this as a comparison with IPC but with a reformatory theory of punishment. John Calvin stated and considered that a fetus in the womb of a mother is a human being. It is something heinous; compared to killing a person in his own house which is the safest place for him.

In case, where the mother’s life is in danger then in such situations, the mother’s life is given priority as she is a person who is having family, responsibilities, etc. but should rely on God to remove all the difficulties. Also, it is noted that women who do abortions because of shame, guilt, depression, etc take that measure as a better measure but that will haunt them for a lifetime. People who recognize this and went to God for forgiveness will be healed by God.

Sanctity of life v MTP act

From the above we now can analyze that which is having a base and to be considered. If we look at the sanctity of life base given by various jurists, we can see that it was all just at the natural law period where they looked it in various perspectives such as religious, conservatives, bioethics, etc. They say these as they are disappointed with the end of life. Since it was in the natural law period people relate things to God and justified everything based on God. In the bible it states that even if the mother’s life is in danger still abortion was not allowed and they believed it will be cured. But when it comes to the Medical Termination of Pregnancy it allows to abortion legally till 24 weeks which shows that the sanctity of life is been destroyed by the act. But what about the rights of women? Won’t that actually violate their right to life -right choose, health, etc. Let’s look into this concept by looking to the recent judgement given by Supreme court to understand whether sanctity of life of a child in the womb should be given importance or right of a woman.

Sanctity of life v Rights of women

In this part we will be solely looking into the concept of women’s right to life and their freedom

¹⁶ Exodus 21: 22-24.

to choice. For this we will be looking into certain judgments given by supreme court on the matter related to the termination of pregnancy and mainly upon A v State of Maharashtra & ANR¹⁷, the recent judgment given by the Supreme court of India. The facts of the case are as follows: X a minor, aged 14 was alleged to have been sexually assaulted in the year September 2023 and the incident came to the knowledge on March 2024, by that time she was 25 weeks pregnant and it didn't come to the knowledge because of her irregular periods. FIR was filled on March and she was taken for medical examination from which she was been transferred into JJ hospital at Mumbai for termination of her pregnancy. As per the opinion of the board she was fit for termination of pregnancy but subject to the permission of High Court. The high court denied it on the basis that the gestational period had exceeded 24 weeks. As a result, because of the impugned judgment the appellant moved to Supreme court under Article 136 of the Constitution of India¹⁸. The second question that was dealt under this court was about the right of a pregnant person. The court in this case referred to Suchitha srivastva v Chandigarh Admin¹⁹, wherein a three-bench held that the right to make reproductive choices is the major standpoint under Article 21 of the constitution of India,1950. Also, in case of abortion and reproductive choices, the consent of the pregnant woman has much greater weightage. The hon'ble supreme court in this case also upheld the same by stating that even in case of minor if the opinion of the minor differs from that of pregnant person still importance should be given to the opinion of the minor.

So, from the above all we can come to an aspect that even though the concept of abortion is not accepted in Christianity but at the present era, even the Christianity supports abortion, if the continuation of the pregnancy is a harm to the pregnant woman's body. Also, by analyzing MTP act, Christianity, and the judicial decisions, it is evident that the MTP act actually gives a right to a child. That is it doesn't allow unnecessary abortion after the prescribed period of 27 weeks which is upholding the sanctity of life.

Conclusion

It is important to understand why we need these legislations. The main objective for this is to provide all woman to access safe and legal abortion. As this is a sensitive matter with regard to a woman. The MTP act, 1971 provide woman to abort before 20 weeks of pregnancy. This

¹⁷ A v State of Maharashtra, Civil appeal No.5194 of 2024

¹⁸ Article 136, Constitution of India, 1950

¹⁹ Suchita Srivastava v Chandigarh Admn, (2009) 9SCC 1.

made a difficult as some of the issues related to fetal can't be understand until it past 20 weeks. Also, this act restricted the woman who are married from doing abortion. The amended act of MTP act clears all this issues and gave a much more liberalization to woman in making the decision of abortion. The act also prohibited other alternative practitioners from doing abortion. But the main issue which we looked upon is the sanctity of life and the rights of woman in abortion. Earlier the concept of abortion was not accepted in Christianity but in the present era, even the Christianity supports abortion, if the continuation of the pregnancy is a harm to the pregnant woman's body. Also, by analyzing MTP act, Christianity, and the judicial decisions, it is evident that the MTP act actually gives a right to a child. That is, it doesn't allow unnecessary abortion after the prescribed period of 27 weeks which is upholding the sanctity of life.

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