



## Right to abort in India with special reference to unmarried women: An exploratory study

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### Abstract

This study examines the right to abortion for women specifically are not married and are not the victims of rape or other sexual offenses when they try to abort after the period given in the MTP act, also which is discriminatory in terms of the marital status of the women. The research investigates how these unmarried women face discrimination on the basis of their marital status when seeking abortion. Additionally, the study highlights the disparities that exist between court decisions and legislative provisions pertaining to this subject. By analyzing the intersection of legal perspectives and real-world experiences, this research sheds light on the challenges and inconsistencies surrounding abortion rights for unmarried women.

Their right to get abortion done in India, governed by the Medical Termination of Pregnancy Act, 1971, is crucial for women's reproductive autonomy. This abstract examines the unique challenges unmarried women face in exercising this right. Despite legal provisions, social stigma, limited awareness, and barriers to access create hurdles. Unmarried women fear judgment and lack knowledge of their rights. Improving awareness, providing youth-friendly services, and reducing societal stigma are vital to ensure unmarried women can access safe and confidential abortion services, promoting their reproductive rights and personal autonomy.

**Keywords:** Abortion rights, Unmarried women, discrimination, marital status, reproductive autonomy

### Introduction

The right to decide regarding one's body and reproductive health is one's personal right and discretion. The right to abortion in this scenario is a critical nexus of the Rule of Law, Morality, and Individual Rights. With a strong emphasis on its consequences for single women. The research here sets an exploratory voyage into a particular aspect of this right, the right to get abort in India. The topic of abortion has a special significance in India however, country's diversified geography, which is characterized by a rich tapestry of cultures, traditions, and changing cultural standards. While India's legal system for abortion has undergone gradual adjustments over time, societal attitudes and long-standing stigmas still influence how easily this right is actually exercised, especially for single or unmarried women. This exploratory study's goal is to examine the complex topic of unmarried women's abortion rights in India. It is a journey that involves the complex interaction of statutory requirements, medical procedures, societal perspectives, and individual decisions. We intend to shed light on the difficulties, achievements, and unanswered issues surrounding the right to get abort in the Indian context, particularly as they relate to single women, by navigating this complicated landscape.

### Literature review

1. Kalyanwala, S. *et al.* (2010a): The study examines the circumstances where unmarried women who are young in age in Bihar and Jharkhand who sought to terminate unintended pregnancies, highlighting the need for secure abortion services and sex education programs. It identifies factors related with obtaining a second-trimester abortion, such as age, education level, rural residence, lack of partner support, and non consensual sexual encounters.

It primarily focuses on Jharkhand & Bihar, potentially overlooking regional variations. Socioeconomic

influences, healthcare provider perspectives, and the quality of services could be explored further. Additionally, the study could delve deeper into the long-term consequences of abortion, the influence of cultural factors, and quantitative data analysis for a better comprehensive understanding of abortion experiences among young unmarried women of India.

2. Pallikadavath, S. and Stones, R.W. (2006): The factors related to maternity and society influencing abortion in India are investigated in this population-based study. It examines the intricate interactions of demographic traits, socioeconomic status, and cultural factors that impact abortion decisions. This paper can be informative to people who want to pursue further research to have the better understanding of the dynamics of female reproductive well-being in India by shedding light on the points that influence abortion rights in that nation.

It could benefit from a more extensive exploration of cultural and religious influences on abortion decisions, also the study may not thoroughly analyze the effect of regional variations, healthcare access, or legal frameworks, which are essential factors in understanding abortion in terms of diverse context of India.

3. Gangoli, G. (1998): This article delves into the intricate relationship between reproduction, abortion, and women's health. The author here likely examines the multifaceted aspects of women's reproductive rights and well-being, addressing cultural, societal, and legal factors influencing access to secure abortions. This review underscores the importance of this work in shedding light on critical issues affecting women's health and reproductive choices, making it a valuable contribution to the field.

It may lack contemporary data and context as it was published in 1998. Furthermore, it could benefit from a

more comprehensive exploration of the cultural and societal factors affecting women's reproductive choices and health. Additionally, a more in-depth examination of the evolving legal frameworks regarding to get abort in India could enhance the paper's relevance and completeness.

4. Jejeebhoy, S.J. *et al.* (2010): The study investigates the challenges faced by young unmarried females in the region of Bihar and Jharkhand when seeking abortion services. It likely examines factors causing delays and disadvantages, including social stigma and restricted access to secure abortion facilities. The study provides very helpful inputs into the reproductive health experiences of this vulnerable group, emphasizing the demand for improving healthcare services and policies to safeguard their rights and well-being. It may not thoroughly investigate the role of healthcare professionals in facilitating or obstructing abortion access. Also, the study could delve deeper into the socio-economic and cultural factors influencing abortion-seeking behaviour amongst unmarried young women providing a more comprehensive analysis.

#### Research objective

1. To critically examine the gap between the recent judgements and the MTP Act.
2. To determine the strategies to remove the discrimination between unmarried and married women.
3. To give equal abortion rights to unmarried or single women.

#### Research questions

1. Is discrimination based on marital status legal and is non violative of right to equality?
2. Whether the discrimination is the only factor which is making an unmarried woman unable to access her abortion rights?
3. Whether the society also discriminates any unmarried woman if she tries to access her Right to Abortion?

#### Hypothesis

Women who are not married and are also not the victims of rape or sexual offenses face discrimination on the ground of their marital status when trying to access their right for abortion.

#### Scope of the research

The scope of my research will be limited to the Right to Abortion of a woman who is neither a victim of any sexual offense nor is a married woman. This study examines the availability of abortion in India with a focus on single women. It thoroughly analyses the context of abortion related to the legal framework, healthcare accessibility, societal attitudes, and individual experiences. The study attempts to present a holistic knowledge of the difficulties and opportunities linked to abortion rights for unmarried women in India by examining these multifaceted issues and providing insights for policy suggestions and advocacy initiatives.

#### Research methodology

The method used here will be a mixture of Doctrinal Methods. In Doctrinal the primary and secondary sources will be considered, the primary will be Judgments, Acts, and

reports of the law enforcement agencies and the secondary will be Law Journals, Newspapers, and Books will be considered and the suggestions and discussion will be made based on the findings of the study.

#### Legal framework for abortion in India

In India, abortion is effectively legalized by the Medical Termination of Pregnancy (MTP) Act, which was introduced in 1971 and amended in 2021. The MTP Act gives women the liberty to decide for their reproductive health and permits them to have pregnancy terminations in specific situations. The Act permits to abort up to 24 weeks with the consent of two medical professionals and till 20 weeks with the view of one certified medical practitioner, provided that the foetus has defects or poses a serious risk to the woman's life. This legislative statute establishes the foundation for protecting reproductive rights, especially the right to get abort, in India.

To ensure that legal provisions translate into accessible and stigma-free reproductive healthcare for all women in India, comprehensive awareness campaigns and youth-friendly healthcare services are necessary. However, societal stigmas surrounding premarital pregnancies can create barriers for unmarried women to effectively exercise this right.

#### Rights of unmarried women regarding abortion

Under the Medical Termination of Pregnancy (MTP) Act of 1971, law allows the women to form decisions regarding their reproductive well-being by permitting abortions up to 20 weeks, with the possibility of a 24-week extension under certain conditions. The Act, in essence, does differentiate based on marital status. The rights of unmarried women in the abortion intersect with societal norms, presenting distinct challenges. Unmarried women often confront heightened societal stigmas and judgment related to premarital pregnancies and abortions, impacting their decision-making process. Privacy concerns, deeply rooted in cultural norms, further complicate the exercise of this right, influencing the willingness of unmarried women to seek safe and legal abortion services. Bridging the gap between legal provisions and societal attitudes is imperative to ensure unmarried women can effectively access and exercise their right to abortion, fostering a more inclusive and supportive reproductive healthcare landscape in India.

#### Challenges and disparities

The right to abort in India, particularly for unmarried women, is beset by a myriad of challenges and disparities, reflecting a complex interplay of legal, societal, and healthcare factors. Societal stigmas surrounding premarital pregnancies create a pervasive culture of judgment and discrimination, disproportionately impacting unmarried women. This stigma not only prevent individuals from receiving secure abortion services, but also places a psychological strain on them, due to which they find it difficult to make appropriate decisions regarding their reproductive health. Unmarried women's ignorance of their legal rights and the accessibility of secure abortion procedures presents a serious obstacle. Privacy concerns, deeply rooted in cultural norms, further widen the disparities, as unmarried women may be reluctant to navigate a healthcare system that lacks sensitivity to their unique needs. The effects regarding these challenges is not uniform, with disparities manifesting along socio-economic

lines, disproportionately affecting marginalized communities. Addressing these challenges necessitates multidimensional actions, including comprehensive awareness campaigns, youth-friendly healthcare services, and policy reforms aimed at dismantling societal stigmas. It is imperative to create an inclusive reproductive healthcare landscape that ensures the right to have abortion is not only protected under law but also effectively accessible and free from discriminatory hurdles, particularly for unmarried women facing unique societal pressures.

### Conclusion

In conclusion, the right to abort in India, particularly concerning unmarried women, is ensconced within a complex interplay of legal provisions, societal stigmas, and practical challenges. Despite the MTP Act providing a legal framework, unmarried women encounter formidable barriers that impede the effective exercise of this fundamental right and are also discriminated on the basis of marital status, not only societal stigmas surrounding premarital pregnancies cast a long shadow, fostering judgment and discrimination, creating an environment where unmarried women may forego seeking abortion services due to fear of social repercussions. The insufficiency of awareness compounds the issue, limiting the ability of unmarried women to take correct decisions about their reproductive well-being. Access to secure abortion services, mostly in rural areas, remains a pressing concern, impacting the timely utilization of this right. Due to strongly ingrained cultural norms, privacy concerns further prevent unmarried women from receiving the medical care to which they are legally entitled.

The apex court has observed in its recent judgement regarding the abortion rights that it is against the Art 14 of the constitution to discriminate a women on the basis of marital status when she tries to access her right to abortion, also in another recent case the court held that a married woman has the to right to abort even after 24 weeks till 26 weeks under the MTP act but with the help of medical science it is possible to keep a foetus alive even after 24<sup>th</sup> week as it develops living properties in it and even if it is removed from the womb then to it can be considered as an unborn child, thus court held that to give a woman her abortion rights we cannot ignore the right of an unborn child.

### Suggestions

It is been observed with the study that this study is not only discriminating between the legal framework and the court's view point in making the unmarried women unable to access her abortion rights but there is one more factor that is affecting the access on a bigger aspect, which are societal stigmas attached with practise when an unmarried women tries to access her rights to abortion.

To tackle these obstacles, a multifaceted strategy is required. The work of NGOs and advocacy groups is essential to eradicate these stigmas, increasing public awareness, and guaranteeing the right of private, youth-friendly services. Legal interventions and policy advocacy are paramount in creating an environment where unmarried women can avail their right to abortion without fear of social repercussions. The findings underscore the urgency of comprehensive initiatives to lessen the gap between legal

provisions and societal realities, fostering a more inclusive and supportive reproductive healthcare landscape in India.

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