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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

“THE DENIAL OF ABORTION RIGHTS THROUGH LAW AND RELIGION: A DOCTRINAL ANALYSIS OF ROE V. WADE AND INDIA’S LEGAL FRAMEWORK”

AUTHORED BY - DHWANIKA SHARMA

ABSTRACT

The denial of abortion rights is critically examined in this study, with an emphasis on India, via the interrelated prisms of religion, economic inequality, and social standards. It investigates how prevailing religious beliefs—especially those derived from Buddhism, Islam, Christianity, and Hinduism—influence public opinion and legal systems, frequently placing a higher value on moral principles than on women's reproductive autonomy and well-being. The study examines how these socially and religiously motivated barriers disproportionately impact vulnerable groups by utilizing an empirical methodology that combines qualitative and quantitative data from a variety of respondents, such as doctors, lawyers, and members of the general public. Additionally, it draws attention to the Medical Termination of Pregnancy (MTP) Act's legislative flaws, particularly with regard to late-term abortions, and illustrates how stigmatization and narrow interpretations affect access to safe abortion services. The findings support for a secular legal strategy that harmonizes domestic law with international human rights norms and highlight the need to preserve abortion rights as fundamental human rights, grounded in the principles of gender equality, bodily autonomy, and public health. The report concludes by urging immediate legislative and policy changes to guarantee the protection of reproductive rights in a variety of religious and cultural contexts. In order to illustrate how religious conservatism can undermine reproductive rights in a variety of circumstances, the analysis also places worldwide comparisons in context, particularly with the United States following Roe v. Wade and the growth of evangelical influence. The report emphasizes the pressing need for secular policy change that prioritizes women's agency, incorporates comprehensive sex education, increases access to healthcare, and conforms to global reproductive justice standards. It makes the case that the only way to ethically and legally preserve the balance between religious variety and reproductive freedom is through a rights-oriented, secular governance approach. The study also observes that although some respondents favor abortion in situations of rape, incest, or fetal abnormalities, relatively few

acknowledge that socioeconomic hardship or bodily autonomy are acceptable justifications for abortion. This illustrates the pervasive influence of religious morality on personal convictions and viewpoints on public affairs. The results also indicate that a sizable percentage of participants support women's autonomy despite their personal religious convictions, pointing to the possibility of progressive change even in religious communities.

HYPOTHESIS:

The denial of abortion rights is heavily impacted by social, religious, and economic concerns, which frequently take precedence over the equality, autonomy, and health of women. This study makes the hypothesis that abortion rights ought to be granted and safeguarded via a human rights-based framework, giving individual freedom, public health, and gender equity precedence above socioeconomic limitations and religious beliefs. Ensuring fair access and protecting fundamental freedoms in a variety of religious and cultural situations requires a secular, rights-based approach to abortion regulations.

RESEARCH OBJECTIVES:

1. To examine the ways in which Indian religious beliefs—specifically those of Buddhism, Islam, Christianity, and Hinduism—affect public opinion and abortion regulations.
2. To assess how well women's reproductive rights are protected under the Medical Termination of Pregnancy (MTP) Act.
3. To examine how economic, societal, and religious variables contribute to the stigmatization of abortion.
4. To investigate how, in religiously diverse nations, a human rights-based framework may promote the legality and defense of abortion rights.

RESEARCH QUESTIONS:

1. Whether religious beliefs in India have significantly influenced the creation and implementation of abortion laws?
2. Whether religious arguments against abortion conflict with international human rights principles, particularly regarding bodily autonomy, health, and gender equality?
3. Whether religious, social, and economic factors collectively contribute to the denial of safe and legal abortion access for women in India?

4. Whether a human rights-based legal approach can effectively advocate for abortion rights in the face of religious and cultural opposition?

STATEMENT OF PROBLEM

In India, where legal constraints coexist with strong moral, cultural, and religious opposition, the right to an abortion continues to be one of the most divisive topics. The Medical Termination of Pregnancy (MTP) Act was enacted to legalize and control abortion in specific situations, however it does not fully protect women's reproductive rights, particularly for those from underrepresented groups. The Act does not completely protect bodily autonomy, sets gestational restrictions, and necessitates medical authorization. Furthermore, cultural views based on prevailing religious teachings have a significant impact on the legal system. These attitudes frequently portray abortion as sinful or immoral rather than as a personal decision or health right. Furthermore, these difficulties are made worse by social and economic disparities. Due to their restricted access to healthcare facilities, lack of legal knowledge, and increased susceptibility to cultural pressures, women from minority communities, rural locations, and lower socioeconomic backgrounds are disproportionately affected when abortion services are denied. Women's vulnerability is increased by the interaction of religion, gender, and socioeconomic class, which transforms a constitutional and health concern into a moral controversy. A crucial legal and moral challenge is brought up by this complicated situation: how can abortion rights be upheld and promoted in a culture that is both highly traditional and religiously diverse? There is a conflict between respecting universal human rights and maintaining religious values. Many Indian women would continue to have restricted access to reproductive justice if this issue is not resolved. Thus, the inability of current legal and policy frameworks to guarantee fair, rights-based access to abortion is the main emphasis of this study. It draws attention to the necessity of depoliticized reproductive choices, public awareness campaigns, and legal reform in order to create a system that puts public health, gender equality, and bodily autonomy ahead of cultural and religious resistance.

SIGNIFICANCE

1. Advancing the Intersection of Law, Religion, and Human Rights: This study offers a thorough examination of the ways in which religious beliefs impact India's abortion laws and regulations. Abortion is a subject that touches on constitutional law, religious liberty, and human rights. By examining this connection, the study advances legal knowledge on

how to integrate secular human rights with religious convictions, particularly in nations where religion has a significant cultural and legal influence.

2. **Contributing in the Discourse of Reproductive Rights:** The study clarifies the nuanced ways in which religious convictions influence abortion laws, frequently at the expense of women's right to reproductive autonomy. It promotes the global campaign for the acknowledgment of reproductive rights as essential human rights, emphasizing gender equality, bodily autonomy, and access to healthcare, by presenting the topic via a human rights perspective. This is essential to moving the abortion rights debate forward in nations where religious convictions have a significant impact on legal systems.
3. **Promoting Bodily Autonomy:** The article highlights the necessity of acknowledging abortion rights as crucial to attaining gender equality and defending women's bodily autonomy through its emphasis on human rights. It makes the case that these rights should be unaffected by moral or religious objections and promotes a legal framework that gives women the freedom to make decisions about their own bodies without interference from religion.
4. **Challenging Legal and Cultural Norms:** The article takes a serious stance against the legal and cultural norms that support religious beliefs at the expense of individual liberties, particularly when it comes to reproductive health. In doing so, it advocates for a change toward more rights-based, inclusive laws and forces a reevaluation of the place of religion in public policy and legal decision-making.

INTRODUCTION

All throughout the discourse of time women's rights have gone through tremendous and strenuous stages reaching to even genocide, fatality, additionally out of all this abortion has been a very stigmatised, taboo, sensitive and volatile debate. In almost all societies and legal set ups abortion was initially banned and heavily stigmatised not only due to women oppression, but also owing to the conformity of religion. Religion not only in its ancient sources and doctrines, but the follow up interpretations of various sects have always had a chokehold on their followers, their generational and intrinsic conformity are owed to numerous factors like the deep rooted unconscious and subconscious reliance on religion as supreme and the only way of life, the fear of communal and societal ostracization.

Abortion Rights have had a superficial journey throughout various primitive and modern societies; the infamous ruling of *Roe v Wade* 1973, the case was filed under a pseudonym,

"Jane Roe" sued Henry Wade, the Dallas County district attorney, challenging the Texas statute that criminalized most abortions. The Texas statute, according to Roe's lawyers, infringed a woman's right to privacy, which is a fundamental freedom guaranteed by the Fourteenth Amendment, and as such, was unconstitutional. They argued that a woman's decision to give birth should be left to her and her doctor, and that the law should not interfere with her choice. Wherein the U.S. Supreme Court ruled in favour of the constitutionality of abortion rights and struck down numerous abortion laws.¹ *Roe v. Wade* established the trimester framework, a novel legal concept that influenced abortion laws for many years. It struck a compromise between the state's growing interest in controlling abortions as the pregnancy went on and the woman's freedom to make her own decisions in the early stages of pregnancy. First Trimester: The woman and the doctor make the decision to undergo an abortion; the state was unable to control the process.

Second Trimester: The state may impose reasonable restrictions on abortion practices that are connected to the health of the mother. Third Trimester: At the time of the foetus' "viability"—its capacity to survive outside the womb—the state may forbid abortion, unless it is absolutely required to protect the mother's life or health.

Religious belief systems have a substantial impact on the laws prohibiting abortion in many parts of the world, affecting legislative and public attitudes. Depending on the prevailing theological ideology and cultural situations, there are differences in how religion and law interact. Religion's Impact on Abortion Laws Southeast Asia: As a result of growing religiosity, tighter abortion regulations have been implemented in nations including the Philippines, Malaysia², and Vietnam, which now view abortion as a moral rather than a health right. As legal frameworks are increasingly influenced by religious ideas, this development puts women's access to safe abortions at risk. Northern Ireland: Here, laws pertaining to abortion are strongly influenced by conservative Christian ideas, leading to stringent regulations that serve religious morality above the interests of public health. Pro-life organizations continue to hold considerable political sway, making it more difficult to obtain the service.

¹ *Roe v. Wade*, 410 U.S. 113 (1973)

² George, Baylon, Radics. (2024). Religious pressures on women's rights in Southeast Asia: Examining the right to an abortion in the Philippines, Malaysia, and Vietnam. Available from: 10.1016/j.wsif.2023.102862

IMPACT OF ROE VS WADE

Expansion of the Right to Privacy: The case expanded the meaning of the Fourteenth Amendment's Due Process Clause-based constitutional right to privacy to encompass a woman's choice to undergo an abortion. Although privacy is not specifically mentioned in the Constitution, the court based its rationale on previous rulings like ³Griswold v. Connecticut (1965), which upheld access to contraception as a component of a larger "right to privacy."

Judicial Review of Abortion Laws: By prohibiting states from outright forbidding abortion, especially in the early stages of pregnancy, the ruling established a nationwide norm for abortion laws. The capacity of state legislatures to impose restrictions on access to abortion was limited by this ruling, which made abortion a matter of federal constitutional law.

Trimester Framework: Roe v. Wade established the trimester framework, a novel legal concept that influenced abortion laws for many years. It struck a compromise between the state's growing interest in controlling abortions as the pregnancy went on and the woman's freedom to make her own decisions in the early stages of pregnancy.

PRO-CHOICE VS PRO-LIFE DEBATE

One of the most divisive and persistent topics in the US and many other nations is the pro-choice vs. pro-life debate. The moral, legal, and ethical aspects of abortion—the ending of a pregnancy before the fetus can survive outside the womb—are at the center of this argument. Because each side has a distinct definition of personhood, what constitutes an individual's autonomy, and how the government should regulate reproductive rights, they present the problem in very different ways.

Pro-life

The pro-choice movement supports women's legal autonomy to choose an abortion without intervention from the government. Proponents place a strong emphasis on a woman's right to reproductive autonomy, her own body, and her freedom to make her own decisions in life.

³ Griswold v. Connecticut, 381 U.S. 479 (1965)

Justifications for the Pro-Choice Viewpoint

Right to Bodily Autonomy

The argument put up by pro-choice activists is that a woman has the inherent right to control her own body, including the choice of whether or not to carry a pregnancy to term. This is predicated on the idea that a person's reproductive choices shouldn't be controlled by another person or by the government.

Reproductive Rights as Human Rights

The pro-choice movement defines abortion access as part of a broader framework of reproductive rights. These rights include the freedom to choose whether and when to have children, as well as the availability of family planning and contraception.

Limiting women's access to abortion is viewed as a breach of their human rights since it could force them to bear children against their will, which could have grave and often fatal repercussions.

Protection of Privacy

The constitutional right to privacy, which served as a keystone in the Supreme Court's 1973 *Roe v. Wade* ruling, frequently serves as the legal basis for the pro-choice argument. Proponents contend that a woman and her doctor should make reproductive decisions together, free from government intervention. They contend that private medical decisions, particularly those pertaining to pregnancy, should not be governed by the government.

Foetal Viability

Foetal viability, or the point at which a fetus may survive outside the womb, is another important issue of contention. Pro-choice activists frequently argue that the rights of the pregnant woman should come first since, prior to viability (usually about 24 weeks), a fetus does not have the same moral or legal position as a born person.

The *Roe v. Wade* ruling, which legalized abortions up to the point of fetal viability, was largely based on this idea.

Pro-life

The pro-life movement opposes abortion on the grounds that the unborn fetus has an intrinsic right to life that has to be preserved and that human life begins at conception. Pro-lifers contend

that legislation ought to uphold the sanctity of human life and that abortion is immoral.

The sanctity of life

The pro-life movement's central tenet is that since life begins at conception, a fetus has the same rights as an adult human being. Pro-lifers contend that all people have intrinsic worth and should be protected, regardless of their developmental stage.

This idea is frequently based on religious beliefs, especially in Christianity, where abortion is seen as a transgression of the commandment "Thou shalt not kill."

Personhood and Moral Status

Supporters of the pro-life movement contend that a fetus has moral rights from the time of conception. Thus, they contend, abortion ought to be outlawed since it is the same as taking an innocent life.

According to the pro-life perspective, abortion and infanticide are ethically equivalent because both are dependent on others for survival, making the distinction between a fetus and a newborn meaningless.

Alternatives for Abortion

Pro-lifers stress that there are options to abortion and that these should be encouraged, such as adoption or providing financial help to expectant mothers. They contend that in order to prevent them from feeling pressured to have an abortion, women who find themselves unexpectedly pregnant should get both material and emotional support.

Crisis pregnancy centers, which are frequently managed by pro-life organizations, offer medical care, counseling, and other types of support to women who are thinking about getting an abortion in an effort to persuade them to bring their babies to term.

ROLE OF THE EVANGELICAL CHURCH IN THE OVERTURNING OF ROE VS WADE

When Evangelical Christians became politically active and forged connections with Catholic activists who had long opposed abortion, the effort to overturn Roe began to gather major traction in the late 1970s and early 1980s.

Mobilization of Evangelicals

Evangelicals were largely mobilized by Jerry Falwell and the Moral Majority. The establishment of the Moral Majority by Reverend Jerry Falwell in 1979 marked a turning point in evangelical political engagement. Rallying evangelical Christians around the notion that the legality of abortion was a sign of moral deterioration in the United States, Falwell and other Religious Right leaders presented abortion as a moral catastrophe.

Alliance with Catholics: Evangelicals and Catholics have historically disagreed on a wide range of doctrinal topics, yet they have agreed to oppose abortion. The Catholic Church, which had long opposed abortion, forged tight ties with evangelical leaders, which bolstered the pro-life movement's political clout.

Transitioning to a "Pro-Life" Position: Evangelical leaders like Francis Schaeffer and C. Everett Koop framed abortion as murder and a threat to traditional family values in the late 1970s, working to disseminate the idea that life begins at conception. *Whatever Happened to the Human Race?*, a video series by Schaeffer, played a significant role in influencing the perception of abortion as a major moral concern for Christians and in igniting evangelical resistance to the practice.

Political Mobilization

Evangelical Christians developed into a major Republican Party base by the 1980s, and the party utilized the abortion debate to energize voters. Evangelical leaders encouraged their followers to vote for candidates who were dedicated to reversing *Roe v. Wade* and establishing pro-life legislation.

Ronald Reagan and the Evangelical Coalition: Following his election in 1980, evangelicals had never before gained a substantial political influence. Reagan courted the evangelical vote by promising to pick conservative justices who would uphold pro-life principles and by opposing abortion. Even while *Roe* was not overturned during the Reagan administration, the pro-life movement gained pace and conservative judges were appointed, which set the stage for later developments.

Influence on Trump Administration and Supreme Court Appointments

Despite early doubts from certain evangelical leaders regarding his personal life and character,

Donald Trump's election in 2016 marked a turning point for evangelicals' efforts to repeal Roe v. Wade. Nonetheless, Trump's pledge to nominate justices who favor life and his choice of ardent evangelical Christian Mike Pence as his running partner cemented evangelical support.

Grass-root Evangelical Advocacy and State Level Restrictions

Although a primary element of the evangelical strategy was the focus on the Supreme Court, the movement also aimed to limit abortion through state-level legislation. Evangelical lawmakers and activists pushed more severe abortion restrictions, such as heartbeat bills and 20-week abortion bans, aimed to undermine Roe and generate a court battle that could reach the Supreme Court.

Important Instances of Evangelical Influence in State Politics:

Bills for Heartbeats: Abortions are prohibited in places like Georgia, Ohio, and Alabama after a fetal heartbeat is found (around six weeks). These "heartbeat" legislation were pushed by evangelical lawmakers. These legislations were a part of a larger plot to overturn Roe and make the courts reevaluate its validity.

Major Moves Made by Trump:

Appointing Justices to the Supreme Court: The appointment of Brett Kavanaugh, Neil Gorsuch, and Amy Coney Barrett, three conservative justices to the U.S. Supreme Court by Trump was a significant win for the evangelical pro-life movement during his presidency. It was anticipated that all three would rule against Roe v. Wade.

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the courts reevaluate its validity.

Gradual Restraints: More Gradual limits: Evangelicals were also in favor of more gradual limits, like laws requiring parental approval, obligatory waiting periods, and clinic compliance with particular medical standards. These limitations eroded the rights provided by Roe and made it harder for women to get abortion services.

Biblical Justifications:

Imago Dei: Evangelicals hold that since all people are made in God's image (Imago Dei), all human life—including that of an unborn child—has inherent worth. Because it presents abortion as the termination of a life created in God's image, this concept is frequently used as justification for opposing the practice.

Moral Absolutism: When it comes to matters of life and death, a lot of evangelicals hold to a kind of moral absolutism. Since abortion is viewed as an obvious moral sin that is comparable to murder, it cannot be discussed or negated.

Stewardship of Life: Evangelicals hold that it is our duty to safeguard and nourish life in all of its phases. This viewpoint frequently goes beyond resistance to abortion, including a more general emphasis on traditional gender roles, family values, and opposed to euthanasia.

PROGRESSIVENESS OF INDIAN ABORTIONS LAWS IN CONTRAST TO USA's:

The Medical Termination of Pregnancy (MTP) Act, which established India's abortion laws, contrasts sharply with the country's increasingly stringent abortion prohibitions, particularly in the wake of the *Dobbs v. Jackson Women's Health Organization* ruling in 2022 that overturned the *Roe v. Wade* decision. The U.S. has evolved in the opposite direction, with several states severely restricting or outright prohibiting access to abortion, while India has recently made substantial changes to its abortion legislation.

Extended Statutory Period for Abortion

Abortion was formerly legal up to 20 weeks into a pregnancy under the MTP Act of 1971. But for some women—victims of incest, survivors of rape, minors, and women whose marital status changed during pregnancy, like widows or divorcees—the 2021 amendment increased the

restriction to 24 weeks.

The law permits termination of an abortion after 24 weeks if fetal abnormalities are found, provided a medical board grants consent.

Broad scope for abortion grounds:

The law allows abortion for a number of reasons, including as the mother's physical or mental health issues, fetal deformities, or societal or financial constraints. It permits the ending of a pregnancy in situations where carrying it to term would endanger the woman's life, her bodily or mental well-being, or the health of the fetus.

The amendment recognizes the difficulties women encounter during pregnancy and expands the conditions under which abortions are legal.

No requirement for consent of partners:

Indian law upholds a woman's right to bodily autonomy by excluding the need for her partner's agreement in order to seek an abortion. This is consistent with progressive viewpoints that give women's autonomy precedence over their choice of reproductive methods.

Confidentiality:

The MTP Act guarantees confidentiality of information pertaining to abortion operations, protecting the identity of women who are having the process. Women are protected from discrimination and social stigma by this.

Medical Oversight:

In cases when an abortion is performed beyond 24 weeks because of fetal abnormalities, the law creates medical boards made up of radiologists, pediatricians, and gynecologists who assess the case and grant the required permission for the abortion. This guarantees that choices about late-term abortions are informed by medical expertise.

LEGAL IMPLICATIONS IN INDIA

There⁴ are many different ways that religion affects abortion legislation in India, which is a result of the intricate interactions that exist between legal frameworks, cultural beliefs, and

⁴ Hiya Das, & Prof. (Dr.) Jyoti. J. Mozika. (2024). Right To Abortion As A Fundamental Right: Constitutional Analysis. Educational Administration: Theory and Practice, 30(1), 1175–1179.

individual rights. Religious perspectives have a considerable impact on public attitudes and legal interpretations, even if the Medical Termination of Pregnancy (MTP) Act of 1971 created legal reasons for abortion.⁵

Religious Views Regarding Abortion:

Hinduism:⁶ Abortion is often seen negatively since it is considered a serious sin that is associated with rebirth and karmic consequences the cornerstone of Hinduism's stringent stance against abortion is the theory of karmic law and reincarnation, as well as the sacred Hindu writings, which are very clear about abortion and equate it to the most serious sins a Hindu may commit. Hinduism's emphasis on Ahimsa and Karma contributes to the denial of abortion rights in India, regarding abortion as a cessation of reincarnation and a moral transgression against innocent life. The patriarchal traditions of Hinduism, along with its views on women's responsibilities and purity, foster social stigmas that limit women's autonomy, particularly their access to abortion in India.

Buddhism: Like Hinduism, Buddhism places a major emphasis on non-violence the conventional embryology and the ethic of non-violence, considered by Buddhists as a way of life, determine a similar approach concerning abortion. Furthermore, the harshest penalty a Buddhist monk can face is being completely banished from the monastic order after being "defeated" and scourged for advocating abortion.. As a result, monks who support abortion face harsh consequences. Islam and Christianity: Studies suggest that Muslims and Hindus have more complex views, displaying unsure receptivity in certain situations, whereas Christians are generally against abortion.

Islam

The concept of abortion is complex in Islam and is interpreted differently by various schools of thought. Islamic law frequently allows abortion in some situations, including when the mother's life is in jeopardy or there is fetal abnormality, even if the Qur'an does not expressly forbid it. Permissibility is mostly determined by the idea of ensoulment, which many Islamic scholars believe to occur at 120 days, or roughly 17 weeks. Before this time, abortions are

⁵ Subramanian, Kiran. "The Impact of Religious Nationalism on Right-Wing Populism." *Eagleton Political Journal*, April 18, 2024. Rutgers University-New Brunswick.

⁶ Constantin-Iulian, Damian. (2013). Abortion from the perspective of eastern religions: hinduism and buddhism. *Revista Romana De Bioetica*, 8(1)

frequently given more leeway, particularly if they are supported by moral or medical arguments. However, in many Muslim communities in India, sociocultural norms tend to reflect a conservative view on abortion, influenced more by tradition and social pressure than by the potential legal flexibility granted by Islamic jurisprudence.

LIMITATION OF THE MEDICAL TERMINATION OF PREGNANCY ACT 1971

Although India's abortion laws are outlined in the Medical Termination of Pregnancy (MTP) Act, 1971, and its 2021 amendment, they fall short of adequately protecting women's reproductive rights. Despite being a progressive measure when it was first introduced, the Act's practical efficacy is nevertheless hampered by a number of legal, procedural, and societal limitations. The gestational cap is one such restriction. Even with the 2021 amendment, most women are only allowed to get an abortion up to 20 weeks, while certain groups, including rape survivors or children, are allowed to have one up to 24 weeks.⁷ Only in cases of significant fetal abnormalities are abortions after 24 weeks permitted, and a Medical Board must approve them. Due to the lengthy, bureaucratic, and frequently inaccessible nature of this process in remote or resource-constrained locations, many women turn to riskier alternatives. A rights-based framework is likewise absent from the Act. It views abortion as a conditional medical treatment that is mostly based on the opinion of one or two licensed medical professionals rather than acknowledging it as a woman's absolute right. Women's autonomy is hindered by this doctor-centric model, particularly in places where access to trained medical practitioners is already limited.

Furthermore, because the law still presumes that heterosexual, married partnerships result in conception, marital status is still implicitly significant. Although the 2021 amendment changed the wording to be more inclusive by substituting "any woman" for "married woman," conventional biases are still evident in the way it is actually implemented. Healthcare practitioners may judge or flatly refuse unmarried women seeking abortions, particularly if they are doing so for reasons such as contraceptive failure. Despite being required by law, confidentiality and consent are frequently broken in real life. Many women indicate that because of providers' moral and religious judgments, they have been shamed, under pressure,

⁷ Tripathi, N., & Kumar, A. (2024). Integrating Reproductive Justice Approaches in the Human Rights Framework: A Comparative Analysis of the U.S.A., India, and Indonesia. *Jurnal Kajian Pembaruan Hukum*

or denied services. When social stigma and ambiguous legal requirements are combined, the law is applied inconsistently, which makes women seeking abortions even more afraid.

Finally, socioeconomic difficulty, mental health issues, and the influence of cultural and religious shame on women's decision-making are all not sufficiently addressed by the MTP Act. ⁸The legal system, which only considers physical health or extreme conditions, ignores these elements, even though they are frequently crucial to a woman's decision. Essentially, even if the MTP Act makes abortion legal, it does not ensure reproductive justice. Because of its limitations—which stem from conditionality, a lack of autonomy, and societal barriers—a more inclusive, rights-based, and easily accessible legal framework that puts women's agency ahead of paternalistic control is required.⁹

CONCLUSION

Law, religion, and reproductive autonomy have a complicated and frequently tense relationship, as demonstrated by the examination of abortion rights in both India and the US. Despite being a step in the right direction towards legalizing abortion in certain situations, India's Medical Termination of Pregnancy (MTP) Act nevertheless takes a paternalistic and conditional attitude, giving medical authority and social acceptance precedence over a woman's autonomy. Significant gaps exist in guaranteeing fair access because the MTP Act lacks a rights-based framework, especially when it comes to dealing with cultural and religious stigma. The historic ruling in *Roe v. Wade*, on the other hand, first represented the constitutional acceptance of reproductive choice in the US. It established a legislative framework based on trimesters and emphasizing liberty and privacy.

The ultimate reversal of *Roe* in *Dobbs v. Jackson Women's Health Organization*, however, serves as an example of how abortion rights are vulnerable when legislative safeguards are not firmly based in human rights discourse and instead become subject to changing moral and political beliefs. Religious and moral principles continue to have a significant impact on abortion laws, as both legal systems show, frequently at the price of public health, gender equality, and personal autonomy. The Indian framework illustrates the limitations of statutory

⁸ Harris, R. J., & Mills, E. W. (1985). Religion, Values and Attitudes toward Abortion. *Journal for the Scientific Study of Religion*, 24(2), 137–154. <https://doi.org/10.2307/1386338>

⁹ Jain, D. (2024). Beyond bars, coercion and death: Rethinking abortion rights and justice in India. *Oñati Socio-Legal Series*, 14(1), 99–118.

protection that lacks an explicitly rights-based approach, whereas the U.S. experience points out the erratic nature of rights when linked to judicial interpretation without legislative support. The critical need for legal change that clearly frames abortion as a fundamental human right, free from religious interference and based on constitutional principles of equality, dignity, and liberty, is highlighted by this comparative doctrinal study. To guarantee that reproductive rights are not only conditional medical privileges but rather legally protected entitlements available to all women, irrespective of their social or religious background, a secular and inclusive legal approach—whether through legislative amendments or constitutional interpretation—is crucial.

