

Abortion refers to the termination of a pregnancy by removal or expulsion of the fetus or embryo. It is a medical procedure that can be performed by either taking abortion pills or through surgical method. Miscarriage, also known as spontaneous abortion, is also considered an abortion since it occurs without intervention. The topic surrounding abortion is often daunting and the decision to whether to secure an abortion is often personal.

Someone's decision to have an abortion is influenced by various factors which include, cultural, social, financial and individual circumstances. Though abortion is one of the many contemporary issues, it is highly controversial due to the legal, moral and legal implications. Furthermore, there are differing opinions on when life commences as well as the rights of the pregnant person and that of the fetus.

Laws regarding abortion differ significantly from states to states. The topic is ethically, emotionally and politically charged and the arguments based on abortion often reflect the beliefs and values held by people. From this perspective, there are few existing laws made to fit the purpose of a woman's request since abortion is easily accessible and universally affordable.

Over the years, human rights activists have pushed for law reforms in order to achieve the right to safe abortion. The biggest challenge to achieve this is to build a critical mass of support and alliance with legal experts, health professionals, parliamentarians and women themselves to reform the law so that anyone who seeks to secure an abortion can do so without fear of any legal implications.

Human rights bodies have laid down clear guidance on the need to decriminalize abortion so that women can access these services freely. Majority of countries which decriminalize abortion have provided exceptions and instances when abortion is legal. A good example is Kenya where the Kenyan constitution in **Article 26(IV)** provides that at 'abortion is prohibited unless in the opinion of a trained health professional, there is need for an emergency treatment, or the life or the health of the mother is in danger.'

A handful of countries have completely banned abortion. On the other hand, most countries allow for the procedure with or without restrictions taking into account the mental health status of the person seeking to secure abortion.

Laws and treaty jurisprudence have provided that denying women access to safe abortion is infringement of their rights to privacy, health, dignity, inhumane and degrading treatment.

The International Conference on Population and Development (ICPD) supported the need for legal abortion that is safe and accessible. The conference states agreed that unsafe abortions are a major risk to public health and provided alternatives for abortion such as family planning methods.

Abortion was adapted by States in the **Beijing Platform for Action** as a result of the agreement at the Fourth World Conference on Women in 1995.

Human rights bodies have characterized laws that restrict abortion as violation of human rights since it is a form of discrimination against women.

The Working Group on Discrimination against Women stated that denying women and girls the authority to make their own decisions about matters pertaining their own body and reproductive functions is violation of their fundamental rights. Furthermore, the Special Rapporteur on the rights to health

outlined that criminalizing abortion is infringement of women's dignity by restricting them from making decisions pertaining their sexual and reproductive health.

The committee on the Elimination of Discrimination against Women has explained that restricting women from securing abortion is a form of gender based violence against women which amounts to torture, inhumane and degrading treatment.

According to a **United Nations Report** abortion is permitted in 98% of the countries world wide in order to save a woman's life when in danger. Other accepted reasons are physical health(72%), mental health (70%) in cases of incest and rape (62%). Securing an abortion because of social and economic reasons is accepted in (36%) of the countries.

Most of the countries that allow abortion have emphasized on gestational limits for the procedure to be carried out depending on how far into the pregnancy the mother is . Majority of the countries allow for up to 12 weeks for an abortion to be secured on request and up to 24 weeks for social, economic ,rape reasons and threats to the woman's life or health.

In the African region all **African Union** member states allow abortion at least to save a woman's life in instances of medical emergencies and many more permit it on broader grounds such as health.However,few countries have taken the initiative towards ensuring that women access to safe abortion as they are entitled to under law causing them to secure unsafe abortions that may pose a major risk to their lives and health.

World Health Organization Standards and **United Nations** have laid down a legal framework to urgent states to take necessary measures towards ensuring access to safe abortion where legal, including coming up with strategies and pronounce guidelines for providing safe abortion services.

International and human right bodies and courts have been seen to give attention to abortion and to understand its link to women's health and human rights.They have urged the states to remove restrictions to safe abortion services which include implementing the existing abortion laws.They require that even when the laws have restrictions ,they can be interpreted broadly in order that women's health and rights are protected and promoted.

Restrictive abortion laws have majorly contributed to unsafe abortions. **African Union** member States have some of the most prevalent legal and practice restrictions in the world leading to high rates of maternal mortality.1 out of 5 maternal deaths are caused by unsafe abortions in East Africa.

World Health Organization asses confirm that the legal restrictions placed on abortions do not significantly reduce the number of induced abortions as women will seek abortion if they need them not withstanding the legal status of abortion. **World Health Organization** provides that in order to see the reduction of abortion – related maternal deaths,there is need to ensure access to family planning services and safe abortions as this will reduce unwanted and unsafe abortions.

No country in Africa has an absolute ban in abortion.All existing national abortion laws allow for legal abortion under the circumstances in the Protocol. AS a result of the global trends following liberalizing abortion laws.31 countries including African countries have liberalized their abortion laws.

Over the past 20 years ,some countries in Africa have gone beyond the minimal ground of the **Maputo Protocol** to permit abortion for socio-economic reasons.Many countries have taken significant steps

towards effective implementation of existing abortion laws by providing a clear legal framework for provision of safe abortions services.

Unfortunately, many **African Union** member States have failed to take the necessary steps to implement the law hence leading to high rate maternal death and disability that are preventable. Several factors contribute to this failure. In most countries, providers, women, policymakers and other stakeholders still believe that abortion is completely criminalized and are not available under any circumstances under the law. Ignorance and lack of knowledge and information on the existing laws lead to fear of criminal punishment and thus stigmatization of abortion.

World Health Organization advocates for safe abortion services and suggests that abortion services should be readily accessible and affordable to all women, including young women and adolescents. It suggests that a clear legal framework enabling every woman who is legally permitted has access to safe abortion services to be laid down.

Almost all the African constitutions adhere to international human rights law endorsing the application of the right to life after birth. Only five **African Union** member states directly apprise abortion in their constitution. Since Commonwealth countries and Anglophone African countries have common laws since most of them are former British colonies they still continue to have abortion provisions very similar to the issue in two landmark cases from England regarding the implementation of abortion laws. **African Union Members** can refer to these cases to interpret broadly the existing abortion laws. The case of **Rex v Bourne (1938)** was the first case to provide grounds on which abortion could be legally secured in England. It laid down a legal framework for allowing abortion to preserve a woman's life and health. The only exception to abortion at the time was mental and physical health as well as rape.

By the end of the nineteenth century, abortion was legally restricted in almost every country. The imperial countries such as Europe, Britain, France, Portugal, Spain and Italy were the most important sources of such laws. According to the **United Nations Population Division's** comprehensive research on abortion laws, the legal systems under which abortion is prohibited fall into 3 main categories i.e., common law, civil law and Islamic law.

Initially, restrictions on abortion were imposed for three main reasons:

Abortion was highly risky and claimed the lives of many women and the law as well as the public health intention was to protect women who despite all of these, still went ahead to seek abortion and risked their lives and health.

Abortion was considered highly immoral and sinful. The laws put in place were intended to punish and deter the transgression of immorality.

Abortion was restricted to protect the life of the fetus in some or in all circumstances

According to **World Health Organization**, abortion is one of the safest medical procedures if done in accordance with the (**WHO**) guidance. It causes at least one out of six maternal deaths from complications when it is unsafe. Attempts to decriminalize abortion have been slow and faced with a lot of difficulties. Why? Because women's lives are best controlled through pregnancy.

Apart from statutes, there are other ways to liberalize access to abortion which also have a legal standing. They include:

National constitutions in atleast 20 countries.A good example is the Eighth Amendment to the constitution of Ireland in (1983).

Supreme court decisions such as in India (2016,2017) following the individual secured abortions beyond the 20- week limit.The United States (1973,2016),Canada (1988), Colombia (2006) and Brazil (2012).

Customary or religious laws such as the Islamic law which permit abortion Up to 120 days in the United Arab Emirates but do not permit abortion completely in all other Islamic countries.

In the United States following the case of **Roe v Wade** formed a precedent to be referred to in matters pertaining abortion, the court ruled that the constitution guarantees the right to choose whether to have an abortion but was only acceptable within the first trimester of the pregnancy.Following this case, the United States became one of the countries to deregulate abortion laws , as well as several Western European Nations.

Over the recent years,many states have passed restrictive abortion laws and sometimes completely banning the procedure.

In the 1950s ,China liberalized it's abortion laws and promoted the one child policy enacted in. 1979 in an effort to control the population. However in 2016,China raised the long standing limit to a two child policy. In 2021,China increased the limit to three children per household.

In 2020, Poland's constitutional tribunal held that abortion due to fetal impairments are unconstitutional and thus making the country 's abortion law to be one of the strictest in Europe.Initially the majority of abortions performed were because of fetal impairments but the Tribunal's ruling initiated a total ban. Masses took it to the streets to protest hence the laws were adjusted to allow abortions in cases of incest, rape and medical emergencies . Doctors however have been seen to be reluctant to perform the abortions though it is legal since they can face up to three years in prison if there is evidence of performing the procedure without sufficient justification.

According to an article published by Al Jazeera, Amnesty International has called upon the United States to uphold abortion rights. Amnesty's Secretary Agnes Collamard said," We fervently call on the United States authorities and stakeholders to protect the right to legal abortion and failure to do this would be considered violations to life, health , privacy, bodily autonomy and dignity ". Collamard added .

It is very clear that many states and countries are now putting effort towards implementing legislations to allow safe and legal abortions to protect and promote the fundamental freedom and rights of women.

Personally, I believe that there are many reasons as to why a woman may opt to secure an abortion and they vary from one reason to another .For a woman to even regard having an abortion,it means she must have thought through it to arrive at that decision.She must have looked at the other options available but still choose to have an abortion. AS a female student,if I put myself in a position of someone else with an unwanted pregnancy, then it means a lot would have to change. I would be forced to drop out of school not if fir good then for a period of time to raise the child. I wouldn't be able to cope with the financial, mental and physical pressure needed to birth a child and raise it.

People often tend to think that abortion is not justifiable but when I imagine a helpless fourteen year old girl who has been defiled and has conceived! Imagine the pain of child carrying a child.She carries a child

yet her body hasn't even fully matured to enable her maintain a healthy pregnancy. That is totally unfair and in this case, I would support the girl's decision of securing an abortion.

I strongly believe that when considering abortion, it is very crucial to make sure that the mother is safe. Health practitioners often advocate for medical procedures over surgical procedures as they pose less health risks. There are two drugs used for this procedure, i.e. mifepristone and misoprostol which are highly effective when used in the correct dosage. The only thing a woman who is pregnant needs to do is to make sure she seeks a safe legal abortion.

Immorality and religion often form a blanket around this highly complex issue but at the end of the day, the decision to have an abortion is personal. I think more states should decriminalize abortion and come up with safe and sound policies to ensure that persons seeking this procedure can secure safe abortions and medical follow-ups to be done too. States can also come up with measures and other alternatives to deter unwanted pregnancies by making emergency contraceptive pills and contraceptive barriers readily available in our stores and pharmacies. They can also encourage family planning methods to reduce the numbers of unwanted pregnancies.

I strongly support pro-choice views because I believe in a woman's right to choose to secure an abortion if she is not in a position to keep it.

Considering all this, I'll conclude by saying that it is highly time we recognize and embrace the technical and medical advancement we have today. This makes it very safe for abortions to be secured under the right circumstances. We are living in the twenty-first century and it is high time we do away with abortion stigmatization and I believe as a famous scholar John C. Maxwell said, "life is a matter of choices and every choice you make makes you".