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**A STUDY OF ABUSE OF MEDICAL TERMINATION OF
PREGNANCY LAWS BY SELF MANAGED ABORTION
TECHNIQUES**

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Introduction

“There is no freedom, there is no equality, there is no absolute human dignity, and it is possible for women until they switch and demand control of their own bodies and reproductive process. Abortion rights are a matter of personal discretion and conscious choice for worried women.”

Abortion is artificial termination of conception as a universal miracle that has existed since time immemorial and is prevalent³ for every conceivable cause, from health to accessibility “Reproductive rights rest on the recognition of the basic right of all couples and individuals and the information, number and space and timing between children to decide and do so independently and responsibly. And the right to achieve the highest levels of sexual and reproductive health”. Yet, as we have seen many articles in academic journals describe criminal abortions identifying the person who conducted it, and the place where it was performed. Legally, they are required to report these to the police administration, at least after treatment is given and certainly if the woman dies. Women’s reproductive rights may include some or all of the following: legal and safe abortion rights; Right to birth control; freedom from forced sterilization and contraception; The right to access good quality reproductive healthcare; And the right to education and the right to make free and informed fertility choices. Reproductive rights may include the right

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³ Punam KumariBhagatand PratishSinha, “Abortionlawin India:Thedebateonitslegality”

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to receive education about sexually transmitted infections and other aspects of sexuality and protection from practices such as female genital mutilation. The International Executive Committee (IEC) of Amnesty International has implemented “A new position on sexual and reproductive rights that includes support for abortion under special circumstances, in the context of our work to prevent serious human rights abuses against women and girls. This new policy, which grew out of our campaign to stop violence against women, and the tragic circumstances in which women too often find themselves, will enable the organization: women seeking safe, early medical termination of pregnancy in cases of rape Support, incest or when a woman’s life or health is in serious danger. Urge governments to provide medical care to women experiencing complications from unsafe abortion; Resist imprisonment and other criminal penalties for abortion against women and their providers”. Modern jurisprudence on reproductive rights is considered by two features: contraception and abortion rights are protected from only active governmental abridgement and the alternative choice to become a parent, despite dicta to the contrary, has virtually no constitutionally-based protection and little statutory protection. Consistent application of strict scrutiny to abridgements of the fundamental right of reproductive choice would yield a more socially progressive and legally defensible jurisprudence than contemporary common law and judicial practice⁴. The relationship between induced abortion and mental health is an area of political controversy. Abortion is associated with both negative feelings and clinically significant disorders among some women, but similar problems are also associated with carrying an unwanted pregnancy to term. Given these two alternatives, the best evidence suggests that a single, first trimester induced abortion for adult women poses no greater mental-health risks than carrying unwanted pregnancies to term. The evidence is less clear in situations such as repeat abortions, and late termination of pregnancy due to fetal abnormality. Among those women who do experience mental health issues, the American Psychological Association’s Task Force on Mental Health and Abortion concluded that these issues are most likely related to pre-

⁴BrodieJanetFarrell,*Contraceptionandabortioninnineteenth-centuryAmericaIthaca*254(APRIL 2023).

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existing risk factors, including “terminating a pregnancy that is wanted or meaningful, perceived pressure from others to terminate a pregnancy, perceived opposition to the abortion from partners, family or friends, lack of perceived social support from others and various personality traits and a history of mental health problems prior to the pregnancy.”

Termination of pregnancy was named as fetal killing. But due to changes in time and technology, nowadays this right has been legally approved by most people in the country after the famous decision of Roe v. Wade by the US Supreme Court, which is the most politically significant the Supreme Court ruling in history is one of Reviving national politics, dividing the nation into “pro-choice” and “pro-life” camps, and motivating grassroots activism. It is a milestone in the United States Supreme Court's decision that most laws against abortion violate the constitutional right to privacy, thus overturning all state laws or prohibiting abortion that is inconsistent with the decision Jone Roe, the plaintiff wanted to end her pregnancy because she argued that it was the result of rape. Relying on the current state of medical knowledge, the decision established a system of trimesters, which attempts to balance the legitimate interests of the state with the constitutional rights of the individual. The court considered that the state could not restrict a woman's right to an abortion during the first trimester, the state could regulate the abortion process during the second trimester “in ways that relate to maternal health,” and the third trimester in, first delimiting the viability of the fetus, a state may choose to prohibit abortion or even prosecute it as it sees fit. Roe v. Wade in response to several states enacted laws limiting abortion, including laws requiring parental consent for minors to have abortions, but protests still exist and people believe it should be legally banned. The Medical Termination of Pregnancy Act, 1971 is considered by many to be one of the significant land marks of India's social legislation. Its supporters have described it as a key, opening the doors for reform and social change⁵. More cautious empiricists point to the gap between other social statutes, such as the Abolition of Dowry Act, 1961, and reality, while some critics describe the MTPA as a tool for encouraging immorality in society. The MTP Act is based on the UK Abortion Act, 1967. In The UK Abortion act,

⁵ Punam KumariBhagatand PratishSinha, “Abortionlawin India:The debateonitslegality”

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abortion can do on the consent of Medical Practitioner only. At that time, it forms not available as Right to choose and Right to Abortion. After the Roe case¹⁷ Right to choose is a part of Right to Privacy. Rapid growth of population remains one of the important problems of Indian society, despite efforts by the government to control it through various family planning programs. The population has been growing at a rate of 2.5 percent per year for the last two and a half decades. Legalizing abortion was another scheme to restrict the growth of the population. However, past abortions have been seen as an immoral act attacking the sanctity of life, a view embodied in the Indian Penal Code, 1860 and this attitude is still widely maintained by many sections of Indian society today is at the same time, approximately 4.4 million abortions occur each year, clearly revealing the difference between legally acknowledged social values and social realism. India initiated in sanctioning induced abortion (Medical Termination of Pregnancy (MTP) Act of 1971) under which a woman can legally avail abortion if the pregnancy carries the risk of grave physical injury, endangers her mental health, when pregnancy results from a contraceptive failure in a married woman or from rape or is likely to result in the birth of a child with physical or mental abnormalities. Abortion is permitted up to 20 weeks of pregnancy duration and no spousal consent is required. According to the Ministry of Health and Family Welfare, in 1996-97 about 4.6 lakh MTPs were performed in the country. Against that, an estimated 6.7 million abortions per year are performed in other than registered and government recognized institutions, often by untrained persons in unhygienic conditions. Despite an intensive national campaign for safe motherhood and after the initial attention on unsafe abortion in the 1960s and early 1970s that led to legalization of abortion, morbidity and mortality from unsafe abortion have remained a serious problem for Indian women 28 years after abortion was legalized in India⁶. In the last decade, women's health advocates have tried to draw the attention of policy makers and administrators to a range of issues and concerns related to abortion in order to improve the availability, safety and use of services. In the post Cairo period, the comprehensive Reproductive and Child Health (RCH) programme initiated in India, has included abortion in the RCH package

⁶ Government of India, "The Shantilal Shah Committee Report" 19 (Ministry of Health, 1964).

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and work towards making it safe. While the climate seems to be favorable to initiate debate on safe abortion among key stakeholders, lack of reliable information, wide regional and rural-urban differences, inability to bring various constituencies on a common platform and a thin research base, make it difficult for policy makers, administrators and women's health advocates to develop strategic interventions. The Abortion Assessment Project India (AAP-I), ventured to fill in the gap by creating evidence-based body of knowledge on all facets of induced abortion. This multi-centric research project commenced in August 2000 and was managed jointly by CEHAT (Mumbai) and Health Watch (New Delhi).

- **Research Questions**

The main research problem of the issue that we goal to answer are following:

- Is having an abortion a risk to a woman's health?
- What is the impact of abortion on the health of women?
- What measures could to be taken to reduce the unsafe abortions leading to increased maternal mortality and morbidity?
- What is the condition of accessibility and availability of abortion related services?

Medical Termination of Pregnancy: History and Concept

Abortion, intended to culmination a physical condition before birth, is efficient from the past. Over the years, there have been disturbances in laws and attitudes regarding abortion and this is a social and political matter, as it can be a medical problem. The primary testimony of abortion through the Egyptian era dates back to exactly 1550 BC. There are a series of references to abortion in inexperienced and Roman classical texts. The philosopher said that abortion was not quickly confused. Aristotle's was that "A male gives birth to a soul of fourteen days and a fetus for ninety days, so if an abortion is done before these deadlines it is not killing a human being". The pledge forbids the service of

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epithelial tube suppositories for abortions⁷, which are probably far from the dangerous abortions imposed in practices. Alternative writing by the medical practitioner showed evidence that he indicated the methods below for abortion to be applied safely and for early jumping, and for abortion all the way. In addition, natural abortions have been used throughout history and until now.

- **Abortion in Primitive Society**

Imaginary abortion was unsafe and morally wrong in Roman. A Roman writer still goes on to say that if a girl lost her life during the end of her pregnancy, she would “... suffer emotional punishment.” The request of abortion is well known from the past to now. Various strategies attempt to perform or abort, as well as administering abortifacient herbs, sharp tool work, abdominal pressure, and the application of alternative techniques. Abortion laws and their enforcement have fluctuated in mixed ages. The abortion rights movement was fortunate after the abortion was banned in many western countries in the twentieth century. While abortion is legally condemned in most of the West, this legitimacy is usually challenged by “pro-life” groups. There is no historical evidence of abortion being illegal or criminal under colonial rule in India until the 19th century. Some indirect references to the Vedas indicate that “it was allowed up to five months after which the fetus was considered viable”. Charaka Samhita mentions nothing on abortion, nor has religion or state taken any place on abortion at any historical juncture, notwithstanding Kautilya's economists, in which a slave woman was severely punished for having an abortion. After Independence, the Code of Medical Council of India, 1956 ethics continued the colonial tradition. I will maintain the utmost respect for human life from the time of conception and the ban on abortion. Kautilya's Arthashastra⁸ provides for “the imposition of a fine of 1,000 panas for the miscarriage by physical assault and a fine of

⁷Available at: <https://www.goodreads.com/quotes/631579-democracy-demands-that-the-religiously-motivated-translate-their-concerns-in> (lastvisitedonAPRIL,2023).

⁸ ibid

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500 panas for miscarriage by administering drugs, and 250 panas. for miscarriage by rigorous labour”. And now we can discuss another way of history of abortion. Miscarriage is the termination of unnecessary pregnancy from the ruin of the fetus. It is one of the oldest methods of reproductive control and one of the most commonly used. This has been done and completed in all regions of the world. All societies have permitted laws or recognized policies related to induced abortions. Those policies and laws are generally a product of the country’s legal heritage as well as the institution of political, economic, social and spirituality and culture. In the foregoing societies a woman whose pregnancy is intolerable to the community, a woman who has her own rules regarding the number of suitable sexual partners or children, a pregnant widow, an unmarried girl or a young girl who has intercourse with an organ have broken. An outsider or someone whose pregnancy is the result of an adulterous relationship is estimated to have an abortion. There is no decision in favor of abortion, but habitually strong moral decisions about pregnancy and conditions. The relation of nursing to abortion in examining laws and policies related to going back into history suggests that abortion was deliberately performed under the law against the husband in ancient Greek and Roman societies. The earliest Christian views on abortion can also be found in a second-century letter printed by Barnabas, a colleague of St. Paul, stating: ‘You will not kill hypocrites by correlating them with nursing abortion or feticide’. St. Basil the Good of the Jap Church wrote in 376 A.D. “A girl the World Health Organization deliberately destroys an armistice that is a command to murder.” The primary system for organizing religious legislation took place in 1140

Legal Status

Human fetus, moral status in early embryological development is a pressing issue in bioethics since embryonic stem cell research requires sacrificing early human fetus in the

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derivation of multi-potent cell lines and allowing early fetus sacrifice as a result of cryopreservation in vitro fertilization techniques in reproductive medicine. Sometimes, therefore, certain forms of contraception can work by avoiding implantation. In late embryological development, the moral status of the embryo postures other ethical issues; including the morale of the first trimester allows abortion. When human embryos have a moral status as human beings, they have a broad range of human rights, including the right not to be killed in medical experiments and the right not to be jeopardized by sexual actions of other people.

- **Moral Status of Embryo**

During the discuss on Pre-implantation Genetic Diagnostic (PGD) in the Swiss parliament, several opponents argued that cells taken from the embryo for testing should be considered equivalent to an embryo proper. The reason is that each cell is totipotent. So, continue the opponents, this cell should be treated as a human being, and PGD thus constitutes an unethical instrumentalization of a human being. But is this really the case? Is such a cell, even totipotent, the moral equivalent of an embryo? And if it is, is an embryo a kind of entity that it is unethical to instrumentalize? Mary Warren says quite correctly: "To have moral status is to be morally considerable, or to have moral standing. It is to be an entity towards which moral agents have, or can have, moral obligations". If an entity has moral status, then we may not treat it in just any way we please. So, if an entity has no moral status, then we may act toward it as we please; this is no longer the case if it possesses moral status. As the debates on PGD and those on abortion and embryonic cell stems show, for most participants, human embryos have moral status. If this were not the case, questions about its fate would not even be raised. However, as those same debates also show, there is no agreement on the kind of moral status the embryo possesses. Thus, there exist several sorts of moral status. How can we describe and determine them? This amounts to asking: what gives moral importance to entities that possess moral status?

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Giving a general answer to this question is easy: the moral status of an entity depends on certain of its intrinsic properties.

- **Reproductive Technology and the Earliest Stages of Human Stages of Human Life**

The abortion debate, which deals with the removal or destruction of developed fetuses located within a woman's body, has for too long rested on a monolithic view of prenatal status that ignores significant differences in prenatal development. In most instances, all stages of provable human life have been valued equally by each side (either having great value or no value), even though major developmental differences exist between a fertilized egg, zygote, blastocyst, just implanted pre-embryo, eight-week fetus, sixteen-week fetus, and twenty-four-week fetus. A more focused and nuanced look at these different stages is now unavoidable as technological developments in reproduction allow the earliest post fertilization stages to be isolated outside the body, removed from one woman and placed in another, observed, frozen and thawed, and manipulated in various ways. Two technological developments are of immediate interest: contraceptive agents of birth control and in vitro fertilization of human eggs to treat infertility. The technological development affecting the largest number of persons is the development of post fertilization or contraceptive techniques of birth control, which prevent fertilized eggs and early embryos from implanting in the wall of the uterus. Acting after fertilization has occurred, they are not, strictly speaking, contraceptives, though they have the same effect. Such devices, including IUD's, low-dose birth control pills, and ant progesterone drugs such as RU 486 or eposotane, may also operate soon after implantation has occurred, depriving the uterus of the hormones needed to continue the pregnancy. If such devices operate after implantation has occurred rather than before, they are technically abortifacients, since they cause an early pregnancy to terminate or abort. Even so, they operate at such an early stage of embryo development before the primitive streak or organs have differentiated that they should be regarded differently from surgical abortions that occur several weeks later.

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- **The Debate Over the Moral Status of the Early Embryo**

Fierce controversy has marked discussions of the moral status of the early embryo. A fervent minority believes that fertilization marks the emergence of a new person, or at the very least, of a “human life” or “human being” that deserves the same rights accorded other persons. Others deny that fertilization or even later stages of biological development create a prenatal human entity with rights and would give persons wide leeway in their disposition of prenatal human life. By now the arguments for and against these positions are well known. The pro-life position argues that a new person exists from the “moment” of conception or fertilization, because a new, genetically unique, living human being exists. This position ignores the fact that the fertilized egg and early embryo lack the ability to interact, be conscious, have experiences, or be sentient the usual attributes of persons or rights-bearing entities. Genetic uniqueness, life, humanness, and the potential to develop later attributes count for all. Accordingly, the fertilized egg and early embryo may not be destroyed or aborted, and they deserve the rights and respect accorded persons.

- **The Legal Position of the Fetus**

With this background, we now address the legal status of early embryos. Legal status-position or standing in law-will define what rights, if any, early embryos have and what duties are owed to them, thus determining what might be done with these entities, and by whom. The main issues of legal status are who may properly exercise decisional authority over embryos, and what limits, if any, the state may or should place on that dispositional authority. The question of legal status is a question of positive law, or rather of what positive law should be. Until very recently, positive law had very few things to say about early embryos. The law of prenatal and preconception torts, estate law’s concept of a being “inventors mere,” and criminal prohibitions on abortion did define in important ways some aspects of the legal status of fetuses, though not necessarily the status of preimplantation

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embryos. With a few exceptions, recognition of in utero deaths under state wrongful death laws also required that the fetus be viable to obtain recovery, and thus did not apply to early embryos. Because this law developed before the ability to externalize the early embryo and contra gestation became an issue, it has limited relevance to answering the myriad questions that arise from medical developments that currently make the early embryo a subject of such intense interest. English law is clear that a fetus is not a person until it is born. Baker P went further and stated: “The fetus cannot, in English law, in my view, have any right of its own at least until its born and has a separate existence from the mother”. But that does not mean that a fetus is ‘a nothing’. In Attorney-General’s Reference the House of Lords rejected an argument proposed by the Court of Appeal that a fetus should be regarded as part of the mother, equivalent to a leg or an arm. Instead, Lord Musrill declared that “a fetus is a unique organism”. This, of course, leaves much to question. The courts, perhaps understandably, have sought to avoid the controversial issue of the status of the fetus and tend to talk more about what a fetus is not rather than what a fetus is, but it seems we can say the following-:

- The fetus is not a person. Only at the point of birth does the fetus become a person. But once the child is born, she or he can sue for injuries suffering while she or he was a fetus.
- The fetus does not have rights that can be enforced by other people.
- The fetus is not simply part of the mother.

Medical Termination of Pregnancy International perspective

In recent years, supporters of abortion have sought to advance the idea that abortion exists based on international law, and that is why sovereign nations should amend their laws to allow the exercise of this right. This right exists before UN treaty compliance committees, national constitutional courts, and national legislature advocates of abortion meet with both success and failure.

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Article 2 (2) of the ICCPR provides that state parties must take necessary steps to adopt such laws or other measures as may be necessary to give effect to the rights described in the current covenant. Countries that have ratified the ICCPR must step into their own jurisdictions to accept the acceptance of this international agreement, because in international law, a signature usually does not bind a state. The treaty usually Future ratification is subject to approval, approval, or accession. In Canada, the accession process includes review by the federal government and a series of consultations are included and a table of treaties is then made in Parliament.

Article 6(1) of this Covenant provides that “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”.

In addition to formally adopting and recognizing the ICCPR of state parties within their jurisdiction, Article 28 of the ICCPR sets up a human rights committee to oversee the implementation of the covenant of state parties. States parties are required to submit a report to the committee for review on measures used to adopt and give effect to the rights vested in the ICICR.

As noted above, the first alternative protocol can be heard by the committee to victims of human rights violations. However, ICCPR Article 41 also provides that a state party that claims another state party is not fulfilling its obligations to implement ICCPR may make written presentations to the committee for consideration. In addition, non-governmental organizations can also participate in ensuring that values under the ICCPR are limited to submitting ‘shadow reports’ and exposing areas for consideration by the committee.

- **American Conference on Human Rights, 1969 (ACHR)**

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Article 1(1): States participating in this Convention to recognize their rights and freedoms and to ensure the free and full exercise of those rights and freedoms to all individuals subject to their jurisdiction, without causing race Of any discrimination, color, gender, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social location.

- **Vienna Program of Action**

Article 41: The World Convention on Human Rights recognizes the importance of enjoyment by women of the highest levels of physical and mental health throughout their lifetimes. The World Conference on Human Rights reaffirms a woman's right to equal, accessible and adequate health care between women and men, and a broad range of family planning services, as well as equal access to education at all levels.

- **International Reproductive Rights Policy as Pronounced at International Human Rights Conferences**

In the 1990s, a series of U.N. conferences relating to human rights, population, and women's equality reaffirmed the importance of reproductive rights, including family planning, as critical for the advancement of women's human rights and development. Both the United States and the PRC participated in these conferences and committed to improving reproductive rights for women throughout the world. Although not binding as treaties are, international conferences articulate reproductive rights policies and goals for the international community. Though many U.N. conferences end with the adoption of a document adopted by General Assembly resolutions, these documents are not treaties. These documents represent the goals and policies agreed upon by the international community and do not create specific obligations under which states must act. When looking to these conferences and their delineations of reproductive rights, many claim the

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resulting texts produce binding legal obligations upon member states. Even without this elevated standard, these texts reflect the international community's common goals and policies regarding reproductive rights.

- **International Conference on Population and Development, 1994 (ICPD)**

The International Conference on Population and Development (ICPD) was organized under the sponsorship of the United Nations and was structured by a secretariat composed of the Population Division of the then United Nations Department of Economic and Social Information and Policy Analysis which is now the Economic and Social Department Cases and UNFPA.

ICPD Programme of Action:

Principle 1: “All human beings are born free and equal in dignity and rights. Everyone is entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Everyone has the right to life, liberty and security of the person”.¹⁵

Principle 8: “Everyone has the right to the enjoyment of the highest attainable standard of physical and mental health. States should take all appropriate measures to ensure, on a basis of equality of men and women, universal access to health-care services, including planning and sexual health. Reproductive health-care programs should provide the widest range of services without any form of coercion. All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so”

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Paragraph 7.2: “Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and process. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant. In line with the above definition of reproductive health, reproductive health care is defined as the constellation of methods, techniques and services that contribute to reproductive health and well-being by preventing and solving reproductive health problems.”

Paragraph 7.3: “Reproductive rights include rights of the couple and the individual, who make decisions related to reproduction free of discrimination, coercion and violence as expressed in human rights documents”.

Articles of ICPD and Governments at all levels are urged to evaluate systems of monitoring and evaluation of user-centric services for family-planning managers and providers to detect, prevent and control misconduct and for the purpose, governments hold ethical and professional values in the delivery of human rights and family planning and related reproductive health services Responsible for issues, to make voluntary and informed consent and regarding service provision.

The Conference unanimously adopted the program of action, which emphasized the fundamental role of women’s interests in matters of population and introduced concepts of sexual and reproductive health and reproductive rights. A new definition of population

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policy was advanced, which brought reproductive health and women's empowerment to fame. The ICPD was by far the largest intergovernmental conference on population and development, with 179 governments participating and some 11,000 registered participants from governments, UN specific agencies and organizations, intergovernmental organizations, non-governmental organizations and the media .

CONCLSUION

My concluding overview on this topic is that from the primitive society to recent time many laws available in favor of Mother but there is no specific law for fetus and his life. Because importance of fetus is not necessary in current scenario in India and all over world. And there are so many guidelines for safe abortion, but death rate is increasing day by day cause unsafe abortion. The state should make specific Law in this issue for betterment of our society. Mother have a right to choose because mother body is own body, she can choose her right. But our MTP act says that mother have not a right to choose for her own body. Because self-determination and Autonomy is a personal right of woman, it should be available in every stage. Due to unsafe abortion many women have died with maternal death. So, we should apply better process for safe abortion like surgical abortion process. We should be aware of poor woman for matter of abortion law. Government should make rule and regulation for betterment of improvement in this matter. It is can be in medium of awareness Campaign. We should follow rule and regulation from International Convention and treaty also. There are so many Convention relating to woman and Right to life.

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