

HINDU BELIEFS AND ABORTION LAWS IN INDIA

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ABSTRACT

This research explores Hindu traditions and beliefs on abortion. According to Hinduism, abortion is the worst sin a woman can commit since it breaks the cycle of reincarnation and reduces Dharma. Going back in time, we eventually reach the current abortion law in India, where it is permitted under specific circumstances. The decision to have a kid or not is not entirely within a woman's hands. Abortion possibilities are delayed by slow legal processes. Rising incidence of illegal abortions and the requirement for sex education in our nation. This study has made an effort to provide answers to every query that American women seeking abortions have. Although our country is democratic and our abortion regulations may not be as harsh as those in America, we have very few choices. Additionally, there are religious beliefs in several religions that forbid abortion. In my research, we focus on the Hindu law's emphasis on these views and how it has changed over time, yet some women are still prevented from getting abortions due to these beliefs.

INTRODUCTION

Hinduism, which claims to be the oldest religion still practised today, is a vast system of ideas, rituals, and beliefs that dates back more than two thousand years to ancient India. Approximately 900 million people worldwide practise Hinduism now. Although they make up a sizable portion of the populations in other Asian nations including Cambodia, Thailand, Burma, and Indonesia, Hindus are primarily concentrated in India and Nepal. Additionally, Hindus are a sizable minority in terms of spirituality and lifestyle in Western society in industrialised nations like the United States and the United Kingdom. Similarly, they contend that abortion was adopted by western culture, leading to the passage of the Morden abortion law. However, it wasn't always so simple to pass the laws that are in place today; many women lost their lives believing that doing so was a sin that would be passed down through the family or result in a bad life for their unborn children. There are just a few restrictions on legal abortion, including the presence of the doctor and the spouse, but not a single statute addresses whether she was compelled to bear the child. When rape victims and young rape victims wait for legal proceedings to obtain an abortion, it is already too late and the girl's life is in danger. Due to the absence of sex education awareness in our nation, minor girls are undergoing unsafe and illegal abortions. Even if our nation is still in the development stage, many things seem out of place.

HYPOTHESIS

This research explores Hindu traditions and beliefs on abortion. According to Hinduism, abortion is the worst sin a woman can commit since it breaks the cycle of reincarnation and reduces darma. Slowly, history brings us to the Morden abortion law in India, where it is permitted under certain restrictions. The decision to have a kid or not is not entirely within a woman's hands. Abortion opportunities are delayed by slow legal processes. The prevalence of illegal abortions is rising, and our nation needs more secondary education. This research endeavour has made an effort to address every query.

RESEARCH QUESTIONS

- What beliefs does the Hindu religion possess?
- Why have Women not been given the ‘right to choose abortion’?
- Why is it necessary to have court permission for abortion?
- Why are there so many illegal and unsafe abortions?

WHAT BELIEFS DOES THE HINDU RELIGION POSSESS?

The Hindu conception of birth and death is a continuous cycle made up of the *atman* (spirit) and *Prakriti* (matter). Karma is one of the most fundamental ideas in Hindu ethics and morals. It refers to a specific soul taking on a *sukumaratanu* (Body), which rests in his mother's *garbha* (Womb)ⁱ. According to the idea of karma, both the mental and physical consequences of human activities are governed by the law of cause and effect. In the world, every action has a corresponding response. A good deed will always have a positive effect on the human being, whether in this life or the one after. In contrast, a bad deed will undoubtedly have negative effects on the human being, whether in this life or the ones beyond. *Samsara* is the name given to this endless circle or chain of cause-and-effect, birth, death, and reincarnation. There is an end to this cycle. By carrying out deeds that result in salvation and release from the cycle, anyone can end the cycle of *Samsara*.

Another fundamental idea in Hinduism related to the problem that causes abortion is *ahimsa*. Abortion is prohibited in Hinduism, except for situations in which mothers' lives are at risk. Hinduism refers to murdering any living thing, including a foetus, as interfering with its cycle. The women bear the karmic costs of this intervention. As a result, a person who commits such a crime will receive the just punishment in this life or the one next. There is a belief that abortion is a form of punishment for meat-eaters, which serves as an illustration of how the idea of *Karma* operates in real-life situations. The mother, who was a cow in her previous incarnation while the unborn was a meat eater, is now exacting retribution. This illustration shows that those who consume meat and those who kill other beings are subject to the laws of Karma, which are an ongoing cycle that cannot be broken without performing good deeds. The Vedas, the earliest collection of Hindu writings, contain disparaging references to the practice

of abortion. These texts contain the *sruti*, which claims that Vishnu is referred to as the "protector of the child-to-be," suggesting that the foetus was a portion of his devotion to the divine and that abortion is equivalent to killing the divine itself.

WHY HAVE WOMEN NOT BEEN GIVEN THE 'RIGHT TO CHOOSE ABORTION'?

In India, abortion is legal after the introduction MTP Act (the medical termination of pregnancy act) which allows for termination of pregnancy up to 24 weeksⁱⁱ, (previously it was 20 weeks) and the following conditionsⁱⁱⁱ

1. if the pregnancy is harmful to the woman's life, physical or mental health
2. If there is a chance that the child may suffer from physical or mental abnormalities upon birth.
3. If the pregnancy is caused by rape (presumed to constitute a grave injury to mental health)
4. If a pregnancy resulted from the failure of a contraceptive used by a married woman or her husband (which again is presumed to cause grave injury to mental health)

Now when we look at the abortion law in other countries like Vatican City and Andorra and Malta in Europe where abortion for any reason is illegal does and this does give us a sense of progress in our country. However, it is important to recognize how even in India, the complete idea of 'choice' is committed from the act. The act only allows situational reasons as valid for abortions and they are limiting in nature to only qualifying women, not every woman can make this choice. Women have still not been given control over their bodies and in doing so, women in India do not hold what can be called the 'right to choose abortion'. The Delhi High Court ruled in *Sushil Kumar Verma v. Usha*^{iv} that section 13(1)(a) of the Hindu Marriage Act of 1955^v prohibits cruelty if the foetus is intentionally aborted without the husband's consent. this situation. Within one month of their marriage, the wife fell pregnant, sought a government-approved abortion from a doctor without informing her husband, and the husband was unaware of the pregnancy.

His request for a decree on the grounds of cruelty was denied by the district court, but the High Court upheld the decision, holding that it now requires the husband's consent when it comes to ending a pregnancy. Additionally, if one spouse in a marriage purposefully forgoes having children without the other's consent, the marriage's very purpose is defeated, according to the decision. In this case, the main issue is whether a woman has the right to make decisions regarding her physical health, including whether or not she wants to have a child. Section 3(4)(b) of the MTP Act grants adult women the freedom to make these decisions. Although a doctor is only allowed to seek the mother for permission, the choice was made anyhow.

WHY IS IT NECESSARY TO HAVE COURT PERMISSION FOR ABORTION?

The Medical Termination of Pregnancy (MTP) Act of 1971 permits abortions up to 12 weeks into a pregnancy with a doctor's referral, and for 20 to 24 weeks, two doctors' opinions are needed. Abortion after 20 weeks is extremely uncommon and only legal in cases when the mother's life is in danger if the pregnancy is allowed to progress. According to the MTP Act, the mother who wants to have an abortion must obtain a court order, yet there have been many instances where the court has made a decision that is contrary to the mother's and her family's wishes. The Chandigarh High Court rejected the abortion of a 10-year-old Chandigarh rape survivor. The girl was raped by her two uncles at 20 weeks into the pregnancy, and the High Court rejected the abortion^{vi}. In a separate case, *Radhu v. State of Madhya Pradesh*^{vii}, a 12-year-old Khargone rape survivor from Madhya Pradesh gave birth after her abortion request was denied by the High Court because doing so would end three months ago, it was initially learned that this girl was pregnant. Even though it was almost 20 weeks along, abortion had been ruled out according to the wording of the law. This demonstrates how cumbersome the legal system is for such important cases.

Another instance of this issue involves a 14-year-old girl from Uttar Pradesh who was violently raped, but the court denied her request for an abortion since the legal process took the whole eight weeks, causing her to reach the stage of "advanced pregnancy" (about 33 weeks). Tragically, the girl was forced to wed her rapist^{viii}. Only if the court had reached a decision sooner would her life be different today. Pregnancy may not be

discovered until much later in cases involving minor rape and child abuse victims. 20-week bars may have been crossed; such events are common. Even though we have the modern technology to perform abortions after 20 weeks, we nevertheless follow cumbersome legal procedures, which simply make problems worse. This instance occurred in 2019, but the technology was available for the past few years. As a result of the laws' tardy adoption, many defenceless women in these situations have paid a high price.

WHY ARE THERE SO MANY ILLEGAL AND UNSAFE ABORTIONS?

The first comprehensive study on the prevalence of abortion in India estimates that 15.6 million abortions were carried out in 2015, which is a large number^{ix}. According to the MTP Act, a minor who is pregnant may always lawfully get an abortion with a legal guardian's approval^x. Any sexual behaviour occurring before the age of 18 is illegal, even if it is consenting, according to the Protection of Children from Sexual Offences (POCSO) Act of 2012. A doctor is compelled to notify the authorities if a minor seeks any abortion-related services from them. Consider the number of 17-year-olds who would have seen a doctor because they knew it was the proper procedure to have an abortion, but instead decided against it because they were afraid the police would be notified. So perhaps They should simply get it done somewhere illegally. How many teenage females kill themselves out of fear that someone will find out about their pregnancy and family? It occurs as a result of inadequate sex education and awareness.

Now when a minor can make such a mature decision then why not give her the right to abort the child? The Hindu Marriage Act of 1995 contains a clause that designates a girl who marries before turning 15 as eligible for a special basis for divorce and repudiates the union between the ages of 15 and 18^{xi}. The fact that such a divorce provision is in place shows that legislators have recognised the legality of child marriage because only then could they have considered divorce in such a circumstance. It is important to note that the young bride's marriage may be deemed genuine if she chooses not to go through with puberty before turning 18 years old. Recently, this has been a hotly contested subject. Sex education is crucial, especially for high

school students who are beginning to become more aware of their environment. In this article, young children (middle school and high school age) and elders in the Haryana region blame women for rape. They discuss how their teachers told them that girls play a significant role in rape, which was extremely upsetting to see. Adolescents also put their parents in this position. This demonstrates society's restricted mindset and the urgent need for basic sex education in schools to prevent the birth of future rapists.

CONCLUSION

Hinduism has come a long way from its view of abortion as a sin; while some don't subscribe to it, it is still practised and profoundly held in some regions, and its influence may also be seen in the Morden law on abortion. Although abortion is legal in India, a woman still does not have the "right to choose abortion" because she has no authority over her own body and must first obtain a doctor's or judicial order before doing so. The situation is made worse by courts' delayed actions; abortion cannot wait; it becomes more prevalent every day. Just imagine the 16 or 17-year-old girls or adolescents who are misled into these circumstances due to a lack of sex education and are compelled to undergo risky, unsafe illegal abortions because they are left with no other option, despite the strict laws that we have in place. 2020 has almost arrived, and while LGBTQ rights have been won (after years of fight), we still need to give women's voices a chance to be heard and their complete bodily autonomy.

SUGGESTIONS

Many things that the researcher discovered during the research shocked me, while others were uplifting. We are fortunate our laws protect abortion rights considerably more than those of America and China. These are some of the suggestions listed below.

1. Doctors today believe that 20-24 weeks, week abortion is safe given the technology and drugs developed today.
2. A lot of situations where a lady was forced to deliver a kid against her will due to lax legal procedures. Either abortion should not require court approval, or the court should

act first in cases involving abortion since they require immediate treatment before it is too late.

3. Numerous instances when, as a result of inadequate legal procedures, a woman was forced to deliver a child against her will. Either the court shouldn't be involved in situations involving abortion since it needs to be handled right away before it's too late, or it should.
4. Due to pornographic and other harmful influences, many youngsters mistakenly believe that engaging in sexual behaviour is amusing. As a result, they require advice and counselling to help them understand how serious things can become. The school curriculum should introduce sex education programmes. Many schools lack it, however, few do. After our nation topped the list of the world's highest rates of rape, the education policy 2020 did not even consider including it.

ENDNOTES

ⁱ Edward Omar Moad, Hindu Ethics on the Moral Question of Abortion, University of Missouri – Columbia (10/12/2020, 8:04), <https://www.eubios.info/EJ144/ej144j.htm>

ⁱⁱ The Medical Termination Of Pregnancy (Amendment) Act, 2021 No. 8 Of 2021

ⁱⁱⁱ MTP Act 1971, 1 Id., S.5(1)

^{iv} Sushil Kumar Verma Vs, Usha (1983).HC No. 251

^v HMA Act 1955, id.,S. 13(1)(ia)

^{vi} Roshan Lal and Others vs State Of U.T. Chandigarh (2014). HC 6313

^{vii} Radhu v. State of Madhya Pradesh (2007).HC 1827 0

^{viii} Sanjay vs State Of U.P (2019). HC 3348

^{ix} Colette Rose, National Estimate of Abortion in India Released, The Guttmacher Institute (10/19/2020, 1:26), <https://www.guttmacher.org/news-release/2017/national-estimate-abortion-india-released>

^x MTP Act id.,S.2(a)

^{xi} HMA Act, id.,S 13(2)(iv)