

ANALYSIS OF ABORTION IN HINDUISM AND ISLAM

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ABSTRACT

Millions of women across the world suffer and in worst cases die because of unsafe and substandard post abortion care facilities. It is egregious that even today when we recognise abortion as human right of women yet in the name of religious and cultural boundaries women are not given discretion to decide what they want to do with their body. In countries like India, Nepal and Mauritius (only three Nations where major population is Hindu) abortion laws are quite flexible but in name of Dharma and Karma women are forced give birth even when her own life or health is at stake. In case of Muslims nations, the aayats of Al' Quran allow abortion in some cases but the laws are restrictive and not in conformity with the religious law. This research paper intends to clarify the stance of Al' Quran on Abortion and analyse Hindu texts on Abortion and compare the two.

KEYWORDS

Al' Quran, Hinduism, Islam, Vedas, Shruti, Smriti.

INTRODUCTION

Tremendous variation can be seen in abortion laws around the globe, in many countries abortion is considered women's basic right and a personal choice, numerous constitutions, human rights treaties guarantee the right to safe and legal abortion. 970 million women which is 59% of women of reproduction age live in the countries with non-restrictive abortion laws

but 41% of women live under abortion laws which are restrictive or at a puerile stage of development¹. According to WHO 23000 women die each year due to unsafe abortion, it has been seen that legally restricting abortion doesn't result in few abortions instead it compels women to put their life at stake and seek out for unsafe and illegal abortion, so criminalising abortion is definitely not the solution. More inclusive and libertarian laws on abortion show equality and availability of opportunity to move life the way women want. After the *Roe v Wade*² decision by supreme court of united states it became one of the first countries to liberalize abortion laws. In 1992, *Planned Parenthood v. Casey*³ reaffirmed this right but permitted regulations, such as waiting periods and parental consent requirements. But recently a law passed in Alabama in May to ban abortion in virtually all cases, with no exceptions for cases of rape or incest; if allowed to take effect, rendering the state home to one of the most restrictive abortion laws in the world. Similarly, many nations such as Poland, El Salvador etc. have tried to impose complete ban on abortion. A few nations such as Zambia where abortion is permitted for economic and social reasons, but, despite having a liberal law, structural and cultural barriers make it difficult for Zambian women to obtain abortions.⁴ Religious or personal laws in many nations allow abortion, in many countries abortion is not just a legal right but also a constitutional right but the same isn't practices in countries like turkey women due to social and cultural restraints are not able to enforce these rights. In Hindu nations religion, customs and concept of karma and dharma is of utmost importance, even though judiciary follows a wider approach and law ensures safe abortion to women, women aren't able to enforce the same due to societal

¹The World Abortion Laws Map

² *Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705

³ *Planned Parenthood v. Casey*, 505 U.S. 833 (1992)

⁴ Abortion Law: Global Comparison A recent spate of state laws to restrict abortion services in the United States has reignited debate over the procedure. How does the United States' regulation of abortion compare to the rest of the world *by Rachel B. Vogelstein and Rebecca*

constraints. Whereas in case of Muslim Nations the religious law allows abortion in certain cases but the laws in majority of Islamic countries is not in conformity with the religious texts. Let's analyse what exactly the religious texts say.

WHAT SHRUTI, SMRITI AND QURAN SAYS?



Ahimsa or non-violence, the very essence of Hinduism counts killing of foetus a crime, it is believed that an action that will cause least amount of harm to the mother, father, child and society is acceptable, it is also believed that children are not just a personal choice, it is a societal obligation to have kids and that is how society, culture and religion has been moving forward.

According to Vedas that embryo then becomes a part of the women's self, like any part of her body; it does not hurt her; she protects and develops the embryo within herself. as she protects the embryo, so she also is protected.⁵ and the person who extracts the embryo is called an evil doer⁶. Moreover it is forbidden by the sage Manu in Manusmriti as well and according to the Puranas the five worst acts include killing of Brahmin, Destruction of an unborn foetus,

⁵RIGVEDA

⁶Satapatha Brahmana,

drinking of liquor, stealing of gold and having sex with Guru's wife. However Sushruta Samhita allows abortion in some cases when the foetus is defective and there is no chance of normal birth.⁷

The Quran says "We created man from an essence of clay: then placed him, a living germ, In a secure enclosure. The germ We made a leech; and the leech a lump of Flesh; and this We fashioned into bones, then clothed the bones with flesh; Then We develop it into another creation."⁸ And explains how a foetus is created, how it becomes flesh and bones in the womb of a female. Further to elaborate how the flesh and bones become a living being, the Quran says -He who has made everything which He has created best. He began the creation of man with (nothing more than) clay, and made his progeny from a quintessence of the nature of a fluid despised. Then He fashioned him in due proportion and breathed into him some-thing of His Ruh(soul).And He gave you (the faculties of) hearing and sight and understanding.⁹

Majority of the scholars believe that the foetus gets the soul after 120 days as the hadith says "For every one of you, the components of his creation are gathered together in the mother's womb for a period of forty days. Then he will remain for two more periods of the same length, after which the angel is sent and insufflates the spirit into him." So at end of this period which is 120 days the angel is sent. So the reality of how we want abortion laws to be today are closest to the law of sharia. Many jurists have agreed that abortion under special circumstances is allowed, such as forced pregnancy (caused by rape), reasons of health and other pressing reasons such as incest. According to the principle of al-ahamm wa 'l-muhimm (the more

⁷ <https://veda-upanishad.blogspot.com/2009/04/abortion-and-hinduism.html>

⁸ Surah Al-Mu'minoon, 23: 12-14

⁹ (Surah Al-Sajadah, 32:7-9)

important and the less important) The Prophet said, "When two forbidden things come [upon a person] together, then the lesser will be sacrificed for the greater." In the present case, one is faced with two forbidden things: either abort the unborn child or let a living woman die. Obviously, the latter is greater than the former; therefore, abortion is allowed to save the live person¹⁰

In case of rape, which is one of the most painful and heinous crimes against women, a mother is expected to be content and to neglect the trauma and suffering every time she sees that child and as a consequence she would transfer that trauma, psychological ache to the child so according to al-ahamm wa 'l-muhimm abortion is indeed lesser one of the two, on the basis of same principle abortion is allowed only when doctors declare with reasonable certainty that the continuation of pregnancy will put mothers life at risk.

Also another concept that says if something haram is the only way to out from your problems then it is not haram, for instance if you have skin disease and wearing silk is the way to cure it then wearing silk is not haram. Another example if pork is the only thing a person can consume and he/she is starving as there is no other alternative then eating pork is not haram. So if the only way to save a women's life is abortion then it is not haram to do so.

We it comes to abortion and family planning Islamic approach is balanced. Hinduism is the oldest know religion, Manu Smriti, Mitakshara and Dayabhaga were written eons ago. With societal changes, improvement in the position of women and recognition of rights of women to choose what they want to do with their body the approach of Hindu communities too need a change. In case of Islam, religion allows abortion and gives the due respect to women and freedom to exercise their choice.

¹⁰Marriage and Morals in Islam. Chapter 4: contraceptives and Abortion. Sayyid Muhammad Rizvi, Pub. By Islamic Education and Information Center, Scarborough, Ont. Canada

MODERN CONCEPT OF WOMEN'S RIGHT TO ABORTION AND STATUS OF LAWS
AROUND THE WORLD

United Nations human rights bodies—including the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Political Rights, the Working Group on discrimination against women in law and practice, and the Special Rapporteurs have been working for a progressive abortion law reform and achieving highest attainable standard of health .Below is the list of countries which have restrictive laws abortion laws, on the basis of legal permissibility to abort a child on request, to save woman's life, to preserve woman's life , because of rape or incest or because of fatal impairment. The highlighted countries are all Muslim nations where abortion laws have been restrictive and women are not allowed to abort even if their life is at stake, doesn't matter whether the duration of pregnancy is 40 days or 120 days which is the ensoulment period according to Al Quran. ¹¹



¹¹worldpopulationreview

Country	Abortion Request	Abortion to Save Woman's Life	Abortion to Preserve Woman's Health	Abortion because of Incest
<u>Afghanistan</u>	No	Yes	No	No
<u>Algeria</u>	No	Yes	Yes	No
Andorra	No	Yes	No	No
Antigua Barbuda	AndNo	Yes	No	No
<u>Bangladesh</u>	No	Yes	No	No
Belize	No	Yes	Yes	No
Bhutan	No	Yes	No	Yes
Brazil	No	Yes	No	Yes
<u>Brunei</u>	No	Yes	No	No
Burundi	No	Yes	Yes	No



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<u>Central African Republic</u>	No	Yes	No	No
Chile	No	Yes	No	Yes
Costa Rica	No	Yes	Yes	No
<u>Djibouti</u>	No	Yes	No	No
Dominica	No	Yes	No	No
Dominican Republic	No	No	No	No
Dr Congo	No	Yes	No	No
Ecuador	No	Yes	Yes	No
<u>Egypt</u>	No	Yes	No	No
El Salvador	No	No	No	No
Equatorial Guinea	No	Yes	Yes	No



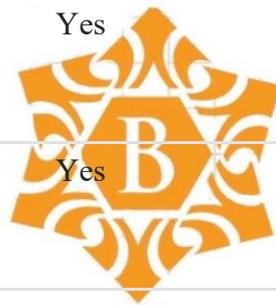
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Gabon	No	Yes	No	No
<u>Gambia</u>	No	Yes	Yes	No
Grenada	No	Yes	Yes	No
Guatemala	No	Yes	No	No
<u>Guinea Bissau</u>	No	Yes	No	No
Haiti	No	Yes	No	No
Honduras	No	Yes	No	No
<u>Indonesia</u>	No	Yes	No	Yes
<u>Iran</u>	No	Yes	No	No
<u>Iraq</u>	No	Yes	No	No
<u>Ivory Coast</u>	No	Yes	No	No
Jamaica	No	Yes	Yes	No



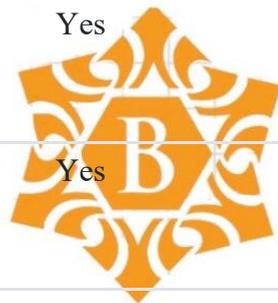
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Japan	No	Yes	Yes	Yes
<u>Jordan</u>	No	Yes	Yes	No
<u>Kazakhstan</u>	Yes	Yes	Yes	Yes
Kenya	No	Yes	Yes	No
Kiribati	No	Yes	No	No
<u>Kuwait</u>	No	Yes	Yes	No
Laos	No	Yes	Yes	No
<u>Lebanon</u>	No	Yes	No	No
Lesotho	No	Yes	No	No
<u>Libya</u>	No	Yes	No	No
Liechtenstein	No	Yes	Yes	No
Madagascar	No	Yes	No	No



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Malawi	No	Yes	No	No
<u>Malaysia</u>	No	Yes	Yes	No
<u>Maldives</u>	No	Yes	Yes	No
<u>Mali</u>	No	Yes	No	Yes
Malta	No	No	No	No
Marshall Islands	No	Yes	No	No
<u>Mauritania</u>	No	Yes	No	No
Mauritius	No	Yes	No	No
Micronesia	No	Yes	No	No
Myanmar	No	Yes	No	No
Nauru	No	Yes	Yes	No
Nicaragua	No	No	No	No



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<u>Niger</u>	No	Yes	No	No
<u>Nigeria</u>	No	Yes	Yes	No
Niue	No	Yes	Yes	No
<u>Oman</u>	No	Yes	No	No
<u>Pakistan</u>	No	Yes	Yes	No
<u>Palau</u>	No	Yes	No	No
<u>Palestine</u>	No	Yes	No	No
Papua Guinea	NewNo	Yes	No	No
Paraguay	No	Yes	No	No
Peru	No	Yes	Yes	No
Philippines	No	Yes	No	No
<u>Qatar</u>	No	Yes	Yes	No



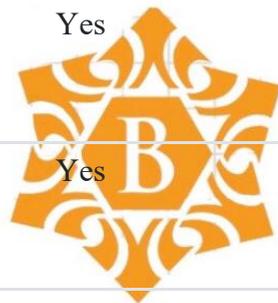
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Republic Of The Congo	No	Yes	No	No
Rwanda	No	Yes	Yes	No
Samoa	No	Yes	Yes	No
San Marino	No	Yes	No	No
Sao Tome And Principe	No	Yes	No	No
<u>Saudi Arabia</u>	No	Yes	Yes	No
<u>Senegal</u>	No	Yes	No	No
<u>Sierra Leone</u>	No	Yes	Yes	No
Solomon Islands	No	Yes	No	No
<u>Somalia</u>	No	Yes	No	No
<u>South Sudan</u>	No	Yes	No	No



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Sri Lanka	No	Yes	No	No
<u>Sudan</u>	No	Yes	No	Yes
Suriname	No	Yes	No	No
<u>Syria</u>	No	Yes	No	No
<u>Tanzania</u>	No	Yes	Yes	No
Timor Leste	No	Yes	No	No
Tonga	No	Yes	No	No
Trinidad Tobago	AndNo	Yes	Yes	No
Tuvalu	No	Yes	No	No
<u>Uganda</u>	No	Yes	Yes	No
<u>United Arab Emirates</u>	No	Yes	Yes	No



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United Kingdom	No	Yes	Yes	No
Vanuatu	No	Yes	Yes	No
Vatican City	No	No	No	No
Venezuela	No	Yes	No	No
<u>Yemen</u>	No	Yes	No	No
Zambia	No	Yes	Yes	No



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The table clearly shows that around 89 countries don't allow abortion in cases of rape or incest, and even Muslim countries considers it illegal, when a woman give birth to a child born out of a crime, trauma and a painful incident and she be expected to raise the child with love, when every glance of that child is reminder of a painful memory. And such children expected to move ahead in life with positivity. In the MENA region (Middle East and North Africa) where Islam is the state religion, recently a mother of a nine-year-old girl following a rape was excommunicated by a Brazilian bishop , along with the doctor who performed the abortion,

despite the fact that abortion for this reason is legally permitted.¹²abortion ranges from availability on request in the first trimester (Turkey and Tunisia) to availability on specific grounds only (physical and/or mental health in six countries, fatal impairment or rape in three countries). All countries allow abortion to save the woman's life, although actual access to abortion is not always guaranteed.¹³

When it comes to Hindu countries, there are only three Hindu nations India, Nepal and Mauritius. Concept of Karma and Dharma are essentials in every Hindu's life. Dharma is the morality that drives the life of a Hindu and Karma implies duty and righteousness, what is right is defined by Shruti, Smriti, Mitakshara and Dayabhaga the primary sources of Hindu law. The primary sources prohibit abortion in any case even if it's by rape, incest or when life of mother is at risk. So the idea is that it is private decision of parents to abort or not since it is their karmic debt, they will suffer or enjoy. Destruction of foetus is one of the worst things one could do according to Puranas. Laws in India allows abortion up to 20 weeks by a medical practitioner, it allows abortion in case of rape, incest and when the life of mother or the baby is at risk. Under 11th amendment to civil code Nepal legalised abortion in 2002, forceful abortion and abortion upon identification of sex is illegal. In Mauritius even today abortion is a criminal offence. Since its against Dharma and is regarded as a karmic debt, the culture and customs prohibit it too.

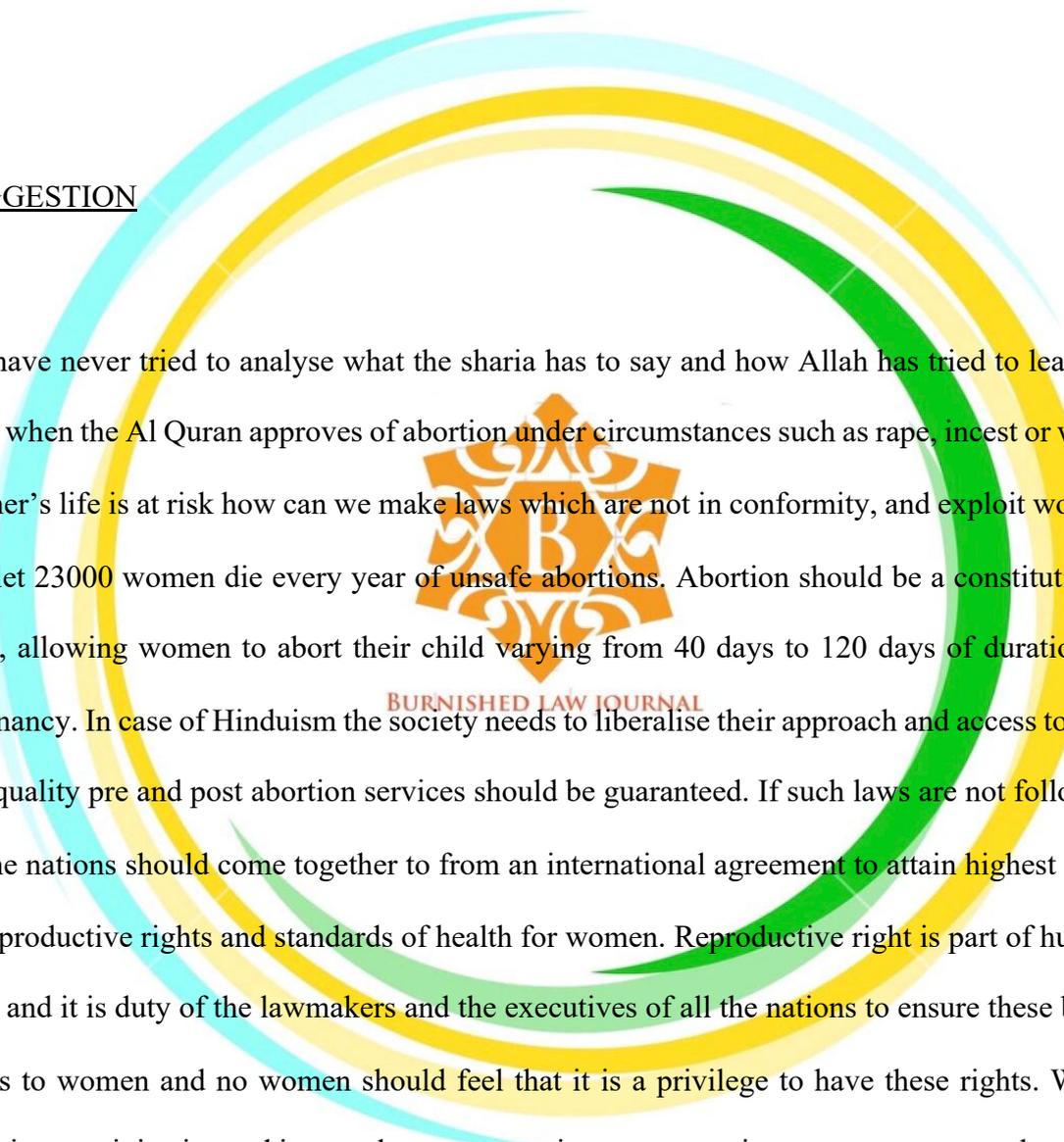
Comparing the two Hindu law is restrictive and with changing society people should realize that position of women in the society has changed, in cases of rape, incest or when her life is at risk not allowing women to abort is a karmic debt too and giving mental agony is against dharma too. The approach of law in India is really broad as compared to Nepal and Mauritius,

¹² https://w2.vatican.va/content/francesco/en/apost_letters/documents/papa-francesco-lettera-ap_20161120_misericordia-etmiseria.html Abortion Around the World 239

¹³ Abortion Around the World An Overview of Legislation, Measures, Trends, and Consequences by Agnès Guillaume and Clémentine Rossier

it recognises choice of women. Whereas Islamic law abortion before ensoulment is allowed and it is not an offence but majority of Muslim nations do not follow what Shariah says. So religious law of Hindus is restrictive and laws in Islam are broader.

SUGGESTION



We have never tried to analyse what the sharia has to say and how Allah has tried to lead us, even when the Al Quran approves of abortion under circumstances such as rape, incest or when mother's life is at risk how can we make laws which are not in conformity, and exploit women and let 23000 women die every year of unsafe abortions. Abortion should be a constitutional right, allowing women to abort their child varying from 40 days to 120 days of duration of pregnancy. In case of Hinduism the society needs to liberalise their approach and access to safe and quality pre and post abortion services should be guaranteed. If such laws are not followed all the nations should come together to form an international agreement to attain highest level of reproductive rights and standards of health for women. Reproductive right is part of human right and it is duty of the lawmakers and the executives of all the nations to ensure these basic rights to women and no women should feel that it is a privilege to have these rights. When there is some injustice and immoral acts seen against women stringent measures must be taken by the authorities so that no one dares to repeat it and women don't feel socially and culturally bound to enforcing their rights.

CONCLUSION

It is indeed a crime to take one's life and human's life is indeed sacred according to Hinduism, Buddhism, Christianity, Islam and other religions too. But it is a bigger crime in my view when in cases of rape or incest, women are not allowed to abort and she is made to relive the trauma again and again, even the child born out of such incidents are called sin child by society, which is unfair, further in cases when women's life and health is at stake and abortion not being given to a woman as a personal choice is a crime too. Making laws stringent doesn't resolve the issue, women are made to take illegal and unsafe measure and put their life at risk. Laws are made to make society a better, safe and equal place for everyone. Restrictive abortion laws are not just unfair to women but also have resulted in a sharp decline in adoption rate across the world. Human life is sacred that means life of a woman is sacred too and if ensoulment occurs after 40 days or 120 days it can be deduced that abortion is not haram rather it is a good karma as life of a woman is saved. For Hindus too it is indeed a karmic debt and anti-dharma that a woman is not allowed to abort the child. Dharma is about what is right, how can something that causes a lifelong pain to someone be a right thing to do just because it is a societal obligation.

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