



# A Comparative Analysis Of Abortion Laws In India And Denmark With Special Reference To Paper Abortion

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## Abstract

This paper will compare and contrast the legislation concerning abortion in India as well as ‘‘paper abortion’’ in Denmark. Abortion laws differ in the social, political, cultural and healthcare system between the two countries. Due to socio-political and cultural beliefs in India, abortion laws are more conservative, while the liberal policies adopted in Denmark led to the liberalization of abortion laws. Even though India legalized abortion through the Medical Termination of Pregnancy (MTP) Act in 1971, majority of the women still do not have access to safe abortion services, especially in rural areas, hence practicing ‘paper abortion’ which means that they drop out of the formal health care system to seek safe abortion common in India. While Denmark had passed the abortion act in 1973, it permits the women to opt for abortion service up to a period of 12 weeks without much formalities. The paper outlines the legal concerns, social norms, and health care that has facilitated the paper abortions in India and compares it with Denmark where abortion process is relatively clear and easy. Analyzing these disparities, the study reveals the obstacles that both countries have to overcome to achieve reproductive justice and calls for legal and health system transformation. It would be equally important for each country’s authorities and policymakers to incorporate and apply the lessons from this comparative analysis in attempts to enhance their own national and international reproductive health care policies and practices.

Keywords: MTP, paper abortion, India, Denmark, comparative.

## Introduction

The policies of abortion have provided much controversy in the legal and social realm internationally.<sup>1</sup> These are public policy issue and ethical, moral and health care issues. On what basis, under what conditions and within which framework the right to terminate a pregnancy is admissible can be linked to the issues of individual rights self-determination, gender equity, and justice.<sup>2</sup> The legal regulation of abortion has not been equal in countries due to; The political climates, culture and the religious affiliations of the societies in the different countries. Legal provisions on abortion generally interpret a given society's stand on issues to do with the rights of women, with liberal laws embodying a broader understanding of reproductive freedom and stringent provisions preserving the ethnic or religious outlook.

The following research Paper compares abortion legislation in India and Denmark. These nations are purposefully chosen device because they have history, culture, approaches to healthcare, and abortion legislation distinct from that of the United States. The two nations are for women's reproductive rights, although they employ this right in various ways. Due to its highly traditional and diverse society, India has not tried its best to ensure that every woman can safely abort a pregnancy, Denmark has very liberal laws that allow abortions and highly developed healthcare system that enhances extension of reproductive health services.

Indian abortion laws have recently been altered but these are again contingent with social economic and infrastructure factors. The more iconic Movement started with the Medical Termination of Pregnancy (MTP) Act adopted in 1971 that legalized abortion. This legislation was changed many times, the latest change in 2021, to permit abortions up to week 24 in cases of a risk to the woman's health. Some of these legislative developments do not imply availability of safe abortion all over the country. The rural-urban disparity, poor health system physical environment, and abortion prejudice and bias keep legal and safe abortions hard to come across. H Ukaga also approves social customs and religious factors that made most women to continue practicing unsafe abortion due to pressure and poor medical facilities. Most childless women with no access to proper medical care resort to using a "paper abortion." Most females employ fake documents like permit documents or administrative excuses to have an abortion through paperwork or paper abortion. As much as this is unlawful, it reveals aspects of India's healthcare amenities and abortion acceptability problems.<sup>3</sup>

The general social policies of the country, as well as the sound health care system in Denmark supports the abortion regime. In 1973 Denmark was of the first European countries that changed the law and made abortions until the 12th week legal.<sup>4</sup> Some abortions may be extended over twelve weeks if the woman is at risk or if fetus abnormalities are apparent. These include healthcare in Denmark is important to safe and legal abortions for all women. The healthcare infrastructure is well developed and the legal constraints minimal, thus women have easy access to trade services with little or no bureaucratic or social interference. Enduring the legacy of restriction on reproductive rights, Denmark has liberal laws with regard to abortions referring to the idea of gender equality that entitles women to control their bodies. Unlike in India, the freedom to abortion and lack or stringencies of health care known by Western countries make what is referred to as "paper abortion" less prevalent in Denmark. These procedures do exist: permission forms, medical paperwork etcetera; however they are implemented to protect women rights from being infringed rather than lock them out of treatment options.

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<sup>1</sup> Cook, R. J., Erdman, J. N., & Dickens, B. M. (Eds.). (2014). *Abortion law in transnational perspective: Cases and controversies*. University of Pennsylvania Press.

<sup>2</sup> *Supra* note 2.

<sup>3</sup> Trevitt, J. L. (2010). *Female reproductive health in Russia: Demographic and behavioral determinants of pregnancy outcomes, contraceptive usage, and repeat abortion*. The Johns Hopkins University.

<sup>4</sup> David, H. P. (1992). *Abortion in Europe, 1920-91: a public health perspective*. *Studies in family planning*, 23(1), 1-22.

The efficacy of reproductive laws between India and Denmark is also comparable different in as they both protect women rights. India's laws have been progressive on paper, but the nation fails to implement these laws. Geographical polarity and cultural relativism, coupled with institutional bias work to reduce the breadth of safe abortion service in the country. Denmark's liberal social policies and well developed healthcare systems have a strong and egalitarian setup for abortion treatment.

## Research Objective

The objective of this study is to compare and contrast the abortion laws in India and Denmark, with a specific focus on the legal, social, and practical implications of paper abortions in both countries. By examining the role of these laws in safeguarding women's reproductive autonomy, this paper will also highlight areas where further reform may be needed. Ultimately, the paper aims to provide valuable insights into how legal frameworks can better support women's reproductive rights while considering the complex socio-cultural, healthcare, and political contexts in which these laws operate.

## Research Questions

- How do the legal frameworks governing abortion in India and Denmark differ, and what are the implications of these differences for women's access to safe and legal abortion services?
- What are the socio-cultural, economic, and healthcare factors that influence the practice of paper abortion in India and Denmark, and how do these factors affect women's autonomy and reproductive rights in both countries?
- How effective are the abortion laws in India and Denmark in ensuring equitable access to reproductive healthcare for women, particularly in rural or marginalized communities, and what role does the concept of "paper abortion" play in highlighting the gaps in these legal frameworks?

## Literature Review

### *Historical Evolution of Abortion Laws*

India's abortion laws began with the Medical Termination of Pregnancy (MTP) act, 1971 which allows abortion only when it would be fatal to the life of the woman. Afterwards the subsequent amendments to Act expanded the basis on which a woman is allowed to undergo an abortion for instance for fetal irregularities, danger to the psychological health of the mother. However, there are so many controversies existing related to abortion issues in India even today and at the same time the rural health care department does not get even basic facilities in case of safe abortions.<sup>5</sup>

On the other hand Denmark began abortion law in 1973 and allowed women to abort up to 12 weeks pregnancy without the need of any special reason for their abortion. It was an element of liberal changes of the legislation of the Scandinavian countries and put Denmark on the map of the fight for control over women's bodies. Over the years Denmark has maintained and even strengthened its policies for the improved access with special regards to the women's control.<sup>6</sup>

<sup>5</sup> Jadav, D., C Bhargava, D., Meshram, V., S Shekhawat, R., & Kanchan, T. (2024). Medical termination of pregnancy: A global perspective and Indian scenario. *Medico-Legal Journal*, 92(1), 34-42.

<sup>6</sup> Knudsen, L. M. (2006). *Reproductive Rights in a Global Context: South Africa, Uganda, Peru, Denmark, United States, Vietnam, Jordan*. Vanderbilt University Press.

The counterparts in legislation for the two countries are founded on a basic principle of equality for women, and on issues of moral concern for abortion<sup>7</sup>. In India pertinent contentious issues include socially tabued Abortion, divergent perhaps haphazard directions from religious leaders and issues of legal enforcement of abortion to the women residing in rural regions. In comparison Denmark is viewed as being vastly more progressive and vastly more concerned with a woman's right to choose as well as her health.<sup>8</sup>

Ethical issues in the chosen countries indicate another level of culture acceptance as well as the level of rejection of the same. Regarding the abortion it is seen that in the Indian matrifocal culture and gender roles and reproductive rights shape public opinion. On the other hand, the liberal culture of the society makes abortion easier a non-issue since it is regarded as a medical user's right in Denmark.

### ***Global Comparative Studies***

Research has also made cross-sectional analysis of abortion legislation in different countries to establish results on women health and self-governance. A WHO research revealed that the increase of the permissive legislation on abortion decreases the death of mother and improves women's reproductive health care services.<sup>9</sup> These results correlate with other outstanding features of Denmark jurisdiction, especially its legislation. In India where safe abortions are still inaccessible and too often the medical services are insufficient, maternal mortality rates are still quite high.

### **Methodology**

The paper compares abortion legislation in India and Denmark using qualitative comparative analysis, legal documents, academic literature, and case law. Paper abortion and the development of abortion regulations in each nation are the main topics. The investigation employs a case study technique to examine abortion-related legal obstacles, legislative developments, and medical practices in both nations. Secondary data sources such government and non-government papers, medical journals, and the WHO are also used.

### **Comparative Analysis of Abortion Laws**

#### ***India: Legal Framework and the MTP Act***

The MTP Act, 1971 laid the groundwork for legal abortion in India, stipulating that abortions could be performed under certain conditions: when the continued pregnancy would endanger the life of the woman, in case there is a likelihood that the child when born will have a disability that will have severe implications on his or her mind or body, or in cases where the pregnancy has resulted from rape or incest. The existing law was reviewed in 2021 and the existing law relaxed the age limit under which abortion can be carried out under given conditions. It allowed women, who are pregnant for no more than 24 weeks, to obtain an abortion under some conditions but in case of pregnancies more than 20 weeks an approval of a medical council is needed.

<sup>7</sup> Graber, M. (1999). *Rethinking Abortion: Equal Choice, the Constitution, and Reproductive Politics*. Princeton University Press.

<sup>8</sup> Borchorst, A., & Siim, B. (2018). Women and the advanced welfare state—a new kind of patriarchal power?. In *Women and the State* (pp. 128-157). Routledge.

<sup>9</sup> Koch, E., Chireau, M., Pliego, F., Stanford, J., Haddad, S., Calhoun, B., ... & Thorp, J. (2015). Abortion legislation, maternal healthcare, fertility, female literacy, sanitation, violence against women and maternal deaths: a natural experiment in 32 Mexican states. *BMJ open*, 5(2), e006013.

However, these legislative changes leave much untapped. They pointed that in developing countries and particularly in rural area, women still faced challenges in accessing safe and legal abortion services due to poor awareness creation on the legal available services, restricted health facilities and culture. These aspects make a paper abortion which is a scenario where women go for abortion services through fake or wrong paperwork to overcome numerous procedures.<sup>10</sup>

### ***Denmark: Legal Framework and Reproductive Rights***

Denmark's abortion law, enacted in 1973, allows women to obtain an abortion up to the 12th week of pregnancy without needing specific medical justification. After the 12th week, an abortion can be carried out only if the woman's health is at risk, or if there are serious fetal abnormalities. Denmark's approach is grounded in the belief that a woman's right to control her own body is paramount, and abortion is framed primarily as a healthcare issue, not a moral or ethical one.

Denmark's legal system makes the process of obtaining an abortion relatively straightforward, with no significant barriers in terms of documentation or bureaucratic processes. However, discussions around "paper abortion" in Denmark primarily concern administrative issues such as consent forms and medical records, which are managed efficiently within the country's healthcare infrastructure.<sup>11</sup>

### **Judicial Approach**

In *Suchita Srivastava v Chandigarh Administration*<sup>12</sup>, the SC of India recognized woman's reproductive autonomy. This case set a precedent that means the state cannot control the woman's decision of abortion unless her life is at risk. In fact, one of the biggest verdicts in the world was recently awarded in Indian court. The fact is India's legal system is slow and confusing even today. Women have to undergo so many legal formalities to obtain clearance where medical doctors and health facilities are scarce, particularly in the rural areas. This legislative system makes abortion tough and in many cases, it will be delayed because women have to go through health certifications, legal approvals and at times involving the courts, after twenty weeks. The case *XYZ v UOI*<sup>13</sup> allowed a women to abort pregnancy beyond 20 weeks; the court placed importance on the right to choose to terminate pregnancy.

Danish courts are more favorable towards paper abortions and quick. It means that women can ask for an abortion when they are up to twelve weeks pregnant with little legal interference. Judiciary normally only watches for procedural milestones such as pregnancy confirmation and physician advice. In *X v Denmark (1987)*<sup>14</sup> the Danish Supreme Court upheld the right of a woman to have an abortion within the legal time line and consequently Denmark has fulfilled its commitment to reproductive rights. Organized minorities in Denmark continue to face barriers despite Denmark possessing a straightforward system of laws and courts. Even though it has been a woman's right to abort, structural barriers such as language, culture, and pocket pin hinder immigrant women or and low- income earners to get an abortion if needed.

<sup>10</sup> Gupta, V., 2022. Introduction of MTP (Amendment) Act, 2021 in Changing Times: An Analysis. *Jus Corpus LJ*, 3, p.246.

<sup>11</sup> Herrmann, J. R., & Petersen, A. F. (2021). Barriers to abortion in the autonomy-based Danish legal model. *European Journal of Health Law*, 28(5), 490-505.

<sup>12</sup> AIR 2010 SUPREME COURT 235.

<sup>13</sup> WRIT PETITION NO. 10108 OF 2023.

<sup>14</sup> CCPR/C/110/D/2007/2010.

## Socio-Cultural Context of Paper Abortion in India and Denmark

Paper abortion and socio-cultural views that women in India and Denmark have vary in abortion rights, cultural constraints, and legislation. Paper abortion is abortion permitted or performed by legal, medical, or administrative processes. Indian and Danish social cultures influence how women and health care workers perceive, interpret, and act on bureaucratic procedures.<sup>15</sup>

Religion is a crucial factor in paper abortion in India, where it is most widespread. The culture of abortion offers a challenge to India's Medical Termination of Pregnancy (MTP) Act, which requires medical or legal clearance in certain cases. Indian law allows abortion if it saves the woman's life, is medically preferable, or is necessary to prevent rape, although abortion is strongly opposed, particularly in rural and conservative communities. This objection is largely religious, seeing abortion as socially unacceptable and sinful to life. These religious and cultural attitudes shame women seeking abortions and health institutions that provide them.<sup>16</sup>

Women seeking abortions in India face legal but bureaucratic obstacles. Paper abortions need legal, medical, and sometimes embodied approval from the State, doctor, and parents for underage or single women. When a woman seeks a safe and legal abortion at an administrative office, she faces social stigma and paperwork. Due to the unfavorable attitude against abortion, particularly in rural areas where women are expected to follow cultural standards, many women may not go through this procedure or do it later. In remote places, there are few educated medical practitioners, thus women may need to obtain permission or assistance from one. In such cases, legal and bureaucratic safeguards for women's health and rights prevent safe legal abortion.

However, Denmark shows a different sociocultural environment for paper abortion. Because this state's populace is liberal about sexual life's most significant moments, including reproductive rights, abortion is not as shocking as in other nations. In Denmark, abortions are lawful up to the 12th week of pregnancy without a reason. Most women don't need permission to be picked or have surgery. The public health care system allows abortion, which is deemed normal. Since Denmark is mainly secular, religion does not influence policy, hence women's reproductive independence is valued.

Paper abortion in Denmark has simple requirements. After conception, a woman may see her doctor for legal and medical assistance. In cases when the pregnancy has lasted more than twelve weeks, a medical committee must get family consent before an abortion. Abortion lacks a moral sanction since no society or religion forbids it, making it a practical decision. Danish obstetricians and gynecologists support women's reproductive choices and have inconspicuous structures. Safe, timely, and confidential services that eliminate abortion obstacles are prioritized. Danish culture, customs, and reproductive rights social initiatives also educate women about Danish legislation.<sup>17</sup> This open and liberated healthcare system's acceptance of abortion as a legitimate medical practice ensures that obtaining a paper abortion is not stigmatized like in traditional societies like India. In Denmark, societal and family pressure to not abort is negligible.

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<sup>15</sup> Vandamme, J. (2017). The decision to have an abortion in Flanders: a contextual approach (Doctoral dissertation, Ghent University).

<sup>16</sup> Ibid.

<sup>17</sup> Anderson, S. (2008). Civil sociality: Children, sport, and cultural policy in Denmark. IAP.

## Conclusion

While India and Denmark are developing comparable legislation on the accessibility of abortion for women, this cross-sectional comparison to and from the India and Danish experiences indicates that each country still faces significant obstacles to providing women with the safe and legal abortions they need. In both the countries there have been improvements with regard to legal agendas that surround abortion, but the practicality and social-cultural circumstances vary greatly to show that legislation is not enough to ensure women's reproductive choices.

Even though India's Medical Termination of Pregnancy (MTP) Act has put relatively liberal measures in writing, the societal attitudes toward abortion are prohibitive. Cultural practices and beliefs further make it worse—especially for women from rural areas in the conservative parts of the country. Besides, women being judged by the society they have limited access to healthcare infrastructure and trained medical professionals which in turn hinders them to fully express their reproductive rights. Even the administrative hurdles involved in getting an abortion due to formalities such as producing medical certificates and require legal permit are also inconveniences that most women will endure stopping them from seeking medical attention at an early stage. However, from the general picture of public health, factors like underestimation of unsafe abortion and inadequate information on sexual education are relevant.

Denmark, on the other hand, seems to afford women seeking abortion a much better environment. The Act on Abortion is much more coherent, outspoken and easy to read, women can have an abortion without any reasons until 12 weeks of pregnancy. The legal guidelines together with strong health care system means that majority of women can safely and legally seek an abortion without many hurdles. However, despite this the general feeling is that the Danish system is progressive there are always challenges in putting in the necessary measures enabling the vulnerable groups get equal access to these services which may include immigrants or any economically backward people. Hence, while social acceptability of abortion is well acknowledged, questions on its access, language and social inclusion remains problematic for some categories of people.

## Recommendations

To improve abortion access for underprivileged communities in India, major measures are needed. The first step is to spend more in healthcare facilities, especially in rural regions, to educate doctors to conduct safe abortions. Comprehensive reproductive health education for men and women, particularly in rural and isolated areas, helps eliminate abortion stigma. Second, to make abortion more efficient and less terrifying, bureaucratic hurdles should be reduced, particularly for instances over 20 weeks. When they qualify, women should be able to have abortions without third-party clearance. The Indian government must also fund public awareness programs to de-stigmatize abortion and inform individuals of their MTP Act rights. For women to make educated, autonomous body choices, reproductive health attitudes must change. Despite advances in reproductive rights, Denmark must address accessibility issues in underrepresented areas. Immigration and low-income groups encounter linguistic, healthcare cost, and cultural hurdles to abortion services, which the Danish government should address. Inclusion will increase via outreach efforts that integrate underrepresented populations into the healthcare system and guarantee reproductive rights to all women. To accommodate changing social and medical settings, Denmark should monitor and change its abortion regulations, such as increasing access to abortion services beyond 12 weeks in instances of severe fetal abnormalities or maternal health risks. India and Denmark have different abortion policies, but both must aim for comprehensive, equitable reproductive healthcare. Healthcare access, stigma reduction, and legal simplification should be prioritized in India. Denmark should prioritise providing safe and legal abortion services to all women, particularly marginalised ones. By addressing these issues, both countries can protect women's reproductive rights regardless of socioeconomic background or geography.

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