**AUSTRALIA: ABORTION AND HUMAN RIGHTS**

**BY**

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**DECLARATION**

I declare that this Thesis is my own original work and that it has not been submitted for examination for the award of a degree at any other university.

# **DEDICATION**

# I dedicate this Thesis to my mother Renuka Prabakaran for single-handedly investing for my education.

# **ACKNOWLEDGMENT**

My supervisor has been a tremendous source of guidance and inspiration through the entire progression of writing this thesis; I take this opportunity to appreciate her efforts sincerely. I would also like to appreciate the love and support I received from my wife Rushda during my study period at Deakin University; my brother Sharan for his friendship and encouragement.

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# **CHAPTER ONE: INTRODUCTION**

Abortion is one controversial issue in different parts of the world for many years. There are various crucial aspects linked with the controversy of abortion. Different countries still facing the challenge to determine abortion as a legal or unlawful practice. The debate on the issue of abortion can never completely understand until one deeply apprehends the concept of abortion and its practical implications in society. The legal perspective of the issue of abortion is linked to the phenomenon of human rights. There is a close connection exists between abortion and human rights because the activity of abortion eventually influences the life and health safety of women and newborn kids[[1]](#footnote-1). It is a debatable concern to determine whether women have the right to give birth to a baby with their choice or not. In recent times, the world experiences abortion cases on a daily basis that eventually raised many concerns on legal, ethical, and human right grounds.

## **1.1The significance of the Problem**

It is important to assess why abortion is an issue and subject to criminal law in Australia. It is vital to examine the issue of abortion through the perspective of human rights. Legal consideration of abortion also assists in identifying the difference between the legal and unlawful practice of abortion in various parts of the country. A detailed explanation of the laws of abortion is important to assess the existing legal positioning of abortion in the country and what needs to do more for the future legal perspective[[2]](#footnote-2). The issue of abortion is considered as the subject of criminal law is all the different states and territories of Australia except the area of Australian Capital Territory. It is crucial to mention that each state of the country has legal foundations to prohibit the practice of unlawful abortion. The laws of abortion adopted by the states of Queensland, Victoria, South Australia, Western Australia, Tasmania, and the Northern Territory clearly explained that when an abortion is not an unlawful activity. [[3]](#footnote-3)Laws exist in different states indicates proper statutory explanations about the practice of abortion on the grounds of legislation.

The ideology of children by choice exists on the argument that abortion is one primary concern that is relevant to the overall health and rights of women. It is crucial to discuss the phenomenon of abortion considering different social, legal, and human right aspects other than the approach of a criminal act.

## **1.2 Background**

It is worthy to examine the historical background of the law of abortion to understand the overall perspective of this specific concern. In the time period of the 70s, the law concerning the issue of abortion was originated in Australia that eventually start the debate about the legal perspective of the issue of abortion in the context of human rights. It is worthy to identify that the states of Tasmania and Queensland never adopt the approach of law in the favour of abortion. It is observed that despite the perspective of legal foundations, the issue of choosing abortion in case of women still exist in the country. The pregnancy rate is same as recorded a few years back. Currently, it is established that one out of 4 women is pregnant in the country. On the other hand, there is the observation of change in case of abortion rate in recent years. Statistics of the country indicate that in 1921, the abortion rate was 28.5% that was decrease up to 21.6% in the year of 1971. It is also important to figure out the basic reasons for the abortion rates considering the time-period of the 70s. It is established by researchers that in previous years, the main cause of the prospect of abortion rate was the perspectives of self-abortion and attempt from the midwives. In recent years, the rate of abortion is witnessed as significantly decreasing due to the particular concerns of indisposition and mortality. These two major concerns eventually change the overall existing approach of abortion rate in the country. Health reasons become the major concern that makes it essential for different countries and parts of the country to adopt the paradigm of lawful abortion to ensure the safety of the lives of women. Undoubtedly, it is a major development when it comes to the adoption and attainment of legal foundations to consider abortion as a lawful activity. Practical consideration of the legal foundation for abortion makes it easy for women to ensure better forms of privacy and liberty in their lives.

The recent year of 2018 was also important when ACT considered the perspective of legalised abortion law. The main focus of this form of consideration is to give necessary legal rights to the women when it comes to aborting child considering the need for particular situations. When it comes to the application of this particular legal idea, it was important to assess the rightness of the legal decision made by the authorities. To meet this specific objective, the approach was adopted that ensure the abortion certification by the doctors only with the consideration of Australian law. At this point of discussion, it is important to discuss the approach of various Australian areas that still come up with the focus that abortion is a criminal activity that needs to be eliminated. Different reasons are provided to ensure the validity of this debate that abortion is a criminal activity. It is established that killing of the fetus in the womb is one unlawful activity that is characterised as the unnatural death of a human being who has complete right to live. It is established as the act of cruelty against the overall perspective of human rights. On the other hand, the justifications in the form of privacy and health concern dramatically change the overall perspective and debate of the abortion. The practical consideration of this specific issue reveals that there is the existence of many authorities who completely fail to ensure the provision of proper abortion services due to the issue of legal limitations exist in the country. Still, there are many places in the country where abortion is established as the illegal practice specifically when it comes to the domain of surgical process.

Case of Abortion and Protestors

It is vital to examine the debate of abortion in the context of protestors. This form of consideration helps to determine the role of protestors in the entire scenario of the legal case of abortion. From many years, the aspects of abortion case and the anti-choice protestors were under discussion. Different research studies were formulated in past years to evaluate the legal aspect of the issue of abortion and to evaluate its connection with the privacy and health perspectives of the women. Generally, it is established that the decision-making procedure should be supported by concerned authorities when it comes to the idea of abortion. Unfortunately, the issue of abortion turned as the political concern for the country that comes up with different and critical forms of consideration. The issue of abortion was politicised by different active shareholders to gain benefit from the entire situation. On the other hand, there ware also many research perspectives that discuss the issue of abortion as a medical concern that needs to be resolved as early as possible. Consideration of the historical domain of the entire issue indicates that the medical profession has the indemnity to shape the overall prospect of the abortion law according to the actual needs of the situation. The early perspective of the law of abortion in the country showed that the doctors were the entities who turned the issue of abortion as the medical concern. This form of approach ultimately helps to provide necessary foundations in the form of concerns of health and privacy rights of the women.

It is important to indicate the growing positioning of the protestors’ action that changes the legal perspective of the main idea of abortion law. Consideration of the domain of protestors is also crucial to discuss different dimensions of the issue of the law of abortion. History of the country reveals that there were strong protestor groups who entirely focus to entire discourage the idea of abortion and limit women’s approach to gain necessary benefits from the approach of the law of abortion. This particular aspect is better understood through the practical example of the state of Victoria that established the Fertility Control Clinic. This specific clinic was established by Dr. Bertram Wainer in 1972. The main aim of this form of development was to provide different facilities such as contraception, pap smears, termination of pregnancy to the women. This form of facilities was also provided in the area of Tasmania adopting the same objective. The historical perspective of the issue of abortion can never rank as complete without focusing on the paradigm of protestors. It is observed that women who visit private clinics to gain assistance n the form of abortion were badly harassed by different protestor groups actively functioned in different states of the country. These particular protestors developed the approach that women who adopt the options of abortions were actually murderers who adopt the perspective against the law of nature. This form of scenario was immensely disturbing that requires necessary attention. The issue of law of abortion divide country into two parts that requires the development of better legal and social foundations to address the concern of abortion. It is established as the need for focusing all the related aspects that play their roles within the entire scenario of abortion and its influence on the lives of women.

The issue of protestors greatly influences the routine functioning of women in many different forms. It is one major hurdle existed in case of the domain of the law of abortion. Women faced different forms of damage specifically in the forms of emotional, physical, and psychological damage. The actions adopted by protestor groups were detrimental and disturbing for mothers and young children. This form of consideration turned as the major social problem for the country that requires necessary and immediate attention. The issue of stress eventually makes it problematic for women to adopt the approaches of surgery and examinations. The issue of protestors acts was greatly immense that it threatened the operations of clinics. The issue of protestors changes the overall existing perspective of the law of abortion considering its social implications. There is evidence of many cases when actions of protests become the reason for the killing of women and children. It is crucial to mention that the phenomenon of protestors exist all around the world and enhance the paradigm of protest against the idea of abortion.

The issue of protestors can also observe in the form of specific concerns of the lack of liberty and freedom of speech. Assurance of women protection is critical aspect related to the overall paradigm of the role of protestors. When it comes to the consideration of the movement of protestors than it is observed that the features of the right to privacy and freedom of women are greatly affected. The increasing concern of the role of protestors makes it essential to focus the concern of abortion considering different relevant forms. It is observed that increasing trend of protestors also increases the focus of the legal authorities to figure out the possible solution considering the matter of abortion with the focus of health and privacy of the women. Practical implications of the idea of protectors negatively impact all the clinical activities adopted by doctors to provide necessary health services to women.

## **1.3 Analyse Theoretical Foundation for the Study**

The theory of natural law can consider the theoretical foundation to discuss the issue of abortion. The theoretical perspective of natural law theory can be viewed as a guide to determine the moral aspects of the issue of abortion. This specific theory is established as the significant connection between the law and the approach of morality adopted by human beings. The factor of morality can determine as the standard to differentiate between the perspectives of right and wrong. The theorists belong to the approach of natural law theory believes that human legal prospects need to be considered through the feature of morality. This specific perspective minimises the influence of the legal authorities such as government when it comes to the development of the law through the consideration of moral aspects of humans. Natural law theocratists come up with the argument that human nature playing a guiding role to develop significant laws. The main idea of natural law is also closely associated with the perspective of ethics. When it comes to the consideration of the natural law theory that it is not ranked as subjective. The concepts of right and wrong are the same for everyone when it comes to the consideration of natural law theory.

The natural law theory is an effective theoretical source to figure out the concerns appeared in the form of an ethical dilemma. the basic concept involves sin the form of natural law theory is that every individual has the right to live their life. This particular argument can be used to figure out different ethical concerns and the law of abortion is one of them. The approach of the law of theory can utilise as the theoretical perspective to discuss the issue of abortion concerning the prospect of human rights[[4]](#footnote-4). The idea of natural law theory comprised of the argument that basic goods need to consider when it comes to the development of laws. This specific argument is established on the foundation that it is inherently wrong to purposely harm and basic element of good. This theoretical framework guides to develop the main idea that the practice of abortion is inherently wrong as it is characterised as the attempt to harm someone's life. It is also important to mention that this theory also considers some forms of exceptions when the approach of abortion can rank as the permissible prospect of action. It can argue as the theoretical domain that if the procedure of abortion is considered to save the life of a mother than it is not intentional harm to the fetus and morally justifiable action.

## **1.4Synthesis of Relevant Literature**

It is established by former research studies that the issue of abortion has ultimately influenced the aspects of fundamental human rights in the form of right of privacy and living for women. It is also an issue of human rights because it is somehow related to the life safety and health protection of women. Undoubtedly, there is a need for some form of rules and regulation to determine abortion as lawful practice[[5]](#footnote-5). It is essential to get properly informed with the legal position of different states of the country to better evaluate the issue of laws of abortion on the foundation of human rights.

When it comes to settling legal paradigms for abortion than it is essential for the governments to consider the basic human rights of women that allows them to protect their bodies and life from any complications. The particular concept of “fair-go” is recognised as the mandatory part of the ethical and legal facets of Australia that closely linked with the aspects of equality and non-discrimination. It is essential to assess the idea of human rights laws referring to the idea of option abortion in case of specific circumstances.

## **1.5Problem Statement**

Clear identification of the basic issue of concern is important to get the roadmap for future direction. The main focus of this research study is to critically examine the prevailing laws of abortion in the country in the particular context of human rights. Various interlinked aspects will be considered and comprehensively examine to attain better knowledge about the entire scenario of a lawful abortion.

## **1.6Research Questions**

* How the laws of abortion in Australia ensure a better form of decriminalisation of abortion?
* How the concept of laws of abortion through the perspective of human rights?
* How much legal paradigms of the country are effective to ensure a desirable form of abortion in the context of basic human rights?

# **CHAPTER TWO: LITERATURE REVIEW**

## **2.1 Introduction**

A different source of information such as scholarly articles, research reports, dissertations, and legal cases will be considered in the form of detailed literature review. The proper information will be achieved through these sources to make better inferences about the main research questions crafted for this study. Initially, it is essential to get some historical background about the issue of abortion. This form of understanding ultimately assists to get a better understanding of the phenomenon of laws of abortion and its relation with the approach of human rights[[6]](#footnote-6). Detailed consideration of the previous research work on the issue of abortion helps to identify the entire legal perspective prevailed in the country[[7]](#footnote-7). This form of consideration also helps to assess the fact that how the legal domain of abortion was initiated in the country by recognizing the historical background of the issue.

## **2.2 Consideration of Former Research Work**

Critical consideration of the previous research work on the issue reveals that the favourable domain for the issue of abortion was started many years ago with the consideration of the basic human rights of women. The growing concern of health safety and protection leads to the phenomenon of development of particular law in the favour of abortion in the country[[8]](#footnote-8). Detailed exploration of the entire country history on the issue of abortion shows that the first ever law that went in favour with abortion was initiated back in the 70s in the Australian states except for Tasmania and Queensland[[9]](#footnote-9). It is critical to indicate that even in some places, the laws did not prevent women from choosing abortion in Australia. The pregnancy rate had been similar to it had been in the 1920s. Back then one out of 3 women used to be pregnant[[10]](#footnote-10). However, at present, the statistics state that one out of 4 women is pregnant around Australia. However, the changes in abortion rate had been seen in the past decades[[11]](#footnote-11). The abortion rate in 1921 had been 28.5% that was reduced to 21.6% in 1971. By 1981, the ratings of abortion reached almost 0%. Before the 70s, most of the abortion rates had been mostly because of self-abortion and from the midwives[[12]](#footnote-12). However, the rate of abortion significantly declined related to morbidity and mortality[[13]](#footnote-13). Due to increasing health reasons, some cities and parts of Australia made abortion lawful that saved the lives of many women. It gave them a means of privacy and freedom to live according to their desires.

Furthermore, in 2018, ACT had enacted the legalised abortion law that enabled the women to abort child under specific circumstances. To ensure that the authorities can make the right decision, the lawmakers decided that the abortion certified by the doctors would only be accepted under the Australian law[[14]](#footnote-14). However, other Australian territories continue to establish the fact that abortion is a more criminal factor in reality[[15]](#footnote-15). It was stated that unlawful procedure to kill the fetus in the womb would cause unnatural death to a supposed child. It could have been a factor of cruelty against the living entity[[16]](#footnote-16). However, the privacy and factors related to health have changed the whole perception of abortion. Many authorities fail to provide appropriate abortion services because of lawful restrictions in Australia while women just desired it for health factors[[17]](#footnote-17). In many places, the scholars show evidence of abortion being still illegal during the surgical procedure in Australia. Many factors are related to the women’s right at this moment such as privacy and health.

The approach of the natural law of theory is utilised by previous researchers to make better inferences about the main concern of abortion and its relevance with perspectives of law and human rights[[18]](#footnote-18). The theoretical perspective of natural law theory comprised of the principles that come up with the consideration of a double effect[[19]](#footnote-19). The basic theoretical domain undertakes the basic approach concerning the idea that it is not permitted for anyone to kill an innocent human being without considering specific circumstances and conditions[[20]](#footnote-20). The main idea of natural law theory reflects the perspective of two different ethical considerations.

# **CHAPTER THREE: RIGHT TO EQUALITY**

## **3.1 Introduction**

It is worthy to understand that research work is one systematic procedure that needs to be conducted on some reliable method. When it comes to a deep exploration of the legal perspective of abortion in Australia with the consideration of human rights than it is mandatory to thoroughly overview existing literature and relevant laws of the country. Attainment of proper knowledge about the legal domains of different territories and states helps to differentiate the prevailing difference[[21]](#footnote-21). This form of exploration is also assistive to determine that how laws of abortion adopted by the country helps to support elective abortion considering the approach of basic human rights for women.

The specific research method of detailed scrutiny of former research work on this issue will be applied to get the desired form of information[[22]](#footnote-22). Consideration of previous theoretical and empirical aspects helps to figure out the ongoing and popular trend in the country referring to the issue of abortion in the context of human rights[[23]](#footnote-23). A critical review of previous research work on the issue also helps to identify the relevant laws and different jurisdiction aspects of abortion prevails in the country. The focus of the consideration of a specific method of research is to examine different relevant aspects related to the main issue of the law of abortion. This particular idea also helps to determine various domains of the concern of the right of equality specifically for the women.

According to the Crimes Act 1900, the “unlawful” abortion is prohibited under the official laws of the government[[24]](#footnote-24). However, the word “unlawful” was not clearly defined by the government after stating the factors. However, when the legal reform was absent, abortion laws are mostly expressed through technological and social changes[[25]](#footnote-25). At some places, even though the government has enabled the availability termination process, women are still unable to get appropriate access to abortion.

## **3.2 NSW Crimes Act and other concerning laws**

The NSW Crimes Act 1900 states that if women are subjected to the procurement of miscarriage on her own, the government is entitled to give her imprisonment of 10 years as a maximum penalty[[26]](#footnote-26). However, such strict regulations would only create problems for women in general.

Recently, many states of Australia have decided to decriminalise the concept of abortion including certain restrictions over it. Many people start arguing that the reproductive autonomy of the women is certainly linked with their right to equality and enjoyment of life. Furthermore, according to the scholars, the right to equality for women would only fructify if they can take decisions over their reproductive system[[27]](#footnote-27)[[28]](#footnote-28). It would determine their dignity and ability to decide without being afraid of others. Equality factor is not compared with the continuing pregnancy or forced abortion[[29]](#footnote-29). Rather, equality requires women to rethink about the unintended pregnancy that affects the women's perspective toward life. Right to equality entails that women are well aware of the disadvantages and consequences of termination of pregnancy or continuation[[30]](#footnote-30).

Equality concerns can greatly observe in case of different countries. The issue of the right of equality also greatly exists specifically in the case of Australia. It is established that more than half of the entire population of Australian women struggling when it comes to making a free decision about the approach of abortion[[31]](#footnote-31). There are different areas of the country where canceling the decision of abortion is greatly forceful for women due to many various reasons. The approach of protests and financial instabilities are the major causes that hinder the overall prospect of the right to equality. The approach of protestors is a major aspect that is linked with the theoretical idea of the right of equality for women. It is significant to establish that how different forms of the right of equality are limited in case of women specifically due to the growing difficulty of protestants[[32]](#footnote-32). Another significant reason that is linked with the overall form of right of equality for the women is that every state of the country adopted change perspective of the laws when it comes to giving rights to the women about the approach of abortion.

The concern of right to equality also linked with the exploration of different attitudes that are connected with the aspects of abortion and the related form of legislation. The issue of abortion and its legal foundations also need to be debated in the form of consideration of cities and the rural areas of the country[[33]](#footnote-33)[[34]](#footnote-34). Keen observation of the practical position indicates that women faced different forms of restrictions concerning the main idea of abortion. It is established that women are restricted from the different forms of abortion services due to the improper behaviour of staff members and other entities observed in the form of non-physicians. The issue of abortion in case of rural set-up has distinct complications as well[[35]](#footnote-35). It is established that most of the time, nurses working in rural areas reject to adopt the option of abortion. The unwillingness of the nurses within the entire perspective hinders the domain of rights of equality for the women[[36]](#footnote-36).

Furthermore, more than half of women lack proper clinical support and physician guidance. The ACT had enacted the legalised abortion law that enabled the women to abort child under specific circumstances[[37]](#footnote-37). To ensure that the authorities can make the right decision, the lawmakers decided that the abortion certified by the doctors would only be accepted under the Australian law[[38]](#footnote-38). However, other Australian territories continue to establish the fact that abortion is a more criminal factor in reality. It could have been a factor of cruelty against the living entity. However, the privacy and factors related to health have changed the whole perception of abortion[[39]](#footnote-39). Many authorities fail to provide appropriate abortion services because of lawful restrictions in Australia while women just desired it for health factors. In many places, the scholars show evidence of abortion being still illegal during the surgical procedure in Australia. Many factors are related to the women's right at this moment such as privacy and health[[40]](#footnote-40).

Northern Territory allows abortion only up to 23 weeks for women in pregnancy. Within 14 weeks of pregnancy, women require the approval of only one doctor[[41]](#footnote-41). However, they require more than two in case of having pregnancy above 14 weeks. Abortion is not allowed for women after 23 weeks except the special cases stated under the Pregnancy Law Reform Act[[42]](#footnote-42). Only if the lives of women are endangered, they can apply for abortion after having permission and approval from the doctors.

## **3.4Financial obstacles and Abortion law**

Australia has a population of about 23 million people out of which, only 65,000 women can have the abortion. In other words, the Australian country faces abortion rate of 19 out of 1000[[43]](#footnote-43). The saddest instance is that the number of this is having constant declination. Furthermore, the 1970 Australian government and public saw a significant change in the implementation of abortion[[44]](#footnote-44). Abortion hygiene and safety was introduced in Australian hospitals. It was done using the universal health care insurance provider that usually covered the clinical cost. However, such costs fail to meet the demands of elective abortions[[45]](#footnote-45). Therefore, the private clinics take extra charge for abortion services[[46]](#footnote-46). They often charge above the universal insurance rate. Therefore, the abortion services provided by both the private and public sectors have differences. Therefore, even though the legislation has provided the stage for women to enable the law of abortion and make use of it, the financial problems became hindrances[[47]](#footnote-47). The law, therefore, should be altered such that the women can be financially benefited as well.

Such aspects violate the right to equality and force women to choose the other option instead[[48]](#footnote-48). Furthermore, the price of medical drugs such as misoprostol and mifepristone is more than $38[[49]](#footnote-49). However, the fees charged by the doctors in the private sector range up to $250 in many small states of Australia[[50]](#footnote-50). The cost has imposed as a high barrier to abortion to the women in general.

# **CHAPTER FOUR: RIGHT TO HEALTH**

## **4.1 Introduction**

Women generally complain that they are forced to face all kinds of abuse, violence, and control from the side of men. The factor of control does not just show the ability to show power over women's body, but also the aspect of lost confidence and individuality[[51]](#footnote-51).

Several myths are associated with health issues that enable women to face problems in abortion. Such myths are often associated with health issues that can occur after delayed abortion[[52]](#footnote-52). However, it is observed that majority of the abortions are being carried out within the first ten weeks of pregnancy[[53]](#footnote-53). The modern technology has made the procedure quite simple and safe for women. However, it is observed that the hospitalised environment gives constant obstruction and delays to women that seek an abortion in the early stages of pregnancy[[54]](#footnote-54). This is why legislation and information on health concerning abortion is necessary at the present date.

## **4.2 Legislation about Abortion and Health**

Legislation related to health domains is one major aspect of consideration. Governments of different countries established their perspective of health rights specifically considering the reproduction of sexual health as major aspect[[55]](#footnote-55). Establishment of the elements of sexual health and reproduction ultimately increased the right to health concerning to the overall form of health for women[[56]](#footnote-56). There is consideration of other similar legal foundations that focus the idea of the right to health in the overall form of reproductive decision. Safe abortion is characterised as an important part concerning the idea of legal paradigms[[57]](#footnote-57). A safe form of abortion makes it easy for the women to gain the desired form of health standards that are eventually linked with the overall form of right to health for women[[58]](#footnote-58). It is critical to establish that the alone government step of removal of decriminalisation label never has the authority to improve the overall situation. The role of entire healthcare services is integral to remove the restrictions that exist in the form of women and their access to the approach of abortion[[59]](#footnote-59). This form of consideration can be helpful for the women of the country to attain better forms of health through the proper provision of the law of abortion.

Statistics show that there are almost 30% of women in the country who lived in regional areas and never have the opportunity to gain proper forms of healthcare services[[60]](#footnote-60). This form of consideration further helps to establish that abortion clinics are also limited in the rural areas that eventually makes it difficult for women to attain the facility of abortion services according to their needs[[61]](#footnote-61). Harassment and moral opposition are other major factors that limit the desired domain of right to health in case of women[[62]](#footnote-62)[[63]](#footnote-63). Another major concern relevant to this form of consideration is that there is unavailability of special training concerning the objective of healthcare facilities for women of the country. Geographical distance, financial cost, and stigma are other major aspects that involve the entire scenario of healthcare facilities for women.

## **4.3 Abortion law and its necessity**

One of the features of the Mifepristone is that pills successfully blocks the Progesterone hormone that enables pregnancy in women. These pills are mostly available to the professionals in the clinics that give the surgical option to the women. It is also available with general practitioners[[64]](#footnote-64). The availability of the pills continues to improve along with the increment in knowledge about the abortion treatment[[65]](#footnote-65). As the professionals continue to study and execute the abortion treatment, including the general practitioners, the availability of pills also enhances[[66]](#footnote-66). However, the availability of pills and other medication factors does not reduce the hindrances women face while taking an abortion[[67]](#footnote-67). However, variations can be found in the legislation among countries that allow the utilisation of pills over the operation[[68]](#footnote-68). Even though medically, the pills have enabled the women to get the benefit of quick and painless abortion, the legislation of some places, such as Queensland, has failed to allow it in totality.

## **4.4 Australian Laws: Barriers to Appropriate Healthcare**

The Australian laws put great emphasis on legal and safe abortion services. However, the barriers occur usually for many reasons. The doctors usually refer women or patients to another professional when it comes to abortion services. However, in many states such as Northern Territory, Victoria, and Tasmania, different objects are considered as the tools of abortion other than the cases of emergency[[69]](#footnote-69). However, the legal authority states that even if the women are permitted abortion, the doctors should provide appropriate knowledge about the termination process. It includes where she should go and which process, she is accustomed to following. It enables women to make appropriate decisions based on legit knowledge. However, it is observed that such provisions of knowledge remain a controversial topic[[70]](#footnote-70). The Healthcare services of South and Northern territory of Australia provide elective abortion to the public[[71]](#footnote-71). However, it fails to cover even half of the Australian women. Many times, the abortions are performed by the private clinic to gain more profit from the patients in need. The private sector in Australia charges more than $800 and $4400 in some cases[[72]](#footnote-72). It shows that women in Australia, even after having the ultimate freedom for healthcare services and abortion, they still face trouble because of finance[[73]](#footnote-73). Even the insurance fails to cover the gap between the public and private fees of the abortion. Such aspects violate the right to equality and forces women to choose the other option instead[[74]](#footnote-74). However, the fees charged by the doctors in the private sector range up to $250 in many small states of Australia. The cost has imposed as a high barrier to abortion to the women in general.

The abortion services access is generally influenced by many factors such as proximity, appointment, and gestational limitations[[75]](#footnote-75). However, many women were observed to be bereft from such facilities in Australia. It is observed that woman faces the problems of appointment that further acts as a barrier to proper abortion services. About 30% of the Australians reported that they failed to have a proper appointment[[76]](#footnote-76). However, the appointment is wasted because of many reasons such as regular violence because of Protestants, society, and other health conditions.

Furthermore, variations in abortion attitude among the non-professionals are common. In rural areas of Australia, about 35% of physicians were observed to have a negative attitude toward abortion[[77]](#footnote-77). It is mostly because of rising community opposition and religious beliefs. Even though many physicians support abortion procedure in Australian cities, many professionals failed to do so in rural areas[[78]](#footnote-78). It is observed that these rural physicians failed to consider the women's right to life, and the right to health by giving abortion services in extreme circumstances[[79]](#footnote-79). Scholars state that women should be given the right to choose abortion without being questioned or any restriction.

# **CHAPTER FIVE: RIGHT TO PRIVACY**

## **5.1 Introduction**

Historically, the control over women's body has been under the hands of men, state, and church. Subconsciously, such power is still exercised by men, in general, today within many states of Australia. Simple language and actions entail women to act in a certain way. However, to bring about change in the thinking ability of men around Australia, it is mandatory to challenge their behaviour[[80]](#footnote-80). The society also needs to recognise the sudden need for exercising such aspects. Some men have a deeper subconscious idea that women are mostly destructive and seductive that leads one toward ultimate distraction[[81]](#footnote-81). Such a complex belief system might lead the men to exercise their power against the women in general. Many men believe that women may end up damaging the society if their deeds are not controlled[[82]](#footnote-82). Thus, the legislative system leads the women to lose their privacy, and even lives in an extremely rare case of bad health. This also results in being under the control of the government even though their sexual matter should remain private[[83]](#footnote-83). It certainly happens even at the risk of starvation, death, and poverty[[84]](#footnote-84).   
There are different factors that influence the right to privacy for women. It is observed that government authorities and male counterparts are not able to have complete trust in women when it comes to the decisions about sexuality[[85]](#footnote-85). It is important to establish that reproduction and sexuality is something immensely private for every woman. It is the basic right of every woman to gain some form of privacy when it comes to important decisions of her life[[86]](#footnote-86). It is established by different research studies that government institutes are failed to provide the necessary opportunity for the women to make decisions about their private matters.

## **5.2 Universal Declaration of women's rights**

The basic thinking under this aspect is the desire to have control over the fertility of women. Under the Universal Declaration of women's rights, many Australian women fail the right to have a termination of an unwilling pregnancy. There is a number of rules states in the articles that talk about the perspective of women’s approach of privacy. Under the Universal Declaration of women's rights, many Australian women fail the right to have a termination of an unwilling pregnancy[[87]](#footnote-87). The government failed to provide them with freedom and liberty to take an important decision. In such a state of failure, the women suffer from a lack of employment and privacy that makes the situation worst. Even if women do not desire to have constant motherhood due to many reasons, health or mental, she is being forced by society today for it[[88]](#footnote-88).

# **CHAPTER SIX: RIGHT TO LIFE**

In the present context, the right to life coincides with the survival from pregnancy, motherhood, and childbirth[[89]](#footnote-89). This paper, however, does not focus on the right to life of the fetus because of many reasons. First, the text itself is not against the nature of abortion; rather, it urges the process as a medical treatment necessary for the survival of the women[[90]](#footnote-90). Secondly, the right to life, as the protestants fail to perceive, also relates to all human beings, including women who carry the fetus[[91]](#footnote-91). For many reasons, women may be seeking survival amid the pregnancy that forces them to take the harsh decision of life: abortion[[92]](#footnote-92). They have been facing the anxiety and frustration of making that decision already. The other factors such as protestants around the clinic only raise their level of frustration, as mentioned in the previous section.

The maternity records in Australia have been available for over five years. On average, every year, 21 woman dies because of childbirth and pregnancy every year. Furthermore, it was recorded that about 105 maternity deaths were there between the years 2008 and 2012. It was a result of a complicated pregnancy. More 16 deaths had been because of the mental and psychological reasons[[93]](#footnote-93). The statistics show that woman face many problems in social life because of both the health and mental issues. Sometimes, such issues are raised by the fault of society and Protestants[[94]](#footnote-94). Already suicidal women become more anxious because of them that may take their lives away. And it was proved to be true when 16 deaths were recorded between the years 2008 and 2012[[95]](#footnote-95). One of the scholars mentioned that partner violence has also been the primary reason for abortion and health issues. The rate of an unwanted pregnancy can be reduced by the simple technique of prevention[[96]](#footnote-96). Furthermore, a significant reduction in the violence by the partner can also aid in this. Such reports show the importance of psychological screening along with postnatal and antenatal care.

The recording of deaths in the first few weeks, specifically the primary 14 ones, are not recorded well in Australia[[97]](#footnote-97). However, from the available data of maternity homes, it is clear that about 15 deaths are caused due to many reasons, health and psychology included, in the first few weeks of pregnancy[[98]](#footnote-98). These deaths were possibly due to thromboembolism, cardiac events, and ectopic pregnancies other than the mentioned ones. The shocking truth behind these statistics is that the woman did not die because of the elective abortion.

# **CHAPTER 5: CONCLUSION AND RECOMMENDATIONS**

To conclude the detailed discussion about the legal perspective of the issue of abortion in Australia in the context of human rights, it is essential to mention that the overall idea of abortion is comprised on a combination of different aspects of consideration. It is one complex approach to take decisions about the legal prospect of abortion considering the facet of the basic human rights of women[[99]](#footnote-99). The main idea of human rights for women comprised of their rights of health, safety, privacy, etc. Clear consideration of different human rights reflects as the necessary lens to figure out the proper position of legal grounds of the practice of abortion in the country.

The right for abortion has several obstacles in between such as human rights and the right to live. Such aspects might be turning abortion into a criminal act, and many cities have been involved in making it a law in Australia. The right to life is violated because of unsafe abortion and similar aspects that enables the law authorities to put forth multiple restrictions on it. However, the right to privacy and women's right to take free decision should also be considered at this point[[100]](#footnote-100). Abortion comes under the right to privacy for many women. If it is health and life concern for women than there should be a legal option of abortion. Consent is a mandatory aspect when it comes to the practice of abortion as it involves basic human rights of women about their life and health safety.

## **Recommendations for Future Research Work**

This research work can be helpful for future research work on the issue of abortion. It can be established as the recommended framework to understand better about the practical implications of the laws of abortion considering the approach of human rights. The phenomenon of decriminalisation of abortion can effectively perceive by considering the laws of abortions implemented in the country[[101]](#footnote-101). It is worthy to mention that the horizon of the research work on abortion can further expand by expanding the options of relevant factors. It is recommended for the future research work is to entirely focus on comparing legal perspectives of different states to highlight the issue of abortion and how it is influenced by laws established by local governments.

## **Limitation of The Study**

It is important to figure out that every research work has some form of limitations. It is impossible for the researcher to cover all the aspects of the issue. This particular research study on the issue of laws of abortion in Australia in the context of basic human rights of women also have some form of limitations. The major limitation involves in case of this research work is that it only considered the perspective of human rights to determine the effectiveness of legal domains of abortion. The research work on the issue of abortion can further expand by considering other relevant aspects and deep consideration of different theoretical approach other than the natural theory of law. The research method of reviewing previous research work on the issue also highlights some form of limitation of this research work. Researchers have many different options when it comes to the selection of the research method and research design for the study. It is important to consider that the prevalence of any form of limitation at any stage of research work eventually influence the outcomes.

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