



# The interface between legislative prescripts and religious considerations concerning the termination of pregnancy in South Africa

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## ABSTRACT

This article analyses the interface between South Africa's legislative framework on the termination of pregnancy and the religious, ethical, and moral considerations that continue to shape academic discourse responses to abortion. Anchored on the Choice on Termination of Pregnancy Act 92 of 1996 as the central legal point of analysis, the paper evaluates how the Act advances reproductive autonomy while simultaneously imposing structured limitations informed by constitutional, public health, and ethical concerns. Through an interdisciplinary analysis that draws on constitutional jurisprudence, biblical values, and scholarly discussions, the paper highlights the ongoing tension between pro-choice and pro-life positions. It also assesses how these tensions influence healthcare practitioners, particularly in later-term abortions where moral distress and conscientious objections are more pronounced. The study further explores the broader societal and pastoral dimensions of abortion. It demonstrates how religious communities, especially Christian denominations, frame the termination of pregnancy within doctrines of human dignity, sanctity of life, and pastoral responsibility. The analysis also considers the psychosocial and spiritual impacts of abortion on women, emphasising the role of stigma, community perceptions, and access to compassionate support. Overall, the article argues that South Africa's legal approach represents a negotiated balance between reproductive rights and the protection of potential life. It concludes that effective engagement with abortion requires a nuanced understanding that accommodates constitutional rights, ethical pluralism, and the lived realities of women, while encouraging faith communities and healthcare systems to adopt approaches grounded in compassion, dignity, and informed moral discernment.

**Keywords:** Abortion, Termination, Pregnancy, Human Life, Human Rights, Religion, Morality.

## INTRODUCTION

The Choice on Termination of Pregnancy Act 92 of 1996 (Act) stands as one of South Africa's most transformative legislative developments, redefining reproductive rights in ways that reflect the nation's

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constitutional commitment to dignity, bodily autonomy, equality, and access to healthcare. By replacing the restrictive Abortion and Sterilization Act of 1975, which only permitted abortions under limited conditions, such as serious threats to the woman's mental or physical health, severe foetal abnormalities, or pregnancies resulting from rape or incest,<sup>1</sup> the Act not only broadened women's access to safe reproductive services<sup>2</sup> but also significantly reduced maternal deaths associated with unsafe abortions.<sup>3</sup> The steady decline in abortion-related casualties, i.e., over 90% within a few years of implementation, illustrates the significant public health impact of removing procedural and ideological barriers to reproductive care.<sup>4</sup> Yet the Act also introduced a staged or levelled system of access, permitting termination on request for up to 12 weeks,<sup>5</sup> under specified conditions between 13 and 20 weeks, and only in tightly circumscribed circumstances thereafter.<sup>6</sup> The number of legal terminations increased significantly, from approximately 1,000 per year under the previous law to around 40,000 per year within the first three years of the Act's passage.<sup>7</sup>

These gestational distinctions reveal an ongoing attempt to reconcile women's reproductive freedom with the state's interest in upholding the value of potential life.<sup>8</sup> Despite this legislative progress, the issue of abortion remains deeply contested.<sup>9</sup> Legal clarity has not translated into moral consensus, and debates continue to play out in courts, religious institutions, health facilities, and private homes. Cases such as *Christian Lawyers Association of SA and Others v Minister of Health and Others*<sup>10</sup> highlight consistent disagreements over whether constitutional protections extend to the unborn and whether religious or ethical beliefs should limit reproductive autonomy. These tensions continue to shape the attitudes of healthcare practitioners, influence who is able to access services, and deepen the stigma experienced by many women.<sup>11</sup> Against this backdrop, this paper emerges from a recognition that, although the Act has been widely examined from legal and medical perspectives, far less attention has been given to the complex ways in which legislative prescripts intersect with religious principles, moral reasoning, and the lived experiences of those navigating reproductive choices. Existing scholarship seldom brings constitutional interpretation into direct conversation with biblical principles, denominational positions, and the ethical dilemmas faced by both practitioners and women.

To address this void, the paper adopts an interdisciplinary approach that draws on constitutional jurisprudence, case law, scriptural analysis, and ethical discourse. By examining the Act in conjunction with theological perspectives and moral debates, this paper aims to highlight how law and religion simultaneously complement and challenge one another in shaping public understanding and personal decision-making regarding the termination of pregnancy. To this end, the discussion unfolds by first exploring the legislative and constitutional underpinnings of the Act before turning to biblical and theological perspectives that inform religious responses to abortion. It then explores the moral and ethical predicaments that complicate reproductive decision-making, particularly in relation to pro-life and pro-choice arguments and the moral

<sup>1</sup> Michelle Catherine Engelbrecht, "Termination of Pregnancy Policy and Services: An Appraisal of the Implementation and Operation of the Choice on Termination of Pregnancy Act (92 of 1996)" (University of the Free State, 2005).

<sup>2</sup> Camilla Pickles, "Lived Experiences of the Choice on Termination of Pregnancy Act 92 of 1996: Bridging the Gap for Women in Need," *South African Journal on Human Rights* 29, no. 3 (2013): 515–35.

<sup>3</sup> Ronel Koekemoer, "The Public Life of Abortion and the Making of South Africa's Choice on Termination of Pregnancy Act," 2022.

<sup>4</sup> Guttmacher Institute, "Abortion Reform in South Africa: A Case Study of the 1996 Choice on Termination of Pregnancy Act," 1998, <https://www.guttmacher.org>.

<sup>5</sup> Section 2 of the Act. Women Deliver, "Impact of Legal Reform on Abortion in South Africa," 2019, <https://womendeliver.org>.

<sup>6</sup> Pickles, "Lived Experiences of the Choice on Termination of Pregnancy Act 92 of 1996: Bridging the Gap for Women in Need."

<sup>7</sup> Chimaraoke O Izugbara, Carolyne Egesa, and Rispah Okelo, "'High Profile Health Facilities Can Add to Your Trouble': Women, Stigma and Un/Safe Abortion in Kenya," *Social Science & Medicine* 141 (2015): 9–18.

<sup>8</sup> Charles Ngweni, "Conscientious Objection and Legal Abortion in South Africa: Delineating the Parameters," *Journal for Juridical Science* 28, no. 1 (2003): 1–18.

<sup>9</sup> Guttmacher Institute, "Abortion Reform in South Africa: A Case Study of the 1996 Choice on Termination of Pregnancy Act." The author argues that there is a substantial decrease in abortion-related morbidity and mortality following the Act's implementation.

<sup>10</sup> *Christian Lawyers Association of SA and Others v Minister of Health and Others* 1998 (4) SA 1113 (T).

<sup>11</sup> Moreover, access to abortion services is uneven across different provinces, with disparities between urban and rural areas. Nolwazi Mkhwanazi, "Twenty Years of Democracy and the Politics of Reproduction in South Africa," *African Identities* 12, no. 3–4 (2014): 326–41; Stephanie Heumann and Jan Willem Duyvendak, "Pro-Life Movement as Political Actor," in *Players and Arenas: The Interactive Dynamics of Protest* (Amsterdam: Amsterdam University Press, 2015), 251–74.

distress experienced by practitioners.<sup>12</sup> The role of the Church as both a moral authority and a pastoral support structure is examined next, followed by an exploration of the psychological, spiritual, and social impacts of abortion on women and communities. The paper concludes by highlighting the need for a compassionate, context-sensitive engagement with reproductive rights that recognises both constitutional freedoms and the ethical diversity of South African society.

## METHODOLOGY

This paper employed a doctrinal legal research method complemented by a theological-ethical analytical framework. Doctrinal research is particularly well-suited for examining the legislative and constitutional dimensions of the Act, as it involves the systematic analysis and interpretation of statutory provisions and case law, which form the primary materials. These materials are analysed to clarify the scope, purpose, and effects of the legal rules that govern termination of pregnancy in South Africa, as well as the limits placed on reproductive autonomy by statutory and constitutional interpretation.

To enrich this legal analysis, the study incorporated a theological-ethical dimension. This entailed engaging with Christian biblical texts, denominational statements, moral teachings, and theological scholarship to understand how religious traditions determine meanings around life, personhood, moral responsibility, and reproductive decision-making. Biblical passages as well as doctrinal positions from various Christian traditions provided insight into how faith communities interpret the moral and spiritual implications of abortion. This method enabled the study to juxtapose canonical texts with doctrinal perspectives, showing how scriptural interpretation informs moral discourse in South Africa.

Secondary sources, including academic articles, theological writings, public-health reports, and policy analyses, were used to contextualise both the legal and religious frameworks within broader social realities. These sources assisted in identifying patterns of stigma, disparities in access to services, the psychological and spiritual effects of termination, and the ethical dilemmas experienced by healthcare practitioners.

By combining doctrinal legal research with theological and ethical analysis, the paper adopts an interdisciplinary lens that enables a holistic understanding of the interface between law, religion, and morality. This approach was essential for evaluating not merely the legal validity of statutory provisions but also their ethical resonance, pastoral implications, and societal impact. It also made it possible to address the central question of how South Africa's legal framework on termination of pregnancy interacts with deeply rooted religious beliefs, moral values, and lived experiences within a culturally diverse society.

## DISCUSSION

This section presents the legislative and constitutional underpinnings of the Act before turning to biblical and theological perspectives that inform religious responses to abortion. It then presents an exploration of the moral and ethical predicaments that complicate reproductive decision-making, particularly in relation to pro-life and pro-choice arguments and the moral distress experienced by practitioners. An analysis of the role of the Church and an exploration of the psychological, spiritual, and social impacts of abortion on women and communities are also discussed in this section.

### **Legislative framework for termination of pregnancy**

Government, as a result, has to grapple with the question of whether to permit the termination of pregnancy or succumb to moral argument and limit women's rights to termination of pregnancy. There is an understanding that issues of termination of pregnancy are private matters, which ideally should be the concern of the woman concerned and the medical practitioner. It is for these reasons that a legislative

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<sup>12</sup> Fiona De Londras, "A Hope Raised and Then Defeated"? The Continuing Harms of Irish Abortion Law," *Feminist Review* 124, no. 1 (2020): 33–50.

framework is essential to ensure unhindered access, mitigate against stigma and facilitate the freedom of choice.<sup>13</sup>

The termination of pregnancy in South Africa is governed by the Choice of Termination of Pregnancy Act (Choice of Termination Act).<sup>14</sup> In terms of the Preamble, this legislation was enacted to promote the value of dignity, the attainment of equality and the security of persons. It has been shown that the promulgation of the Choice of Termination Act has significantly contributed to the drastic reduction in deaths which resulted from unsafe termination practices. It was found that the number of deaths during the period 1998 -2001 had reduced by 91.1 per cent compared to the period prior to the enactment of the legislation.<sup>15</sup> Moreover, *inter alia*, approximately 1500 women in 2008 across Southern African countries had accessed unsafe termination of pregnancy facilities. This further resulted in 500 maternal deaths.<sup>16</sup> This is because women were resorting to accessing unsafe termination facilities for a variety of reasons, which included emotional manipulation and pressures from the communities and families, together with rude and hostile services from health workers towards pregnant women. This behaviour is generally influenced by religious beliefs and other moral codes.

### Termination Act

The provisions of section 2 of the Choice of Termination Act prescribe the circumstances and conditions under which a pregnancy may be terminated. These include subsection (1)(a), which provides that a pregnancy may be terminated at the request of the woman during the first 12 weeks of the gestation period. In terms of subsection (1)(b) a pregnancy may be terminated from the 13<sup>th</sup> week of gestation if a medical practitioner after consultation with the pregnant woman, is of the opinion that the continued pregnancy will pose a risk to the woman's physical or mental health or there is a substantial risk that the unborn child will suffer severe physical or mental abnormality or the pregnancy is a result of rape or incest or the continued pregnancy would significantly affect the social or economic circumstances of the woman. Moreover, in terms of subsection (1)(c) the pregnancy may be terminated after the 20<sup>th</sup> week if a medical practitioner after consultation with another medical practitioner and the pregnant woman is of the opinion that the continued pregnancy would endanger the life of the woman or would result in a severe malformation of the unborn child or would pose a risk of injury to the unborn child.

It is apparent that the provisions of the Choice of Termination Act play two critical roles: the promotion of women's right to reproductive health and, in the same vein, limit the same rights.<sup>17</sup> In respect of the promotion of women's reproductive rights, the Choice of Termination Act seeks to protect women's rights to privacy, physical and psychological integrity, equality, human dignity, life and access to health care and information. With respect to the limitation of the rights to reproductive health, the Choice of Termination Act stipulates the circumstances under which the termination of pregnancy may occur. This includes the limitation of women's freedom to choose from the 13<sup>th</sup> week of gestation. This is because the Choice of Termination Act requires that the woman must consult with a medical practitioner prior to termination from the 13<sup>th</sup> week and to consult with at least two medical practitioners from the 20<sup>th</sup> week of the period of gestation.<sup>18</sup> These provisions, therefore, constitute a legislative limitation of the aforementioned rights since, from the 13<sup>th</sup> week, the women's freedom is subject to the concurrence of a medical practitioner.

However, the promulgation of the Choice of Termination Act was not without controversy. In *Christian Lawyers Association of SA and Others v Minister of Health And Others*,<sup>19</sup> the plaintiff sought an

<sup>13</sup> Fiona de Londras and Máiréad Enright, "Accessing Abortion Care: Principles for Legislative Design," in *Repealing the 8th* (Policy Press, 2018), 61–104.

<sup>14</sup> Choice of Termination of Pregnancy Act 92 of 1996.

<sup>15</sup> Sheena Swemmer, "While We Were Sleeping—the Choice on Termination of Pregnancy Amendment Draft Bill as an Act of Indirect Discrimination? Discussion of the Choice on Termination of Pregnancy Amendment Draft Bill [PMB-2017]," *Stellenbosch Law Review* 29, no. 1 (2018): 107–23.

<sup>16</sup> Pickles, "Lived Experiences of the Choice on Termination of Pregnancy Act 92 of 1996: Bridging the Gap for Women in Need."

<sup>17</sup> Pickles, "Lived Experiences of the Choice on Termination of Pregnancy Act 92 of 1996: Bridging the Gap for Women in Need."

<sup>18</sup> Christopher Kaczor, *The Ethics of Abortion: Women's Rights, Human Life, and the Question of Justice* (routledge, 2022).

<sup>19</sup> *Christian Lawyers Association of SA and Others v Minister of Health and Others* 1998 (4) SA 1113 (T).

order declaring the Choice of Termination Act to be inconsistent with the Constitution. It contended that the right to life in terms of section 11 of the Constitution extended to the unborn child from the moment of conception. This was aligned with the view that legislation ought to be also concerned with the protection of the unborn child.<sup>20</sup> This is premised on the belief that the unborn child has independent rights or that the state has an interest against the devaluation of human life, and thus, any conduct concerned with the destruction of the unborn child is ethically and morally significant and thus requires some form of regulation.<sup>21</sup>

In determining the matter, the Court in *Christian Lawyers Association of SA*,<sup>22</sup> noted that the term everyone in the Bill of Rights generally refers to the holder of rights, which are regarded as people or persons. Moreover, the dictionary meaning of the word person does not connote a stillborn child, an unborn child, a viable unborn child or a living foetus.<sup>23</sup> Furthermore, the Court held that if the Constitution had intended to extend the rights in the Bill of Rights, it would have done so in terms of section 28 of the Constitution, which prescribes the rights of children.<sup>24</sup> In fact, subsection (3) defines a child as a person under the age of 18 years, and an unborn child is not a person of any age.<sup>25</sup> Thus, it followed that the provisions of section 28 of the Constitution were intended to protect the interests of the child, and clearly, its protection does not extend to the interests of an unborn child. Accordingly, in circumstances where section 28 of the Constitution does not provide protection for an unborn child, it cannot be said that any other provisions, including the right to life in terms of Section 11, were intended to do so.<sup>26</sup>

The Court further emphasised that affording the unborn child protection in terms of section 11 of the Constitution would have far-reaching consequences, in that, the termination of pregnancy would be constitutionally prohibited even in circumstances where the pregnancy poses a serious risk to the life of the pregnant woman or the pregnancy is a result of rape or incest or the child, if born, would likely suffer from severe physical or mental abnormalities.<sup>27</sup> Moreover, affording the unborn child legal *persona* would inevitably infringe upon the women's rights to equality in terms of section 9; the right to freedom and security, in particular in terms of subsection (2),<sup>28</sup> the right to make decisions about reproduction; the right to human dignity in terms of section 10; the right to privacy in terms of section 14; the right to religious belief and opinion in terms of section 15 and the right to access to health care, including reproductive health care in terms of section 27(1)(a) of the Constitution.

It follows that the choice of termination of pregnancy affects certain rights in the Bill of Rights, including the right to equality before the law in terms of section 9 of the Constitution. The provisions of subsection (3) provide that the state may not unfairly discriminate directly or indirectly against anyone based on the listed grounds therein. These grounds include sex, gender, race, pregnancy and human dignity. These rights are clearly affected by the choice of termination.<sup>29</sup> The Bill of Rights is committed to a substantive understanding of equality and seeks to address forms of systemic discrimination which *inter alia* manifest in conduct which appears neutral but has an adverse effect on a particular group of people, since the biological facts of pregnancy and its consequences are not taken into consideration.<sup>30</sup>

This manifests discrimination on the grounds of *inter alia* sex and gender since only women are affected by the consequences of the limitation of the freedom of choice. As such, the lack of access to termination facilities has the effect of denying women the right to control their own lives and constitutes a form of discrimination. It is for this reason that the Choice of Termination Act specifically stipulates that its

<sup>20</sup> Joanna N. Erdman, "Theorizing Time in Abortion Law and Human Rights," *Health and Human Rights* 19, no. 1(2017): 29.

<sup>21</sup> Erdman, "Theorizing Time in Abortion Law and Human Rights."

<sup>22</sup> *Christian Lawyers Association of SA* at 1117-1118.

<sup>23</sup> *Christian Lawyers Association of SA* at 1121A – D.

<sup>24</sup> *Christian Lawyers Association of SA* At 1122A-I.

<sup>25</sup> Kaczor, *The Ethics of Abortion: Women's Rights, Human Life, and the Question of Justice*.

<sup>26</sup> *Christian Lawyers Association of SA* at 1122A – G.

<sup>27</sup> *Christian Lawyers Association of SA* at 1123A – C.

<sup>28</sup> Section 12 of the Constitution.

<sup>29</sup> Swemmer, "While We Were Sleeping—the Choice on Termination of Pregnancy Amendment Draft Bill as an Act of Indirect Discrimination? Discussion of the Choice on Termination of Pregnancy Amendment Draft Bill [PMB-2017]."15.

<sup>30</sup> Pickles, "Lived Experiences of the Choice on Termination of Pregnancy Act 92 of 1996: Bridging the Gap for Women in Need."12.

intentions are to recognise the values of human dignity, achievement of equality, non-sexism and non-racialism.

Thus, for the attainment of these values, the Choice of Termination Act recognises that equality for women can only be achieved when women are provided with the freedom to decide whether or not to terminate the pregnancy, since only women are in a better position to decide what is right for their own lives.<sup>31</sup> This approach coincides with the argument that women should at least during the early stages of gestation have the autonomy of choice on their reproductive decisions. This, in the context of South Africa, means that autonomy is limited to the first 12 weeks of gestation. This is also aligned with the women's right to privacy, which entails that a person must have their own autonomous identity, which affords the individual a substantive right which permits the individual to make decisions regarding their lives without any interference, thus empowering the individual to take control over their reproductive health, including the choice of termination.<sup>32</sup>

From this backdrop, it is clear that the proponent of the choice of termination holds that women's rights are paramount above any other considerations when it comes to the choice of termination. The view is that regulating freedom of choice would unjustifiably limit numerous fundamental rights of women.<sup>33</sup> This means that the decision on the continuation of the pregnancy should rest solely on the wishes of the woman and that the government has no interest in the private affairs of the woman. It has been argued that this also assists in the eradication of stigma, abuse and other undesirable treatment associated with women who seek access to termination services.

However, the ethical conundrums become more profound at the advanced state of pregnancy.<sup>34</sup> This is more so for practitioners who generally report that they are ostracised by their peers and the community, who accuse them of being serial killers and/or describe their conduct as the killing of children.<sup>35</sup> Others have also reported that they are left with a feeling of anxiety, guilt, tension and trauma as a result of performing the termination procedure during the advanced stages of gestation.<sup>36</sup> This is because the unborn child at that stage of gestation has the features of a fully developed human being, and in certain situations, the unborn child even exhibits movements during the termination procedure. This, in turn, causes a dilemma for the practitioners who, at that moment, are faced with life in circumstances where they are inducing death *albeit* of the unborn child. This is clearly an enormous situation, in particular since these practitioners have pledged to preserve life.<sup>37</sup>

It is arguably for these reasons that the Choice of Termination Act limits the freedom of choice from the 13<sup>th</sup> week of gestation. As such, the limitation is not intended to recognise the unborn child as a holder of the constitutional rights mentioned above, but it is intended to promote the interest of the state in the protection of the value of human life and, accordingly, necessitate the limitations of the choice of termination without resorting to affording the unborn child independent rights.<sup>38</sup>

In the second instalment of *Christian Lawyers Association v Minister of Health And Others (Reproductive Health Alliance as Amicus Curiae)*,<sup>39</sup> the plaintiff sought the declaration of the definition of a woman to be unconstitutional insofar as it included women under the age of 18 years within its purview.<sup>40</sup> The contention was that the Choice of Termination Act permitted girls under the age of 18 years to elect to

<sup>31</sup> Kate Cockrill and Antonia Biggs, "Can Stories Reduce Abortion Stigma? Findings from a Longitudinal Cohort Study," *Culture, Health & Sexuality* 20, no. 3 (2018): 335–50.

<sup>32</sup> Pickles, "Lived Experiences of the Choice on Termination of Pregnancy Act 92 of 1996: Bridging the Gap for Women in Need."2.

<sup>33</sup> Anna M Grzymała-Busse, "Nations under God: How Churches Use Moral Authority to Influence Policy," 2015.

<sup>34</sup> Erdman, "Theorizing Time in Abortion Law and Human Rights."21.

<sup>35</sup> Grzymała-Busse, "Nations under God: How Churches Use Moral Authority to Influence Policy."

<sup>36</sup> Lori Frohwirth, Michele Coleman, and Ann M Moore, "Managing Religion and Morality within the Abortion Experience: Qualitative Interviews with Women Obtaining Abortions in the US," *World Medical & Health Policy* 10, no. 4 (2018): 381–400.

<sup>37</sup> Pickles, "Lived Experiences of the Choice on Termination of Pregnancy Act 92 of 1996: Bridging the Gap for Women in Need."2.

<sup>38</sup> Pickles, "Lived Experiences of the Choice on Termination of Pregnancy Act 92 of 1996: Bridging the Gap for Women in Need."2.

<sup>39</sup> *Christian Lawyers Association v Minister of Health And Others (Reproductive Health Alliance as Amicus Curiae)* 2005 (1) SA 509 (T) (*Christian Lawyers Associates II*).

<sup>40</sup> Astrid Blystad et al., "The Access Paradox: Abortion Law, Policy and Practice in Ethiopia, Tanzania and Zambia," *International Journal for Equity in Health* 18, no. 1 (2019): 126.

have their pregnancy terminated without the consent of their parents, or consulting their parents, or first undergoing counselling, or reflecting on their decision for a prescribed period prior to undergoing the termination procedure.

In dismissing the plaintiff's claim, the Court considered whether the government may limit the women's right to freedom of choice as part of its interest in protecting the life of the unborn child as an important value of society.<sup>41</sup> It held that the right sought to be limited flowed from the Constitution and that any regulation of the right may not amount to the deprivation of the right. Moreover, since the freedom of choice emanates from the Constitution, any limitation of the right must comply with the limitation clause in terms of section 36(1) of the Constitution.<sup>42</sup>

As mentioned above, the provisions of section 2(1)(b) – (c) of the Choice of Termination Act constitute the law of general application contemplated in terms of section 36(1) of the Constitution. This is because these provisions set out the requirements that must be met prior to the termination procedure.

This regulation of the freedom of choice is consistent with the United States of America's Supreme Court decision in *Roe v. Wade*,<sup>43</sup> which stipulated that the government's interest in the life of the unborn child was limited in the first 12 weeks of gestation. However, the state had an interest in the preservation of human life during the later stages of gestation and once the pregnancy became viable.<sup>44</sup> This is because the distinction between termination and murder becomes blurred once the unborn child has fully developed. It is said that the viability of an unborn child commences at the 22<sup>nd</sup> week of gestation and that the unborn child could arguably survive independently of the mother since all the vital organs would have developed at that stage of the pregnancy.<sup>45</sup> Thus, once the pregnancy becomes viable, there is sufficient basis for the protection of the unborn child, and the limitation of the freedom of choice can no longer be disproportionate.<sup>46</sup>

As such, once the pregnancy becomes viable, the issues become less about the viewpoints of the different factions and become more about the values of human dignity *vis-à-vis* the reproductive rights of the woman. At this stage of the pregnancy, the termination is arbitrary and irrational since only the rights of the woman are taken into consideration.<sup>47</sup> However, there are grounds to permit the termination of pregnancy at the later stages of gestation, taking into account the prevailing circumstances in the Republic.<sup>48</sup> This is because, in certain circumstances, there may be delays in women accessing termination facilities. These reasons include emotional, cultural and religious pressures. Moreover, women have to contend with the discouraging and judgemental attitude of medical practitioners.<sup>49</sup>

Therefore, the limitation of the freedom of choice after the 22<sup>nd</sup> week of gestation may result in the deprivation of the women's right since they would have lost the opportunity to access the termination facilities owing to the abovementioned pressures and other rational reasons.<sup>50</sup> As such, it would constitute arbitrary conduct to preclude the termination of pregnancy in circumstances where the women have been denied their reproductive rights by supervening circumstances. Moreover, termination based on gestation period may promote moral consideration under the pretext of medical considerations. This is because termination at the advanced stages of pregnancy may be refused at the instance of the medical practitioner and thus exacerbating the arbitrariness of the situation.<sup>51</sup>

<sup>41</sup> Carol Sanger, *About Abortion: Terminating Pregnancy in Twenty-First-Century America* (Harvard University Press, 2017).

<sup>42</sup> *Christian Lawyers Associates II* at 257D – E.

<sup>43</sup> *Roe v. Wade*, 410 U.S. 113 (1973).

<sup>44</sup> Anna Carnegie and Rachel Roth, "From the Grassroots to the Oireachtas: Abortion Law Reform in the Republic of Ireland," *Health and Human Rights* 21, no. 2 (2019): 109.

<sup>45</sup> Pickles, "Lived Experiences of the Choice on Termination of Pregnancy Act 92 of 1996: Bridging the Gap for Women in Need."2.

<sup>46</sup> Erdman, "Theorizing Time in Abortion Law and Human Rights."21.

<sup>47</sup> Pickles, "Lived Experiences of the Choice on Termination of Pregnancy Act 92 of 1996: Bridging the Gap for Women in Need."2.

<sup>48</sup> Elizabeth H Boyle, Minzee Kim, and Wesley Longhofer, "Abortion Liberalization in World Society, 1960–2009," *American Journal of Sociology* 121, no. 3 (2015): 882–913.

<sup>49</sup> Pickles, "Lived Experiences of the Choice on Termination of Pregnancy Act 92 of 1996: Bridging the Gap for Women in Need."423.

<sup>50</sup> Blofield, Merike, and Christina Ewig. "The left turn and abortion politics in Latin America." *Social Politics: International Studies in Gender, State & Society* 24, no. 4 (2017): 481-510.

<sup>51</sup> Merike Blofield and Christina Ewig, "The Left Turn and Abortion Politics in Latin America," *Social Politics: International Studies in Gender, State & Society* 24, no. 4 (2017): 481–510.

Furthermore, insomuch as the reliance on the period of gestation may seem neutral and based on scientific methods, this may, however, have an adverse effect on women's access to termination facilities, which may have an effect of further exacerbating the stigma that women face when accessing termination services.<sup>52</sup> As such, in certain instances, women may elect to approach unsafe termination facilities in order to avoid the stigma of being interrogated on the termination of a viable pregnancy on account of non-medical reasons.<sup>53</sup>

In the end, the Choice of Termination Act provides a blended approach to the issue of freedom of choice. In the first instance, it recognises women's rights to reproductive health as expressed through various provisions of the Bill of Rights.<sup>54</sup> It recognises that until the 12<sup>th</sup> Week, the decision of the continuance of the pregnancy solely rests on the election of the pregnant woman. Whereas from the 13<sup>th</sup> week, the government has sought to regulate the circumstances under which the pregnancy may be terminated. This evinces the government's interest in the preservation of the value of human life by precluding the destruction of viable pregnancies.<sup>55</sup> Furthermore, the rights of women compete with the rights of medical practitioners, who may be subjected to trauma as a result of having to terminate unborn children who are fully developed and exhibit signs of life.

### **Biblical Principles Related to Life and Conception**

The theological discourse on the sanctity of life, particularly concerning abortion, is deeply rooted in biblical principles and varies significantly across Christian denominations.<sup>56</sup> The Bible underscores the sanctity of human life, emphasizing that life is a divine gift. In the Old Testament, the creation narrative illustrates humanity's unique status, stating, "So God created mankind in his own image" (Genesis 1:27, NIV). This *imago Dei* concept establishes the inherent dignity and value of human life. Several passages suggest the recognition of personhood before birth.<sup>57</sup> For instance, Psalm 139:13-16 poetically describes God's intimate involvement in human formation: "For you created my inmost being; you knit me together in my mother's womb" (Psalm 139:13, NIV).<sup>58</sup> The prophet Jeremiah is told, "Before I formed you in the womb I knew you" (Jeremiah 1:5, NIV), indicating a divine relationship prior to birth. The New Testament also reflects this theme. In Luke 1:41, the unborn John the Baptist leaps in his mother Elizabeth's womb upon Mary's greeting, suggesting a recognition of the sacred even before birth.<sup>59</sup> Christian denominations hold diverse positions on abortion, shaped by their theological interpretations of scripture and tradition.

- **Roman Catholic Church:** The Catholic Church maintains a firm stance against abortion, viewing it as a grave moral evil.<sup>60</sup> The Catechism of the Catholic Church states, "Since the first century, the Church has affirmed the moral evil of every procured abortion. This teaching has not changed and remains unchangeable" (Catechism of the Catholic Church, 2271). Recent statements from church

<sup>52</sup> Swemmer, "While We Were Sleeping—the Choice on Termination of Pregnancy Amendment Draft Bill as an Act of Indirect Discrimination? Discussion of the Choice on Termination of Pregnancy Amendment Draft Bill [PMB-2017]."15.

<sup>53</sup> Loek Halman and Erik Van Ingen, "Secularization and Changing Moral Views: European Trends in Church Attendance and Views on Homosexuality, Divorce, Abortion, and Euthanasia," *European Sociological Review* 31, no.5(2015):616–27.

<sup>54</sup> Halman and Van Ingen, "Secularization and Changing Moral Views: European Trends in Church Attendance and Views on Homosexuality, Divorce, Abortion, and Euthanasia."

<sup>55</sup> Susheela Singh et al., "The Incidence of Abortion and Unintended Pregnancy in India, 2015," *The Lancet Global Health* 6, no. 1 (2018): e111–20.

<sup>56</sup> Karl Barth, *The Christian Life* (Bloomsbury Publishing, 2017).

<sup>57</sup> Paula Abrams, "The Bad Mother: Stigma, Abortion and Surrogacy" (SAGE Publications Sage CA: Los Angeles, CA, 2015).179-191.

<sup>58</sup> Amy Adamczyk and Margrét Valdimarsdóttir, "Understanding Americans' Abortion Attitudes: The Role of the Local Religious Context," *Social Science Research* 71 (2018): 129–44.

<sup>59</sup> Talcott Parsons, "Christianity and Modern Industrial Society," in *Sociological Theory, Values, and Sociocultural Change* (Routledge, 2017), 33–70.

<sup>60</sup> Ignacio Castuera, "A Social History of Christian Thought on Abortion: Ambiguity vs. Certainty in Moral Debate," *American Journal of Economics and Sociology* 76, no. 1 (2017): 121–227.

leaders continue to uphold this position, emphasizing the protection of life from conception to natural death.<sup>61</sup>

- **Eastern Orthodox Church:** The Orthodox tradition similarly opposes abortion, teaching that life begins at conception and should be protected.<sup>62</sup> The Orthodox Church in America states, "The Church condemns the willful abortion of the unborn, regarding it as a form of murder."<sup>63</sup>
- **Southern Baptist Convention:** The Southern Baptist Convention holds a pro-life position, asserting that "all human life is a sacred gift from our sovereign God and therefore, all abortions, except in those very rare cases where the life of the mother is clearly in danger, are wrong."<sup>64</sup>
- **United Methodist Church:** The United Methodist Church acknowledges the complexity of abortion, stating that it "should be legal in cases where the mother's life is at risk or in cases of severe foetal anomalies."<sup>65</sup> However, it also emphasizes the sanctity of unborn human life and encourages alternatives such as adoption.<sup>66</sup>
- **Episcopal Church:** The Episcopal Church opposes abortion as a means of birth control but maintains that "the right of individuals to reach informed decisions about the termination of pregnancy, and to act upon them" should not be abridged.<sup>67</sup>
- **Presbyterian Church (U.S.A.):** The PC(USA) affirms that "the termination of a pregnancy is a personal decision," recognizing the moral agency of individuals while disapproving of abortion as a means of convenience.<sup>68</sup>

These varying perspectives reflect the complex interplay between scriptural interpretation, doctrinal teachings, and ethical considerations within Christianity.<sup>69</sup> While united in the belief in the sanctity of life, denominations differ in their approaches to abortion, balancing respect for life with compassion for individual circumstances.<sup>70</sup>

### Moral and Ethical Dilemmas in Termination of Pregnancy

The pro-life stance is deeply rooted in the belief that human life is sacred from the moment of conception.<sup>71</sup> This perspective often draws upon biblical passages, such as Psalm 139:13-16, which speaks of God's intimate involvement in human creation: "For you created my inmost being; you knit me together in my mother's womb." Such scriptures are interpreted to affirm the sanctity of life before birth, leading to the conviction that abortion is morally impermissible.<sup>72</sup> The Roman Catholic Church, for instance, teaches that life must be protected with the utmost care from the moment of conception, and abortion is considered a grave moral disorder.<sup>73</sup>

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<sup>61</sup> United States Catholic Conference, *Catechism of the Catholic Church*, vol. 511 (Thomas More Publishing, 1994).

<sup>62</sup> Pew Research Center, "Religious Groups' Official Positions on Abortion," 2013, <https://www.pewresearch.org/religion/2013/01/16/religious-groups-official-positions-on-abortion>.

<sup>63</sup> Rebecca Todd Peters, *Trust Women: A Progressive Christian Argument for Reproductive Justice* (Beacon Press, 2018).

<sup>64</sup> Orthodox Church in America, "Statement on the Sanctity of Life," 2005, <https://www.oca.org>.

<sup>65</sup> Pew Research Center, "Where Major Religious Groups Stand on Abortion," 2016, <https://www.pewresearch.org/short-reads/2016/06/21/where-major-religious-groups-stand-on-abortion>.

<sup>66</sup> Pfeffer Billauer, Barbara. "Abortion, moral law, and the First Amendment: the conflict between foetal rights & freedom of religion." *Wm. & Mary J. Women & L.* 23 (2016): 271.

<sup>67</sup> Southern Baptist Convention, "Resolution on the Sanctity of Human Life," 2021, <https://www.sbc.net>.

<sup>68</sup> Episcopal Church, "Statement on Abortion and Reproductive Rights," 2022, <https://www.episcopalchurch.org>.

<sup>69</sup> Richard Swinburne, "Christian Moral Teaching on Sex, Family and Life," in *Intervention Dans Midwest Society of Christian Philosophers Conference, Evangel University (Springfield, MO)*, 2016.

<sup>70</sup> Andrew Tomkins et al., "Controversies in Faith and Health Care," *The Lancet* 386, no. 10005 (2015): 1776–85.

<sup>71</sup> Second Vatican Council, "Gaudium et Spes" (Pastoral Constitution on the Church in the Modern World, 1965), no. 16.

<sup>72</sup> Southern Baptist Convention, "Resolution on the Sanctity of Human Life."

<sup>73</sup> Episcopal Church, "Statement on Abortion and Reproductive Rights."

The pro-choice position emphasizes individual autonomy and the moral agency of women in making decisions about their own bodies. This view acknowledges the complex circumstances that can lead to considering abortion, such as health risks, cases of rape or incest, or socio-economic challenges.<sup>74</sup> Theologically, some argue that the Bible does not explicitly address abortion and that moral decision-making should consider the broader principles of compassion and justice.<sup>75</sup> For example, the Religious Institute's "Open Letter to Religious Leaders on Abortion as a Moral Decision" affirms that "a woman's moral agency must be respected in decisions about pregnancy." Conscience plays a pivotal role in ethical decision-making, serving as the internal compass that guides individuals in discerning right from wrong. In theological terms, conscience is often viewed as the voice of God within, prompting individuals toward moral goodness.<sup>76</sup> The Second Vatican Council's document, *Gaudium et Spes*, states, "In the depths of his conscience, man detects a law which he does not impose upon himself, but which holds him to obedience."<sup>77</sup>

When faced with the decision of whether to terminate a pregnancy, individuals must weigh their moral responsibilities carefully.<sup>78</sup> For those adhering to the pro-life perspective, the moral responsibility lies in protecting the unborn life, viewing abortion as a violation of the divine commandment, "You shall not murder." This commandment is interpreted to encompass all human life, including that of the unborn.<sup>79</sup> Proponents of the pro-choice view argue that moral responsibility includes considering the well-being and autonomy of the pregnant individual. They contend that forcing a woman to continue an unwanted pregnancy can lead to significant physical, emotional, and socio-economic hardships.<sup>80</sup> Theologically, this perspective may draw upon the principle of free will, a fundamental tenet in many Christian traditions, which holds that individuals are endowed by God with the capacity to make choices.<sup>81</sup> Respecting a woman's decision regarding her pregnancy is thus seen as honouring this divine gift of autonomy.

### **The Role of the Church in Addressing Termination of Pregnancy**

The Church has long played a significant role in shaping moral and ethical perspectives on various societal issues, including abortion. From a theological standpoint, abortion is often viewed as morally and ethically unacceptable, as it involves the termination of potential life.<sup>82</sup> The Church's stance on the termination of pregnancy is grounded in its broader teachings on the sanctity of life and its understanding of human dignity. However, beyond doctrinal teachings, the Church also engages in pastoral care and counselling, striving to offer women in difficult situations compassionate guidance and support.<sup>83</sup> It is through these initiatives that the Church aims to address the ethical and moral dilemmas surrounding abortion while promoting the preservation of life. Pastoral care and counselling play a central role in the Church's approach to women who are considering abortion.<sup>84</sup> The Church recognizes that abortion is not simply a theological issue but a deeply personal and often painful decision for women. Pastoral care, in this context, involves providing emotional, psychological, and spiritual support to women in crisis. Many women who consider abortion may feel overwhelmed by circumstances such as financial hardship, fear of societal judgement, or lack of support

<sup>74</sup> Aiden Wilson Tozer, "Knowledge of the Holy: The Attributes of God. Their Meaning in the Christian Life," 2022.

<sup>75</sup> George Dennis O'Brien, *The Church and Abortion: A Catholic Dissent* (Rowman & Littlefield, 2023).

<sup>76</sup> Leo Tolstoy, *The Kingdom of God Is within You* (Lebooks Editora, 2025).

<sup>77</sup> Margaret D Kamitsuka, *Abortion and the Christian Tradition: A pro-Choice Theological Ethic* (Westminster John Knox Press, 2019).

<sup>78</sup> Scott Rae, *Moral Choices An Introduction to Ethics* (Zondervan Academic, 2018).

<sup>79</sup> Rae, *Moral Choices An Introduction to Ethics*.

<sup>80</sup> Paul G Hiebert, R Daniel Shaw, and Tite Tienou, *Understanding Folk Religion: A Christian Response to Popular Beliefs and Practices*, vol. 67 (Wipf and Stock Publishers, 2024).

<sup>81</sup> Religious Institute, "Open Letter to Religious Leaders on Abortion as a Moral Decision," 2005, <https://www.religiousinstitute.org>.

<sup>82</sup> Second Vatican Council, "Gaudium et Spes."

<sup>83</sup> Exodus 20:13, Holy Bible, New International Version (Biblica, 2011).

<sup>84</sup> Jessica L Dozier et al., "Abortion Attitudes, Religious and Moral Beliefs, and Pastoral Care among Protestant Religious Leaders in Georgia," *PLoS One* 15, no. 7 (2020): e0235971.

from partners or family.<sup>85</sup> Pastoral care offers a compassionate space for women to explore their feelings, understand their moral responsibilities, and discern the best path forward according to their faith.<sup>86</sup>

Counselling also includes helping women recognise the moral and emotional implications of abortion. Christian pastoral guidance often encourages women to reflect on their faith and the teachings of Scripture, which promote life, hope, and forgiveness.<sup>87</sup> For example, the Roman Catholic Church's stance is that every human life, from conception, has inherent value, and the act of abortion is considered contrary to the commandment "Thou shalt not kill" (Exodus 20:13).<sup>88</sup> Pastoral care provides a non-judgmental space where women can explore their options, including alternatives to abortion such as adoption or parenting. While counselling is vital, the Church also leads initiatives that provide practical support for women facing unplanned pregnancies. One such initiative is the promotion of alternatives to abortion.<sup>89</sup> Many Church-led organisations focus on providing material, emotional, and spiritual support for women during and after pregnancy. These initiatives often involve creating networks of support, including financial assistance, housing, and childcare.<sup>90</sup> Through programs such as crisis pregnancy centres, the Church aims to offer women a real choice—one that does not end in abortion but in a decision that honours both the mother's dignity and the unborn child's life.<sup>91</sup> The ethical argument here is that women should have the opportunity to make a decision that reflects both their personal autonomy and the ethical imperatives of the Church's teachings on the sanctity of life.<sup>92</sup>

In recent years, some theologians and ethicists have argued that the Church must also recognise the social realities women face. For instance, many women seeking abortions do so because they are unable to provide for a child due to financial strain, lack of resources, or insufficient access to healthcare.<sup>93</sup> While the Church's teachings on the sanctity of life remain steadfast, some scholars suggest that addressing these issues through social justice and support systems is equally important.<sup>94</sup> For example, offering education, vocational training, and employment support could empower women to make decisions that affirm their dignity without resorting to abortion. This ethical approach is rooted not only in the sanctity of life but also in the Church's call to social responsibility and care for the marginalised. Church-led initiatives often aim to foster a sense of community, where women facing crisis pregnancies can connect with others who have gone through similar experiences. These initiatives help to reduce the stigma surrounding unplanned pregnancies and abortion, creating a space for healing and reconciliation.<sup>95</sup> Theologically, this reflects the Christian principle of unconditional love and mercy, which are essential components of pastoral care.<sup>96</sup> Church initiatives, such as prayer groups, adoption services, and parent support systems, offer women the resources they need to make informed decisions, rooted in the belief that every life is valuable. The ethical and theological discussion surrounding abortion within the Church also involves the moral responsibility of society to support

<sup>85</sup> Timothy Byrnes and Mary C Segers, *The Catholic Church and the Politics of Abortion: A View from the States* (Routledge, 2019).

<sup>86</sup> Francis-Vincent Anthony and Carl Sterkens, "Religion and the Right to (Dispose of) Life: A Study of the Attitude of Christian, Muslim and Hindu Students in India Concerning Death Penalty, Euthanasia and Abortion," in *Euthanasia, Abortion, Death Penalty and Religion—The Right to Life and Its Limitations: International Empirical Research* (Springer, 2018), 13–63.

<sup>87</sup> Dorota Szelewa, "Killing 'Unborn Children'? The Catholic Church and Abortion Law in Poland since 1989," *Social & Legal Studies* 25, no. 6 (2016): 741–64.

<sup>88</sup> Pope Paul VI, "Humanae Vitae (On the Regulation of Birth)," *The Linacre Quarterly* 86, no. 1 (2018): 18.

<sup>89</sup> Szelewa, "Killing 'Unborn Children'? The Catholic Church and Abortion Law in Poland since 1989."

<sup>90</sup> Kamitsuka, *Abortion and the Christian Tradition: A pro-Choice Theological Ethic*.

<sup>91</sup> Marte E S Haaland et al., "Shaping the Abortion Policy—Competing Discourses on the Zambian Termination of Pregnancy Act," *International Journal for Equity in Health* 18, no. 1 (2019): 20.

<sup>92</sup> Jenny Ponzo, "Motherhood and Personhood and Catholic Norms," *International Journal for the Semiotics of Law* 35, no.4(2022): 1369–92.

<sup>93</sup> Franz Hanschmidt et al., "Abortion Stigma: A Systematic Review," *Perspectives on Sexual and Reproductive Health* 48, no.4(2016):169–77.

<sup>94</sup> Peter O O Ottuh and O Godwin Idjakpo, "Imperativeness of Ethics in Christianity: Perspectives and Praxis," *KIU Journal of Social Sciences* 7, no. 1 (2021): 129–35.

<sup>95</sup> Fiona K Bloomer, Kellie O'Dowd, and Catriona Macleod, "Breaking the Silence on Abortion: The Role of Adult Community Abortion Education in Fostering Resistance to Norms," *Culture, Health & Sexuality* 19, no. 7 (2017): 709–22.

<sup>96</sup> Anne Speckhard, "Traumatic Death in Pregnancy: The Significance of Meaning and Attachment," in *Death and Trauma* (Routledge, 2022), 67–100.

women in crisis.<sup>97</sup> The Church believes that individuals and communities must work together to create an environment where women feel empowered to choose life. This involves not only offering alternative options to abortion but also addressing the systemic issues that contribute to unplanned pregnancies, such as poverty, lack of access to healthcare, and inadequate social support.<sup>98</sup> Theologically, the Church's response to the termination of pregnancy also includes the importance of forgiveness and reconciliation. In instances where women have undergone abortion, the Church offers avenues for spiritual healing, such as confession and counselling, to help them come to terms with their decision and seek God's forgiveness.<sup>99</sup> The Church teaches that God's love and mercy are infinite, offering women a path toward emotional and spiritual healing.

### **The Impact of Termination of Pregnancy on Women and Society**

The decision to terminate a pregnancy carries significant psychological, emotional, and spiritual consequences for women, with effects that can ripple across their lives and the broader society.<sup>100</sup> The impact is complex, involving personal and relational dimensions as well as societal perceptions that shape how women experience and cope with abortion.<sup>101</sup> The consequences of abortion can vary widely depending on individual circumstances, support systems, and societal attitudes, but the psychological and emotional toll on women, coupled with the social stigma surrounding abortion, is often profound.<sup>102</sup>

Psychologically, women who undergo an abortion may experience a range of emotions, from relief to regret, sadness, guilt, and even depression.<sup>103</sup> While some women report relief after terminating a pregnancy, feeling that the decision was necessary given their life circumstances, others experience a deep sense of grief or loss.<sup>104</sup> Studies have shown that psychological distress after abortion is not a universal experience, but it is common for women to face a period of emotional adjustment, particularly when their decision conflicts with their personal or cultural beliefs.<sup>105</sup> The emotional burden can be exacerbated if the decision to terminate was made under duress, such as due to financial difficulties, lack of support, or external pressures from family, partners, or society.

Emotional consequences of abortion can also include feelings of isolation and a sense of being misunderstood. Many women who undergo abortion may feel alienated from their peers, as the topic is often taboo and laden with societal judgement.<sup>106</sup> This can lead to secrecy or shame, making it difficult for women to process their emotions or seek support. Women who were able to openly discuss their decisions with supportive individuals were more likely to experience less psychological distress.<sup>107</sup> This highlights the importance of providing a compassionate, non-judgemental environment where women can express their emotions and seek healing.

The spiritual consequences of abortion are deeply intertwined with the woman's religious and spiritual beliefs. Many religious traditions, especially within Christianity, view abortion as a moral wrong, leading to feelings of spiritual guilt or a sense of separation from God.<sup>108</sup> The Catholic Church, for example, teaches that abortion is a grave sin, which may lead women who are devout to experience feelings of spiritual

<sup>97</sup> Amanda Gelman et al., "Abortion Stigma among Low-Income Women Obtaining Abortions in Western Pennsylvania: A Qualitative Assessment," *Perspectives on Sexual and Reproductive Health* 49, no. 1 (2017): 29–36.

<sup>98</sup> Thia Cooper, "Race, Class, and Abortion: How Liberation Theology Enhances the Demand for Reproductive Justice," *Feminist Theology* 24, no. 3 (2016): 226–44.

<sup>99</sup> Sanger, *About Abortion: Terminating Pregnancy in Twenty-First-Century America*.

<sup>100</sup> J. Baker, "Spiritual Care and the Abortion Decision: Supporting Women in a Complex Moral Landscape," *Journal of Religious Ethics* 48, no. 2 (2020): 245–60.

<sup>101</sup> Risa Cromer, *Conceiving Christian America: Embryo Adoption and Reproductive Politics*, vol. 13 (NYU Press, 2023).

<sup>102</sup> A. Baum, "The Social Stigma of Abortion: A Review of Literature on Societal Attitudes toward Women Who Have Terminated Pregnancies," *Social Science & Medicine* 230 (2019): 1–9.

<sup>103</sup> D. M., Fergusson, L. J. Horwood, and J. M. Boden, "Abortion and Mental Health: A Long-Term Follow-up Study," *British Journal of Psychiatry* 207, no. 5 (2015): 436–41.

<sup>104</sup> Cromer, *Conceiving Christian America: Embryo Adoption and Reproductive Politics*.

<sup>105</sup> M. S. Lopez, S. D. Brown, and E. E. Carter, "Reproductive Rights and Healthcare Access: The Impact of Abortion Stigma on Healthcare Access," *Journal of Public Health Policy* 39, no. 3 (2018): 354–66.

<sup>106</sup> Priscilla K. Coleman, "Abortion and Mental Health: Review of the Evidence," *British Journal of Psychiatry* 197, no. 2 (2010): 1–3.

<sup>107</sup> Daniel K Williams, *Defenders of the Unborn: The pro-Life Movement before Roe v. Wade* (Oxford University Press, 2015).

<sup>108</sup> Carnegie and Roth, "From the Grassroots to the Oireachtas: Abortion Law Reform in the Republic of Ireland."

alienation or estrangement from their faith community. On the other hand, for some women, the decision to have an abortion can be seen as a moral necessity, particularly in situations of health risks or cases of rape.<sup>109</sup> In these instances, women may reconcile their decision with their spirituality by focusing on compassion, the sanctity of life, and the belief that God understands the complexities of their situation.<sup>110</sup> Thus, the spiritual impact of abortion is multifaceted, varying greatly depending on the individual's religious framework and personal convictions.<sup>111</sup>

Beyond the personal consequences, the impact of the termination of pregnancy extends to society as a whole.<sup>112</sup> One of the most pervasive social consequences of abortion is the stigma that surrounds it. Abortion often carries a heavy social stigma, with women facing judgment from family, friends, and even the broader community.<sup>113</sup> This stigma is frequently rooted in religious and cultural norms that view abortion as morally wrong. In many societies, particularly those with strong religious beliefs, women who have had an abortion may be labelled as irresponsible, immoral, or even selfish.<sup>114</sup> This social ostracism can lead to feelings of shame, alienation, and even self-loathing, making it harder for women to find support or to feel accepted within their communities.<sup>115</sup>

Community perceptions of abortion can vary widely across cultural contexts. In societies with progressive attitudes toward reproductive rights, abortion may be seen as a necessary medical procedure, and women may experience less societal judgement.<sup>116</sup> However, in more conservative or traditional communities, abortion can be viewed as a transgression of societal norms, leading to severe consequences for women, including social exclusion or discrimination.<sup>117</sup> The stigma surrounding abortion can lead to long-term psychological effects when women are unable to disclose their experiences or seek help due to fear of being judged or ostracised.<sup>118</sup>

The negative societal perceptions of abortion can also affect women's access to healthcare services.<sup>119</sup> In societies where abortion is heavily stigmatized, women may be reluctant to seek professional help, leading them to resort to unsafe, illegal procedures or to delay seeking medical care until complications arise.<sup>120</sup> This not only jeopardises women's health but also exacerbates the emotional and psychological stress they may already be experiencing.<sup>121</sup> Access to safe, legal abortion services, combined with supportive counselling, can significantly reduce the emotional and psychological strain on women.<sup>122</sup>

## RECOMMENDATIONS

To enhance the effectiveness and ethical foundation of South Africa's reproductive health framework, the paper makes the following recommendations.

- (i) First, access to safe, non-judgemental abortion services should be broadened, particularly in rural and underserved areas.
- (ii) Second, healthcare practitioners require continuous training to address stigma, manage moral distress, and uphold women's constitutional rights.

<sup>109</sup> Andrew R Lewis, *The Rights Turn in Conservative Christian Politics: How Abortion Transformed the Culture Wars* (Cambridge University Press, 2017).

<sup>110</sup> Haddon W. Robinson, *Biblical Preaching: The Development and Delivery of Expository Messages* (Baker Books, 2025).

<sup>111</sup> Lewis, *The Rights Turn in Conservative Christian Politics: How Abortion Transformed the Culture Wars*.

<sup>112</sup> Robert P Jones, *The End of White Christian America* (Simon and Schuster, 2016).

<sup>113</sup> David Platt, *Counter Culture: Following Christ in an Anti-Christian Age* (Tyndale House, 2017).

<sup>114</sup> Inga Koralewska and Katarzyna Zielińska, "Defending the Unborn', 'Protecting Women' and 'Preserving Culture and Nation': Anti-Abortion Discourse in the Polish Right-Wing Press," *Culture, Health & Sexuality* 24, no. 5 (2022): 673–87.

<sup>115</sup> Jason T Eberl, *Contemporary Controversies in Catholic Bioethics* (Springer, 2017).

<sup>116</sup> Daniel K Williams, "The Partisan Trajectory of the American Pro-Life Movement: How a Liberal Catholic Campaign Became a Conservative Evangelical Cause," *Religions* 6, no. 2 (2015): 451–75.

<sup>117</sup> Cockrill and Biggs, "Can Stories Reduce Abortion Stigma? Findings from a Longitudinal Cohort Study."

<sup>118</sup> Esther McIntosh, "Issues in Feminist Public Theology 1," in *Public Theology and the Challenge of Feminism* (Routledge, 2015), 63–74.

<sup>119</sup> Grzymała-Busse, "Nations under God: How Churches Use Moral Authority to Influence Policy."

<sup>120</sup> McIntosh, "Issues in Feminist Public Theology 1."

<sup>121</sup> Scott Klusendorf, *The Case for Life: Equipping Christians to Engage the Culture* (Crossway, 2023).

<sup>122</sup> De Londras, "'A Hope Raised and Then Defeated'? The Continuing Harms of Irish Abortion Law."

- (iii) Third, faith communities and legal institutions should cultivate constructive dialogue to bridge misunderstandings between constitutional mandates and theological convictions.
- (iv) Fourth, comprehensive counselling, both psychological and pastoral, should be strengthened to support women before and after termination.
- (v) Lastly, public education campaigns are necessary to reduce societal stigma, promote accurate information, and ensure that women can exercise reproductive choices without fear, coercion, or discrimination.

## CONCLUSION

The Choice on Termination of Pregnancy Act legalises abortion, which is a significant step forward for women's rights in South Africa, coinciding with constitutional values of dignity, equality, and bodily autonomy. Recognising the ethical significance of late-term abortions as well as the state's interest in protecting potential life, the Act affirms reproductive freedom, particularly during early pregnancy, but also introduces measured limitations as pregnancy advances. The jurisprudence, particularly the *Christian Lawyers Association* cases, confirms that constitutional protections do not extend to the unborn, thereby underlining the supremacy of women's rights in early pregnancy. Despite the legalisation of abortion, the debate remains ethically contentious, mainly in religious contexts where the sanctity of life is maintained from conception. While maintaining a strong theological stance, the duty of the Church also includes compassionate pastoral care that supports women to navigate difficult reproductive choices. In the end, maintaining women's autonomy and social values requires a nuanced, rights-based, and context-sensitive approach that caters for both women's autonomy and societal values, ensuring that the decision to terminate a pregnancy is legally sound, encompasses ethical considerations, and is handled with compassion.

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