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Table of Contents i

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Protection of Brand Rights According to Law in Indonesia and Regulations of International Brands

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Abstract
A brand is an image or name that can be used to identify a product or company on the market. In Indonesia, the Trademark Law is regulated by Law Number 20 Year 2016 concerning Trademarks and Geographical Indications. In addition to national regulations, Indonesia is also bound by international brand regulations. The regulation on Intellectual Property Rights (IPR) in international agreements is inseparable from the role of two international organizations namely the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO). WIPO is one of the special agencies of the United Nations that was formed in 1967 with the aim of encouraging creativity and introducing IPR protection throughout the world. Legal issues that will be examined in this study are how to protect trademark rights according to Indonesian law and international brand regulations. The research method used is normative juridical, using secondary data in the form of qualitative data, which is then analyzed analytically descriptive. Secondary data consists of primary legal materials, secondary legal materials and tertiary legal materials. The specific target of this research is to find the extent to which the State protects the rights of brand holders in Indonesia and holders of international brands.

Keywords: Protection of Brand Rights, Brand Regulations, International Brands

1. Introduction

In the framework of global trade in the international world, in connection with international conventions related to intellectual property that has been ratified by the Indonesia. Therefore, the role of intellectual property is very important, including brands and geographical indications, especially to maintain of fair business competition in global trade, in order to create a fair and prosperous trade. Thus, it is necessary to have legal certainty for the business world in conducting global trade. This is also to attract investment both locally and internationally in order to develop the economy in Indonesia. Moreover, facing business competition which is very fast developing in the growth of trade at local, regional and international levels as well as with the development of technology and information, it is necessary to have adequate regulations related to brands and geographical indications.

The new trademark law now in force in Indonesia is law Number 20 of 2016 concerning Marks and Geographical Indications (Trade Mark Law, 2016). In addition, national regulations concerning marks, Indonesia is also

regulated by international regulations on marks such as the Paris Convention. The new trademark law is based on entirely new principles. The new principles is the used of the "active constitutive system" of registration. Therefore, the registration creates or constitutes the right on the trademark. Without registration, no protection is rendered to a Mark. The right to a mark is an exclusive right granted by the state to a trademark owner who is registered for a certain period by using the mark himself or granting permission to another party to use it. Meanwhile, According to article 3 of Trade Mark Law regulates that the right to a mark is obtained after the mark is registered. So, The right on mark is the exclusive right, granted by the state to the owner of a mark, registered in the general register of marks. Without registration, no right on a mark. First to register gives entitlement to protection of the marks.(Sudargo Gautama ; 1995, 20)

Based on the above provisions, the mark is an identification and becomes a very important thing in the business world. A mark is the soul of a product or service, especially if the mark has become a famous mark. Thus, there are many other companies will be happy to make the same product and will even use a brand that is similar in name to the well-known mark, which will create an unfair business relationship. It is not even possible that a brand that has been widely known by consumers for its quality and price will always be followed, imitated, "hijacked", maybe even counterfeited by other manufacturers who are doing underhanded competition. Therefore, marks are very important in the business world for national, regional and international trade. Marks are closely related to the world of trade in the form of trade in goods and services. The function of mark in the world of trade is so that consumers can distinguish the results of a particular product from other products for similar goods or services so that consumers will know about similar products and can choose according to the brand that consumers choose.

At present, there are many cases of trademarks in Indonesia where from year to year the cases of these marks are increasing. In 1970 there were approximately 20 cases. Then based on data from the Trademark Office, in 1987 there was a rapid increase, namely with the number of cases 236, and reached its peak in 1991 with the number of 283 cases. Meanwhile, in 2019 there were more than 400 cases. The most common cases are trademark cancellation lawsuits filed by trademark owners from within the country and abroad, including foreign well-known brands. (Hadi Purwandoko Prasetyo ; 2020, 2)

The development of the brand case itself can be followed from the case of PT Tancho Indonesia against Wong A Kiong regarding the Tancho brand. Also, there is case of PT Nabisco Foods against PT Ceres Trade and Industry Company regarding the Ritz brand (Ridwan Khairandy, 1999: 1). The case of counterfeiting fertilizer brand "ATONIK" with "ANTONIK" (Murawi Effendi, 1999: 7).Furthermore, the Case between Societe des Produits Nestle S.A. and PT Danone Biskuits Indonesia regarding the wafer Kit-Kat and Chit-Chat brands (Read. Legal Review, November 2003: 34-35), To date, 168 Marks have been canceled based on court decisions which have permanent legal force. Examples : The brands that were canceled were: WASKITE REIKI (Supreme court Decision No. 040 K / N / HAKI / 2004) and ARMANI (Supreme Court Decision No.15 PK / N / HAKI / 2004). ((Hadi Purwandoko Prasetyo ; 2020, 25

With its rise of mark cases above, it is necessary to study how the protection of well-known marks and marks in Indonesia follows the law on trademarks and geographic indications and also how to protect marks according to International marks.

2. Research Method

This research methodology uses empirical normative juridical methods.Through a normative juridical research method, this study explores an array the legal materials. This research method examines the law as a basis for guiding various fields of life that regulate order and justice. (Sri Mamudji ; 2005, 15) The research typology used is descriptive in nature, and therefore, it accurately describes a particular individual, symptom or group to determine the frequency of a symptom. ((Sri Mamudji ; 2005, 17) The main data is in the form of secondary data and in turns the data are analyzed qualitatively to figure out the depth of data. Judging from its form, this study is an evaluative study because it can spur further research. (Soerjono Soekanto ; 2012, 32)

In normative legal research, the secondary data are employed. It consists of primary legal material, secondary material, and tertiary material.

a. Primary legal materials
   Primary legal materials used include Law Number 15 of 2001 concerning Marks; Law Number 20 Year 2016 concerning Marks and Geographical Indications; Law Number 37 of 2004 concerning Bankruptcy Law.
b. Secondary legal materials
   Secondary legal material is legal material that can provide an explanation of primary legal material.[11] Secondary legal materials include research results, books, literature, scientific articles, and journals that discuss Intellectual Property Rights, especially regarding Trademarks, and Civil Procedure Law.
c. Tertiary legal materials
   Tertiary legal materials are materials that provide instructions and explanations for primary and secondary legal materials. The tertiary legal material used consists of the Large Indonesian Dictionary, and *Black's Law Dictionary*. ((Sri Mamudji ; 2005, 23)

However, in relation to empirical legal research is a research method that uses empirical facts taken from the field in Directorate general of intellectual property rights in Indonesia, both obtained from interviews and direct observations of brand matters. The three data collection techniques in empirical legal research were used individually, separately and together at the same time.

3. Discussion

3.1. Protection of Mark Rights through Mark Disputes According to the Law concerning Mark

Mark rights explicitly according to Law Number 20 Year 2016 concerning Trademarks and Geographical Indications are referred to as immaterial objects. This is because with the brand, product of a product or service can be distinguished from its origin, quality and guarantee that the product is original. A mark is something that is affixed or attached to a product, thus mark is not the product. Sometimes, what makes a product expensive is not the goods or services but the mark or brand, because after the product is purchased, the brand cannot be enjoyed by the buyer. Therefore, a brand is an immaterial object that does not provide anything physically, because what is enjoyed by the buyer is the product, whereas the brand only provides inner satisfaction for the buyer. (OK Saidin ; 2015, 47)

In the consideration of Law Number 20 Year 2016 concerning Trademark and Geographical Indications in the section considering item a it is mentioned that in the era of global trade, in line with international conventions that have been ratified by Indonesia, Marks and geographical indications play essential roles particularly in sustaining fair and equitable business competition. Marks and Geographical Indications play essential roles particularly in sustaining fair, equitable business competition, consumer protection, as well as protection for domestic Micro Small Medium Enterprises and Industries.

This is due to the increasingly competitive business competition due to the emergence of globalization, thus businesses must protect their marks through trademark registration, thus their marks have legal protection against trademark violations that can harm business actors. (Khoirul Hidayah ; 2017, 58)

Trademark according to Law Number 15 of 2001 is a sign in the form of a picture, name, word, letters, numbers, color arrangement, or a combination of these elements that have distinguishing features and are used in baranag and service trading activities.In the new Law, Law Number 20 Year 2016 concerning Brands and Geographical Indications, the understanding of brands has changed and provides a more complete explanation of the signs that can be displayed graphically in the form of images, logos, names, words, letters, numbers, arrangements color, in the form of two or three dimensions, sound, hologram, or a combination of two or more of these elements to distinguish goods and or services produced by persons or legal entities in trading activities of goods and or services. (Khoirul Hidayah ; 2017, 63)

According to some experts there are notions about the brand, among others:

1. H.M.N. Purwo Sutjipto gives the formula that the mark is any sign, with which a particular object is personalized, thus it can be distinguished from other similar objects.(H.M.N. Purwo Sutjipto ; 1984, 3)
2. R. Soekardono delivers his opinion, that a mark is any sign with which a particular item is made, which also needs to be a personal origin or guarantee the quality of the goods in comparison with similar goods made or traded by people or other corporate bodies.(R. Soekardono ; 1983, 5)
3. Mr Tirtaamidjaya citing Prof Vollmar's opinion provides the formula that a company'smark or trade mark is a sign affixed on the goods or he is on the packaging, the point is to distinguish the goods from other similar goods. (Tirtaamidjaya ; 1962, 35)
4. Ius Soryatin expresses his opinion that a mark is used to distinguish the goods concerned from other similar goods, therefore, the goods concerned with the said mark have: origin, name, guarantee for their quality.(Soryatin ; 1980, 12)

Based on the opinions of the experts as well as from the law regarding the mark, it can be concluded that the understanding of the mark is a sign to distinguish similar goods or services that are produced or traded by persons or legal entities with goods or services produced by others, which has a distinguishing power or as a guarantee of its quality and is used in trading or service activities.Thus, the absolute requirement that must be fulfilled by every person or legal entity wishing to use a mark, and therefore the mark can be accepted and used as a trade mark, is that the mark must have sufficient distinguishing power, so as to distinguish the goods produced by a company from goods or services produced by other companies.

In the history of the law concerning mark in Indonesia, it was noted that during the Dutch colonial period the Regulatory Industriele Eigendom (RIE) was published in Stb. 1912 No. 545 Jo. Stb. 1913 No. 214. This provision continued to apply until finally in 1961 the provision was replaced with Law no. 21 of 1961 concerning Company Marks and Trade Marks. After surviving for almost 31 years, the Trademark Law of 1961 was revoked and replaced with Law Number 19 of 1992 concerning Marks.Subsequently in 1997, the 1992 Trademark Law was renewed by Law Number 14 of 1997. After the ratification of WTO membership in 1994, the trademark settings were then adjusted to TRIPs, then Law No. 14 of 1997 was declared invalid and replaced with Law Number 15 Year 2001. And finally, it was revoked with Law Number 20 Year 2016 concerning Mark and Geographical Indications (hereinafter referred to as Trade Mark Law). (.(Soryatin ; 1980, 17) According to Article 11 of the Trade Mark law, the right to a mark is an exclusive right granted by the state to the owner of the mark which is registered in the public register of the mark for a certain period of time by using the mark itself or giving permission to other parties to use it. According to Article 35 of the Trade Mark Law, registered marks receive legal protection for a period of 10 (ten) years from the date of receipt and that period can be extended.

As one of human intellectual works, the brand is closely related to economic and trade activities. Therefore, brand protection is very important in addition to being an asset that can generate profits for the brand owner, as well as a tool to protect consumers from fraud on the quality of certain goods. And consumers will feel disadvantaged if the brand that they think is quality, was produced by other parties with low quality so that it can reduce the company's reputation.

There are several principles contained in the Trade Mark Law, as follows: (M. Yahya Harahap ; 1996, 33)

1) First to file principle means that the first registrant who applies for a mark is a party recognized as the trademark holder;
2) Marks to be registered may not cause confusion and mislead with a mark that is generally well known and owned by another party;
3) The principle of speedy resolution of trademark case law is the settlement of cases through a commercial court, and there is no appeal, thus the appeal is immediate;

According to Article 2 paragraph (2) of the Law, The Marks as referred to in section (1) point a comprises:

a. Trademark is a brand used on goods traded by a person or legal entity to differentiate from similar goods, For example Mc Donalds, Honda Motor, Aqua and others;

b. A service mark is a brand that is used for services traded by persons or legal entities to distinguish them from similar services, for example JNE, RCTI, Pasteur Travel and others.

Regarding trademark registration, a mark cannot be registered if the mark contains elements as regulated in Article 20 of the Trade Mark Law. Whereas the application for a mark which is submitted, the application must be rejected by the Directorate General if the mark meets the provisions of Article 21 of theTrade Mark Law. But even though at first a brand has no similar goods, if a brand is used continuously by the consumer, then the customer can distinguish the brand from other brands. So these brands can be registered.(Eddy Damian ; 2002, 78)

Brand protection according to Trade Mark Law adheres to the constitutive principle and the first to file principle. The principle of being conservative means that the protection of trademark rights is only given if a person or legal entity has registered the mark, while the first to file principle means whoever registers the trademark for the first time is considered as the owner of the mark. However, trademark registration can be canceled if the mark has similarities with another person's famous trademark, the same as another person's trademark that has been previously registered or is filed in bad faith.

Regulations regarding cancellation of trademarks are regulated in Article 76 Trade Mark Law. Claims for trademark cancellations are filed by interested parties for reasons of trademark cancellation specified in Article 20 and/or 21 Trade Mark Law. An unregistered trademark owner can file the lawsuit after submitting an application to the Directorate General of Intellectual Property Rights. The cancellation claim was filed with the Commercial Court. And a trademark cancellation claim can only be filed within five years from the date of trademark registration. A lawsuit can be filed indefinitely if the mark is contrary to morality, decency and public order.

Revocation of the mark is carried out by the Directorate General of Intellectual Property Rights by crossing out the mark concerned from the general register of trademarks by providing notes on the reasons and date of the cancellation. The crossing out of the registration of a mark from the general Register of Marks shall be announced in the official News of the Mark Cancellation and deletion of trademark registration results in the termination of legal protection for the mark concerned.

In resolving trademark rights disputes, there are several legal settlement options regulated in Trade Mark Law. The trademark infringement lawsuit can be in the form of: (Soryatin ; 1980, 31)

1) Civil claims.
   Settlement of trademark disputes through civil law is regulated in Article 83 of the Trade Mark Law, namely that the trademark rights holder has the right to file a claim for compensation to the Commercial Court for losses suffered and to request the Commercial Court to order the termination of all acts related to the use of the mark.;
2) Criminal indictment
   Criminal provisions for trademark infringement are regulated in Article 100-103 of the Law. Filing a civil claim can still be filed together with the civil registry. The civil process does not invalidate the right of the state to make criminal charges;
3) Settlement of dispute through alternative dispute resolution / ADR (alternative Dispute Resolution) in the form of negotiation, mediation, conciliation, and other means chosen by the parties in accordance with the applicable laws stipulated in Article 93 of the Trade Mark Law.
   The one of the ADR is Mediation, it is the third party technique that is closest to negotiation. The process is also sometimes described as conciliation. Essentially, mediation is a process of negotiation, but structured and influenced by the intervention of a neutral third party who seeks to assist the parties to reach an aggreement and mediator does not make an award. (Karl Mackie and David Miles ; 1995, 55)

Several formulaed examples of cases of famous brands that have received a ruling from the Supreme Court, among others : (Supreme Court Decree No. 02K/N/HAKI/2004, 2004 : 6).

a. The Benetton brand case (No. 02K/N/HAKI/2004)
   The plaintiff is the owner of the brand and the holder of the well-known BENETTON brand that has been known in many countries including Indonesia. This brand is known in Italy since 1983 for clothing and

the like. The Defendant was a company that registered the BENETTON trademark in 1994 for class 34 namely cigarettes, cigars, gunshot, cigarette pipes, matches.The Supreme Court has won the BENETTON brand from Italy because it has fulfilled the elements of a well-known brand, even though in a different class of goods.

b. The VERSACE brand case (No. 06K/N/HAKI/2004)
The plaintiff is the owner of the brands VERSUS (classes 09 and 18) and VERSUS GIANI VERSACE (classes 08, 18, and 25) which are well-known brands in Italy. The Defendant is the owner of the VERSUS mark which was registered in 1996 in classes 24, 25 and 42. The Supreme Court granted the plaintiff's request to cancel the defendant's trademark because it was deemed to have committed bad intentions in registering the mark.

c. The Cap Kaki Tiga brand case (No. 85PK/Pdt.Sus-HKI/2015)
The plaintiff is a British citizen named Russel Vince and the defendant is the owner of the Cap Kaki Tiga brand (named Wen Ken Drug) which is already registered in Indonesia. The Supreme Court finally canceled the Cap Kaki Tiga brand because it had something in common with the Isle of Man state symbol.

3.2. Protection againts International Marks

The regulation on Intellectual Property Rights (IPR) in international agreements is inseparable from the role of two international organizations namely WIPO and WTO. WIPO is a special UN body formed in 1967 with the aim of encouraging creativity and introducing IPR protection throughout the world.WIPO was formed based on the WIPO convention signed in Stockholm on July 14, 1967. WIPO houses two classic IPR conventions namely the Bern Convention on the Protection of Art and Literature (Switzerland, 1886) and the Paris Convention on the Protection of the Rights of Industrial Property (1883).Meanwhile, the history of the establishment of the WTO is related to the beginning of the emergence of the International Trade Organization (ITO) and GATT. (Khoirul Hidayah ; 2017, 82).

Protection of Intellectual Property Rights became a necessity after the birth of the GATT agreement (Generale Agreement on Tariff and Trade) in 1947. The main mission of GATT is to reduce barriers to trade in the form of import duties and other non-tariff barriers.Then, after the conference in Marrakech in 1994, it was agreed that the GATT framework would be replaced with a world trade system known as the WTO (World Trade Organization). In terms of organization, there is no legal relationship between WIPO and WTO, but the regulation regarding IPRs governed in TRIPs under the auspices of the WTO is more complete than those stipulated by WIPO

Under the auspices of the WTO, various negotiations have taken place in various rounds of trade meetings in several member countries known as the Uruguay Round. The final results of the Uruguay Round were agreed upon by TRIPs on April 15, 1994. The TRIPs Agreement was one of the Final Act Embodying The Uruguay Round of Multilateral Trade Negotiation signed in Marrakech in April 1994 by 124 countries and 1 representative of the European Economic Community. Indonesia is one of the countries that signed it and has ratified it through Law No. 7 of 1997 concerning the Ratification of the Agreement on the Establishment of the World Trade Organization (WTO). The enactment of TRIPs for Indonesia was a juridical consequence of the inclusion of Indonesia as a WTO member country in 1994 in Marrakech, Morocco. The scope of IPR protection in TRIPs includes copyrights, trademarks, patents, industrial designs, geographical indications, integrated electrical circuit designs, confidential information. For international protection, the TRIPs suggest that member states adapt their national regulations to some of their derivative conventions namely the Paris Convention (1967); Bern Convention (1971), Rome Convention (1961) and Treaty on Intellectual Property in Respect of Integrated Circuits (1989). (. (OK Saidin ; 2015, 35)

There are 6 (six) conventions that have been endorsed by the Indonesian government, so that Indonesia must adjust the legislation regarding IPRs with international agreements. Some international conventions or treaties have been ratified by Indonesia, as follows: (. (OK Saidin ; 2015, 37)

1. Paris Convention ratified through Presidential Decree No. 15 of 1997;
2. Patent Cooperation Treaty ratified through Presidential Decree Number 16 of 1997;
3. Trade Mark Law Treaty ratified through Presidential Decree Number 17 of 1997;

4. The Bern Convention which was ratified through Presidential Decree Number 18 of 1997;
5. WIPO Copyrights Treaty which was ratified through Presidential Decree Number 19 of 1997.
6. WIPO Performance and Phonograms Treaty (WPPT) with Presidential Decree Number 74 of 2004.

In addition, there are several international bilateral agreements, as follows : (. (OK Saidin ; 2015, 38)

1. Presidential Decree Number 17 Year 1988 about Ratification of the Agreement on Reciprocal Legal Protection of Copyright between the Republic of Indonesia and the European Community;
2. Presidential Decree Number25 Year 1989 concerning Ratification of the Agreement on Reciprocal Legal Protection of Copyright between the Republic of Indonesia and the United States;
3. Presidential Decree Number38 Year 1993 concerning Ratification of the Agreement on Reciprocal Legal Protection of Copyright between the Republic of Indonesia and Australia;
4. Presidential Decree Number56 Year 1994 concerning Ratification of the Agreement on Reciprocal Legal Protection of Copyright between the Republic of Indonesia and the United Kingdom;

Because Indonesia has ratified TRIPs, Indonesia shall provide protection for IPRs. There are 3 (three) basic principles for the protection of IPR, as follows: ((Khoirul Hidayah ; 2017, 49)

a. National Treatment Principle as the principle that the state will provide IPR protection and equal treatment both to its own citizens and to foreign nationals;
b. Most Favoured Nation Principle as the principle of enforcing waivers, privileges and the right to take precedence or exemption granted by one member country will be granted directly and without conditions to other member countries; dan
c. Minimal standart Principle as the principle that applies the minimum standards that must be obeyed in the regulation of IPR in the national law of each member country.

The TRIPs Agreement provides guarantees for developing and underdeveloped countries to meet their needs and interests, so that member countries are allowed to adjust and change their laws and regulations to meet the needs of each country.The Trade Mark Law explanation stated that international treaties that had been ratified created an obligation for Indonesia to adapt national law to the provisions in the international agreement, one of which was the regulation of trademarks.With developments occurring in the field of brands, there is protection for new types of marks called non-traditional marks, and therefore in Trade Mark Law protection of marksdoes not only include sound marks, three-dimensional marksand hologram marks, but also includes non-traditional marks. Some improvements in the arrangement of the mark in order to provide better service, especially for the applicant of the marks.Among them, providing legal protection for registered trademark owners from trademark violations committed by other parties by increasing criminal sanctions, especially for trademark violations that threaten human health, the environment, and can cause death.

4. Conclusion

The development of information and communication technology is very rapid in the current era of global trade, making it easier for people to get information and then imitate other people's products and use marks that are similar to famous marks in their business activities. Thus, it is necessary to have brand regulations in Indonesia and in the international world that can provide protection for these famous marks. In Indonesia, trademark regulation is regulated by Law No. 20 of 2016 concerning brands and geographic indications, brand protection provided by Law No. 20 of 2016 is very adequate, this has been proven that many cases of famous brands that were imitated were canceled by Courts in Indonesia. Therefore, the legal protection of famous marks and marks provided by the Trademark Law as stipulated in Article 6 paragraphs (3) and (4) is in line with the provisions of TRIPs. Also other international brand regulations such as those regulated by the Paris Convention ratified through Presidential Decree No. 15 of 1997, Trade Mark Law Treaty ratified through Presidential Decree Number 17 of 1997 and WIPO Copyrights Treaty which was ratified through Presidential Decree Number 19 of 1997.

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Abortion Laws in Bangladesh: An Analysis from the Human Rights Perspective

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Abstract
It becomes breakneck to turn to covert abortions for legal contextual contentions, resulting in a high rate of abortion death. Aside from society's ignorance, there are several other contentions directly contributing to abortion mortality problem, such as laws governing abortion in Bangladesh. Existing law appears to be unfavorable and incongruous with various Bangladeshi contexts such as serious abnormalities of mother or unborn, sexual crimes or non-consensual pregnancies other than gender-identifying abortions and consensual pregnancies. It is critical to have a discussion on subject in order to understand the effectiveness and flaws of existing legislation and to identify appropriate alternatives. The research is conducted using qualitative method, making a comparative study to discuss the need to think in novel ways in order to alleviate problems arising from practicing and relying on archaic regulations and current state of abortion laws in Bangladesh and the need for reformation in this regard. This paper takes an intense outlook at existent abortion rules and regulations in order to demonstrate that, through a global context, some of them make significant legislative or health care sense. Although factors have contributed to existing law change for women rights, sexism, religious faith, virtue, or administrative indifference, and whether there are any contemporary abortion laws are suited for specific justification. I am not arguing in support of literal decriminalization of every abortion cases but trying to say that law should be flexible to some extent to face problems resulting from cynical legal provisions inconsistent with constitutional commitments and human rights.

Keywords: Abortion Laws, Bangladesh, Decriminalization, Deliberative Pregnancy Termination, Human Rights

1. Introduction

1.1 Introduction of Study

After the liberation war, Bangladesh paid special attention towards rigidity of abortion laws when circumstances demanded so and eventually it was allowed for some victims at that time systematically. When National Population Policy came during 1976, it tried to legitimize abortion. But till now, under Bangladeshi Penal Code of 1860, unless for safeguarding the life of an expectant mother, is forbidden. Or else it is regarded as a punishable criminal offence. Needless to say that menstrual regulation is playing as a indulgent portion of Bangladesh's national family planning programme since 1979. But there is no universal law regarding the topic to discuss the issue directly. Because of contextual need, making an universal law can be the milestone in the history of fighting against obsolete thoughts and laws relating to deliberative pregnancy termination. The truth that no matter the more stringent a legal system be, it can always be broken, both inside and beyond boundaries. For resorting to furtive abortions for

contextual contentions, it becomes withering which results high number of abortion mortality. Besides with unawareness of society, there are some other factors acting a straight role behind abortion mortality issue such as laws relating to abortion in Bangladesh. Existing law seems unfavourable, and incongruous in some context of Bangladesh. it's crying need to discuss on the topic to understand the effectiveness and shortcomings of existing laws and to find out solutions accordingly and to discuss the need of thinking in new way getting out of old thoughts to alleviate problems borne out of practicing and depending upon obsolete laws and also about existent scenario of abortion laws in Bangladesh and the need of reformation in this regard.

1.2 Study Scope

It's very urgent to discuss on the topic to understand effectiveness and shortcomings of existing laws and to find out solutions accordingly, for which the study aims. But the study will not discuss each and every social aspects behind such outlook of the society. Legal area will be focused mainly here. The study will not cover all the international perspective regarding this. But legal discussion under the national and to some extent, international perspective will be the main theme of the research.

1.3 Studied Materials

To gather knowledge about adhering factors with my research topic, I have taken help from some books and journal articles regarding the topic which have helped me to understand problem more and fulfill the research gaps of those papers and to enrich mine. Some papers helped me to understand the situation of Bangladesh. Such as papers by Raana Ahmad, University of the Witwatersrand, Profulla C. Sarker, and Bonnie Crouthamel. To understand the theoretical, international and regional views on the problem, I have gone through some related articles. Such as articles by Shapiro, Robin West, Eileen McDonagh, Ronald Dworkin's, Jennifer Ruger and, Redwanur M Rahman. To gather knowledge about abortion law scenario of existent world, article of Marge Berer assisted me basically.

2. Study Methodology

The research is qualitative in nature to achieve the estimated aims basing on primary data and secondary information. I have tried to reach the aims of study through a comparative discussion among regional laws regarding deliberate pregnancy termination of different regions such as India, UK, USA, Ethiopia, Africa etc., international and human rights standards. Primary information is collected from the statutory and external legislation are referred i.e. the Abortion Act of 1967 (United Kingdom), the Constitution of Bangladesh, 1972, the Penal Code 1860 etc. Secondary data on the topic collected from sources such as books, journal article, newspaper reports, blog articles, websites will be analyzed to gain the goals of research.

3. Conceptual Framework

For several contentions, pregnancy termination is restricted in Bangladesh. Previously the termination process was risky and life threatening. But now it has become easier with the improvement of medical science. The process is no more withering but not also legal. It doesn’t anyhow mean that it’s not available and people no more try to get access of it. Rather the contemplation of availing withering ways to terminate pregnancies has become popular due to the imposition of legal barriers which contribute a lot in amplifying rate of maternal mortality. My paper will further advocate for making the existing laws liberal and flexible in a way which will assist in reduction of maternal mortality rate resulting from accessing withering pregnancy terminating processes and securing women rights and also promoting human rights. In compliance with the proposal, global legal context will be discussed.

3.1 What is Abortion or Deliberative Pregnancy Termination?

It is a process conducted medically to end pregnancy. In other words, it's a health-care claimed by and available to pregnant girls and women who have the possibility of becoming pregnant. It is estimated that in every year, among 4 pregnancies, 1 pregnancy ends in abortion throughout the world. Withering abortion means a process to terminate an unexpected or unplanned pregnancy conducted by any person who is not skilled or lacks proper training or education to do so in any unsuitable ambience which didn't follow the medical standards to conduct the abortion process. This withering process may result in maternal deaths and other health issues to the woman receiving the withering services. As assumed that about 25 million unprotected abortions are conducted each year among which a major number comes from the developing countries. It is reported that these maternal deaths resulting from withering abortions are preventable.

3.2 Criminalization and Decriminalization of Deliberative Pregnancy Termination or Abortion

Criminalizing abortion means making it illegal by imposing legal restrictions and restricting abortions under laws to reduce the rate. But in actual it cannot reduce the rate rather it binds people to seek withering ways. It is seen that many countries have reformed and shaped their laws to make easier access to abortion. But in Bangladesh, it's criminalized under the Penal Code of Bangladesh. Which makes abortion illegal until mother's life is in risk. Violators of the provision are punished under the same code. Imposition of restrictions renders health-care providers not to serve the claimants who do not fulfill the requirements provided under laws. Restricting women doesn't prevent them from accessing withering abortion.

Decriminalizing deliberative pregnancy termination includes the abolishing of barriers or measures taken under law or policies creating prohibition. Such as not punishing anyone for rendering safe abortion, not penalizing for undergoing abortion, not conducting legal proceedings against abortion. In areas where authority imposes restrictions, laws hardly allow are considered as exceptional situations. Such as, rape or incest pregnancy, heavier health issues, life risk or health risk of pregnant women. It hardly prevents people to access withering abortion processes.

4. Theoretical Framework

I've tried to present a discussion to provide a strong support in favour of my argument regarding decriminalization of deliberative termination of human pregnancy in Bangladesh in some necessary cases along with the life-saving purpose, through this paper. In this part, I have thrown light on some legal theories those are also supporting the decriminalization argument. Such as Jural Postulate theory provided by Roscoe Pound, theory of liberalism, theory of health right and reproductive right, equal treatment, interest theory of rights and social choice.

4.1 Jural Postulate and Decriminalization of Deliberative Pregnancy Termination

Behind most of the legal issues existing in the society, there are conflict of interest of parties. Pound through his theory has rendered an useful mechanism to unravel the situation of interest conflict. Interest can be private, common or convivial. Laws, as per its creator of such concept, seems to be a modernization instrument. Although community is indeed one bit forward than legal statute, its policy must attempt to find a middle ground across both statute and community. Issue of deliberative pregnancy termination is a battle among the mother's as well as foetus's complementary protection. However it can be said that Pound's theory seems as a very relatable theory in the existent scenario raised in this paper and particularly in the abolishment of existing legal policy in this field to remove the laws outlawing deliberative termination of human pregnancies. This approach is reasonable since it considers current societal exercise prior proposing or enacting changes to that current laws. While considering statistical facts on pregnancy termination, it is evident here that issue is the amount of pregnancy termination

conducted. Furthermore, the circumstances where deliberative terminations are permitted differ greatly under regional differences. Under Pounds approach, while making legislation, lawmakers should enumerate 4 factors.

4.2 Liberalism, Equal Treatment, Personal Freedom, Access to Reproductive Right and Decriminalization of Deliberative Pregnancy Termination

Primary message of liberalism was always that a free ethical individual is one who voluntarily chooses to behave morally. From progressive viewpoint, it's difficult to ignore the inference that such female who hardly has option but to stay expectant beyond her consent seems to be anything much less than living person. Personal freedom is promoted by liberalism followers, who desire to reduce the government's responsibility. The pregnancy termination dispute seems to be primarily among traditional reformers as well as sociocultural politicians inside right as well as left libertarianism proponents usually notice as a resolved question concerning personal freedoms, as participants encourage lawful pregnancy termination on demand as portion of a female 's liberty to govern her physic and its functional areas. McDonagh contends that female 's entitlement to terminate pregnancy must viewed as purpose regarding safeguarding oneself towards unwilling intrusion, absorption, along with exploitation over physical appearance via undesirable foetus, instead freedom select treatment methods without thrusting of any second authority. Donagh's redesigning of essential freedom for discontinuing fetus has 2 ramifications, most of those seem critical regarding issue of termination. Therefore, if embryo would need to be viewed as an individual, entitlement to abortion means its freedom to decide pregnancy termination unrestricted of governmental intervention have to make reasonable adjustments to embryo's right of survival' as also considered in *Roe* case. It should bolster along with strengthen beleaguered wilful pregnancy termination freedom campaign, also yet prompting a reassessment of legislative, ethical premises which have shaped the reasoning of campaign's key assertions towards this point.

4.3 Modern Feminism, Pro-Choice Theories, Fetus's Person-hood and Cultural Relativism

By recognizing ethical obligations conveyed by people with differing assertions, Ronald Dworkin's excellent Life's Dominion suggests a new and perceptive route out of relevant deadlock. Dworkin proceeds with blaming segmentation of culture over deliberate termination a pregnancy on a theoretical argument. The question of if embryo is a personality has been debated, reflecting more secondary view of reasons for safeguarding person's existence; citing usual objections, writer observes that the claim for embryonic identity, values, and entitlements cannot be taken as serious claim. Rather, the proponent suggests a separated premise for preserving fetus's existence, which he claims is based on a cultural resolution about an essential ideology that is every individual life's inherent, inalienable, and precious nature. His assertion starts with restrictive assumptions and concludes with progressive suppositions. Dworkin's goal in his book seems to be to create a common medium which honors two very different disputed morals, female's freedom to self-decision and the unborn's inherent individuality.

Several strong and intriguing viewpoint in this field is presented by proposing authors. It contends as a expectant lady has the entitlement to defend herself against the bodily incursion of conception. The pro-choice viewpoint is extremely varied and inherently incompatible, ranging from pragmatic feminist, which recognizes ethical importance of terminating pregnancy, to radical modern feminist doctrine, considering the fetus as if it were a piece of flesh. Supporter makes a quite enlightening statement regarding person-hood doctrine in comparing to innovative pro-choice concepts, arguing that former theory is much credible in rejecting the dialect of such foetus's protections as well as priorities, arguing that assumption of privileges has become quite popular in opposing promotional bargaining. Liberties and equity are important considerations in self-interested mature agreements, however they are inappropriate in describing sociological situation of embryos and babies born, those are unable to negotiate with remaining of the political groups at equal distance. Their awareness isn't up to par with that of a rival sociocultural actor.

5. Abortion under the Legal Context of Bangladesh

Deliberative pregnancy termination law is modeled on the Indian Penal Code, 1860 in Bangladesh. The termination is legal when it is done in positive faith to save a female 's existence. Around 72s, legislation was partially relaxed for females being sexually attacked throughout conflict separating eastern Pakistan and culminated in the formation of Bangladesh. Notwithstanding the law's cynical provisions, menstruation control treatments have been made accessible under government's policy initiatives. Such operation doesn't contravene existing pregnancy termination legislation, according to existent administration, because it offers menstruation control as a population control approach rather than as an adjunct treatment. Moreover, since prosecution of the crime of terminating conception involves the establishment of fetus, use of menstruation management renders it very difficult for prosecution to gather the requisite evidence. So intentional pregnancy termination is not permitted in this territory, as per existing laws unless that is performed for a female 's life protection. This chapter presents a discussion on overall legal and coordinating contexts of Bangladesh influencing abortion situation.

5.1 Sociocultural, Legal Context of Bangladesh and Abortion

Voluntary termination of pregnancies must be a common occurrence in a region like ours, where percentage of rape and sexual assault cases is frighteningly significant, the tendency to get male children is still pushing, however conception incidence is greater, the ignorance percentage is fatalistic, also the government bears no liability for any infant birthed inside its land. The illicit way to termination of pregnancy leads to a slew of issues, notably dangerous abortions that jeopardize the lives of both the mother and the baby, suicides, stigmatization, and various types of psychological, emotional and also physical suffering for females. Considering the deteriorating circumstances, the highest Court of this land delivered approximately 2 years ago (18 May 2020) questioning whether some abortion-related provisions of the concerned legislation should not be ruled discriminating as well as in violation of the constitutional promises. It released such order following a sitting on a writ hearing brought by learned counsel Dr. Nasrin, contesting the dubious laws that criminalize termination of pregnancy on the basis that they are discriminating and in violation of promises agreed constitutionally. It is assumed that the reformation will not only protect the Constitutional promises but also will help to face such social enemies like rape, and other sexual crimes such as incest, pedophilia etc. The latest Bangladeshi ruling regarding the issue from High Court Division, which asked why willful pregnancy termination adhering portions of our Penal Code should not be altered, provides people, as well as decriminalization supporters renewed hope in their struggle for entitlement for securing as well as legalized pregnancy termination. Such existent provisions directly conflicts with basic guarantees ensured by the Constitutional text, especially the life safety, individual liberty, privacy as well as personal freedom. Study conducted in Bangladesh found that, rate of pregnancy termination remained thirty five times greater among single females than among wedded teens. Deliberative pregnancy termination is stigmatized in this nation because of various misunderstandings as well as deeply held customary, social, as well as spiritual views. Youngsters are unable to freely address pregnancy termination, ask for guidance or psychological support, or easily obtain secure options as a result of this.

In Bangladesh, apprehended main compelling reason opposing legalizing pregnancy termination in this country is fear of possibility of leading to gender-identifying pregnancy termination. Gender-identifying pregnancy termination occurs when fetus is terminated on ground of gender discovery of unborn, it is common in case of conservative countries which is discriminatory towards women. Prohibition on gender-identifying pregnancy termination, on contrary, will may not stop gender identifying since they do anything for addressing the phenomena of choice for sons or associated fundamental contentions. The best approach to counteract gender discrimination is to encourage equity as well as fairness at all levels of government. Both at social along with systemic stages, common public plays vital role in joining up also voicing out, as well as sharing accurate facts regarding female's medical care, privileges. Absence of information along with transparency in communities, as well as disrespectful approaches and malpractice by concerned therapists and medical experts caring for younger generations, are all much too frequent. Complete education allied with, which covers MR and secure pregnancy

termination, should be included in the government educational syllabus to enhance young group's awareness regarding this.

5.2 Relevant Laws of Bangladesh

5.2.1 Penal Code 1860

Offenses involving placental abruption, damage to foetus, prenatal exposures, and birth concealing are covered in Chapter XVI of the Penal Code. Section 312 talks about the punitive action of crimes affiliated to causing placental abruption. It states that anyone who knowingly or not in compliance with the law forces a pregnant woman to terminate the pregnancy in order to save her life will be penalized with a period of imprisonment up to three years, a fine, or both. It further states that if the victim woman feels the movement of the child in her womb, the criminal will be punished with either type of imprisonment for a time up to seven years, as well as a fine. The pregnant lady causing willful pregnancy terminations to herself is also included in the scope of this rule, according to the elaboration. When such offence is committed without victim's consent, it shall be punishable with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. The remedy under this provision doesn't require the movement of the child in womb even. According to Section 314 of the Code, relating to loss of life caused by act done with aim of causing forceful pregnancy terminations, anyone, with the aim of causing unlawful pregnancy terminations of a woman with child, commits any act that causes the death of such lady, shall be punished with imprisonment of either kind for a time that may prolong to 10 years, as well as a financial penalty. This section further discusses that in case the offence is done without the assent of the lady, concerned person shall be punished either with imprisonment for life, or with the punishment above-mentioned. Here, the knowledge of offender about the chance of death of the woman in result of such act is unnecessary.

Offence for preventing the child being born alive or to cause death after it is brought into the world:
Anyone who, prior birth of any baby, does any deed with the sole aim of stopping that baby from being brought into the world or resulting it to die after the birth, and succeeds in attempting to prevent that child from just being born alive or causing it to die after its birth, shall, if such act is not done in good faith for the purpose of protecting the mother's life, be punished with imprisonment for a period of extent that may prolong to ten years, or with monetary penalty, or both, be punished. Next section talking about the offence resulting the killing of unborn baby via a culpable homicide, whoever commits such offence under such circumstances, that if he in result caused loss of life he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend till ten years, and subject to fine.

Thus, it can be said that in Bangladesh, there are no statutory legal provisions other than policy regarding menstruation talking directly about abortion or willful pregnancy termination.The statutory laws even don't use the word 'abortion' or terminology 'deliberative pregnancy termination'. So, basic demand in this situation is a specific law dealing with willful pregnancy termination. It is critical to point out the life risk of expectant mother always which is only permitted in this region. Health risk cannot be considered less than that of life risk. It is very frivolous to avoid health risk of citizens pronouncing life right in Constitution because right to emergency medical care endangers entitlement to life. Various jurisdiction have declared that health right and reproductive right, right to medical care are rights inter-connected to entitlement to life. The right is judicially enforceable in Indian, South African context even though that is not a fundamental right in that region. If a country with that economic status can allow such right as enforceable, Bangladesh can also do this. However, serious health risk and other unavoidable contentions should be acknowledged as permitted circumstances of willful pregnancy terminations.

5.3 Laws on the Other Hand Supporting Reproductive Right

5.3.1 Constitutional Laws, Fundamental Rights, Human Rights, and Decriminalization of Deliberative Pregnancy Termination:
Article 15(a) of the Bangladeshi Constitution presents that medical treatment or care as a basic need of life shall be ensured to the nationals by the country as a major responsibility for constructing a clear path for reaching to the

goal of steady development in overall standard of living of countrymen. Again Article 18 of the supreme law of Bangladesh while talking regarding people's health, talks about state's obligation to enhance nutrition along with public health promotion level to be observed like fundamental function of the country. Ensuring medical treatment, improving public health, these responsibilities are basic requirement not only in developing citizen's standard of living but also securing lives of people which is also ensured by our constitutional laws. Right to access to medical treatment, health care is the main element of right to life accessibility. Though those are not fundamental rights according to the constitutional text but, those cannot be ignored since those are preconditions in ensuring another fundamental right declared under Article 32 of Constitution. Article 32 safeguards right to life and individual's liberty. The word 'liberty' introduced in Article 32 whether can be extended to liberty of deliberative pregnancy termination, is an non-raised question. However it's a matter of contentment that our constitution ensures safeguard to personal liberty. Articles 7, 26 along with Article 44 provide extra protection for adhering provisions as well as ensured rights under the Constitution.

Bangladeshi Constitution renders protection to the incorporated fundamental rights in it by itself through Articles 26, 44 and 102. But the fundamental principles of state policy recognized in Part II of the Constitution are not judicially enforceable under those Articles. Recently, in various judgment, the principle is established that the fundamental rights include many rights incorporated as fundamental principles. In this way, now the fundamental principles cannot be ignored. For instances, observance of entitlement to life includes the observance of right to shelter, food and medical care etc. But the matter of regret is that, Bangladeshi judiciary has denied to accept the observance of this rights incorporated in part II of the constitution. At this time, it is influenced by the Indian Constitution blindly and in a misconceiving manner which does not have any constitutional provision like Article 7(2) of the Bangladeshi Constitution. The Bangladesh government's highest legislation and other regulation texts acknowledge health-care entitlements as well as prosperity. Bangladesh has ratified many regional and global agreements and commitments, including the International Covenants relating to political, civil, economic and social rights; and is a party to international proclamations such as the Beijing Declarations, AlmaAta, ICPD, and MDGs. Nevertheless, the health-care framework is in a bad situation due to the execution of governmental strategies and programs in the promotion of health organizations, human resources, connectivity and affordability, budget allocation, rural-urban imbalance, and the male-female divide. In the growth of the medicare sector or the provision of medical services, however neither health-care right nor the right to evolution has been formed.

5.4 Utilization of Foreign Court Verdicts, Human Rights Model as well as Interpreting Bangladesh's Constitutional Entitlements Basing on Global Human Rights Standards

The Constitution of Bangladesh, 1972 incorporates human rights. Needless to say that when the constitution was adopted at a time when it was very necessary to incorporate the rights in the supreme legal instrument. The Preamble, Part II and Part III of the Constitution directly talk about the human rights in the name of fundamental rights and FPSP. International Bill of Rights has influenced the Constitution of Bangladesh a lot. After the establishment of United Nations in 1945, it was the prime concern of this organization to protect human rights of people. For this reason, it wanted to make a treaty on human rights. Finally, after three years, the Universal Declaration of Human Rights was made which contained all the human rights. The model of the UDHR was followed while incorporating human rights in the Constitution of Bangladesh. Indian judiciary is not entrusted with the power to interpret by the constitutional text. But the Court has practiced the power by a broader interpretation given by itself. Constitution of Ireland also does not include the power directly in it. But in case of Bangladesh, the constitutional text empowers the judiciary with the jurisdiction of interpretation.

Critical analysis of international judgement have played a crucial role in the development of Bangladesh's human rights law. Several of the most important fundamental foreign Court rulings were relied on precedent from those other countries. International judgement, while not enforceable, have a lot of sway with Bangladesh's highest Court whenever it comes to fundamental rights issues, along with other things. In several situations, references to states like UK, United States, as well as Indian jurisdiction have been quite compatible. It seems important to note that in our country, selection of authority or the 'adoption' of judgement from other countries has not been driven by any overriding normative premises or analytical arguments. Moreover, while determining constitutionally protected claims matters in our country, global human rights paradigm is applied. Court's predisposition in

incorporating global human rights legislation in evaluating constitutionally protected guarantees has amplified to this point where it has been now considered like a move approaching judiciary's intervention leading to crawling unitarianism. In same way that the highest Court of this country has not formed a theoretical opinion regarding importance of global human rights law in internal matters, the highest Court of this country has not formed a theoretical perspective on applicability of universal human rights policy in internal instances.

In case of its various portion, *Ershad vs Bangladesh* is noteworthy since Court stated in relevant judgment that Courts can seldom reject global human rights duties completely. Then Court stated that whenever internal legislation seems apparently confusing as well as absent regarding such issue, local Courts must focus regarding concepts in regional along with global mechanisms, as well as also which, whenever native legislation is fundamentally incompatible with regional and global position of human rights, Jury will gather legislators' focus to certain incompatibility. In judgements of *Government of Bangladesh vs. Sheikh Hasina, Government of Bangladesh vs. Metropolitan Police Commissioner*, the highest Court echoed identical sentiments. In the *BNWLA vs Bangladesh (2011),* Court stated unequivocally that in unavailability of local legislation and practices, government's global agreements as well as commitments interpreted to be read into basic guarantees ensured under constitutional text. Considering the highest Court Jury's frequent use of both materials, the omission of global human rights legislation in this case is remarkable as well as, possibly worrisome. Thus relying on Court formed under constitutional commitment, rulings solely or even primarily might seem counterproductive in long-term, considering their unpredictability due to factors such as shifting sociopolitical climates as well as the appointment of justices on the panel. Presenting this like a question of humanitarian rights commitments could assist to support protracted success.

Depending upon shaky clinical and sociological contentions, framework regarding Bangladesh's total population attempted to legalize abortion during the first trimester after 1975. Domestic family planning strategy featured a method called Menstrual Regulation after 1978. According to a document provided by the division relating to population regulation as well as family planning, say that professionals and nurse were promoted to deliver MR supplies in every public clinics, health-care along with family planning centers. As previously discussed that Penal Code does not apply to MR, according to concerned policy document, because pregnancy is challenging or unfeasible to verify. Notwithstanding MR amenities accessibility, which are also supported by governmental equipment namely the document stated in previous paragraph, numerous people take recourse to illegal and unsecured pregnancy termination, owing to a paucity of understanding, legislative confusion, and the classificational penalization of pregnancy termination in actuality under the Code of 1860. Legalization of pregnancy termination as well as removal of operation from the grips of imperial remnant makes things easier for females. As well as the recently submitted petition is undoubtedly the best move towards such direction. In case of resulting out counter consequence from 2020 petition challenged would have to declare challenged provisions unlawful in its current format, as well as raise the parliament's focus to doctrinal contradictions of unduly wide criminality. In this respect, Constitution's greater comprehensive protections can indeed be brought into global human rights program's legal requirements like entitlement to the right of getting equal status, right of people to be treated fairly without prejudice, right to security, privacy, and liberty.

6. Abortion under the Regional, International and Human Rights Laws

6.1 Past to Present of Abortion Laws

In late 19th century, practically almost all government had made pregnancy terminations illegal. The European colonial system such as, French, Italian, Portuguese, and Spanish government were the biggest contributors of such legal policies, as those respective laws were enforced by them to prevent abortions on its territories. As per the detailed web-page of UN Population Division on laws regarding pregnancy terminations, there are 3 major groups of legal traditions wherein abortions are expressly forbidden, all of which emerged primarily in colonial era from the 1600s. During 2004, a study of WHO relying on assumptions as well as information from every regions identified that more logical facts for intentional pregnancy termination are extended, the fewer risks from perilous medical processes occur. That study discovered, in several states only six contentions for permitting abortion exist. Those are: Life-threatening situation; Forms of sexual violence or sexual exploitation; Heavier birth

abnormality; Physiological and, in certain cases, mental health risks; Sociological and economic factors; and upon demand. Furthermore a large quantity of legal system of many northern and southern regional countries have accepted the fact of stopping perilous processes in terminating pregnancies as an important commitment in the reduction of preventable maternal mortality and accountability in compliance with the human rights regime.

6.2 International Bodies Answering the Question of Legal Reformation

Since past few years, a fresh degree of participation with campaigning promoting pregnancy termination is evolved, focused around an examination as to how state rules impact females or even whether these follow minimum standards set by international law. The HRC, the CEDAW, CESPR, several women right promoters in maximum possible extent, gender and development in African region, and mistreatment become extremely assertive through dialing for gradual constitutional amendments. Some International and regional bodies working on human rights i.e. Courts on human rights, such as the European Court of Human Rights, African Commission relating to human rights is now proactive in this area. In compliance with the Maputo Protocol the African Commission raised the issue of legalizing safe pregnancy terminations during 2016 and also amended it during the time of 2017. Surprisingly neither activist groups yet asked that pregnancy terminations to be legalized just at demand of concerned female, regardless of the fact that numerous have advocated for legalizing the process. It highlights issue regarding how word legalization be interpreted differently through separate circles.

6.3 Legal Context of Today's World

6.3.1 Legal Context of USA

Various legislative changes, judicial judgement, along with government health-care standards significantly amplified female's availability for securing pregnancy termination in Latin part of American regions in previous times, also enabling willful termination on demand during initial three months of conception, like Mexican, Uruguay Government. Deliberative pregnancy termination is permitted throughout United States and several of North American region. Prior to the case of *Roe v. Wade (1973)*, termination accessibility remained unlawful across several portions of United States, wherever common legal system ruled and prohibitions remained comparable with such found through Penal Code of US Court jurisdictions asserted those laws in issue concerning termination of conception unlawful in *Roe* by a plurality opinion, based on a female's right to private life, inalienable entitlement to woman's body, and undisputed eligibility to terminate pregnancy at any time, in any way, as well as for any different justification she selects.

6.3.2 Legal Context of United Kingdom

Pregnancy termination was banned according to English laws. As a result, British used the similar strategy throughout Indian region. However, pregnancy termination has become lawful in UK, as it is in other several European nations. Following much ethical along with governmental discussion, 1968's Abortion Act was approved, rendering termination lawful throughout the UK. Sadly, whereas the conquerors' rules were altered, the imperial vestiges are nevertheless available in our legislative domain. Pregnancy termination was considered as illegal by UK under a legislation of 1861 but not by Irish government, which was then included in another enactment. Later in some specific circumstances, it was permitted under another adhering enactment. During 1990, this enactment was changed significantly by another law. Authorized causes regarding pregnancy termination were explicitly detailed under special cases in national enactment of 1967. Persons Act seems presently in effect which is widely utilized for punishing unlawful pregnancy termination nowadays.

6.3.3 Legal Context of Ireland

The country once was portion of the UK, was similarly tantamount to the 1861 Act, that get finally repealed throughout an enactment during 2013, that enforced another specific and quite comprehensive prohibition in pregnancy termination. Amanda says in recently released paper, Constitutional and Criminal Laws of that country seem incompatible, resulting confusing explanations, limited understanding since termination seems lawful to

defend female's wellbeing. Nevertheless, basing on spiritual, social resistance, recommendations was rescinded after 2015. As this is accepted in Global Forum relating to Inhabitants and improvement framework after 1993 for temporary solution for protecting existences, after process completion treatment for handling outcomes came from injurious treatment implemented by states having slight or no possibility for changing legal system. Despite administration's efforts to increase after abortion treatment access, a research revealed after 2014 as, substantial loopholes nevertheless remained, as well as majority females just weren't obtaining deserved treatment.

6.3.4. Legal Context of India

After independence period of Bangladesh, Indian Government approved highly permissive pregnancy termination legislation although the legislation was badly, irregularly executed, resulting greater percentages suffering, death remaining at existent date. Back to fifteen years earlier, registering center as licensed pregnancy termination doctor was indeed a time-consuming procedure that restrict amenities amount. Furthermore, some different regulations introducing limited permission in pregnancy termination, legislation relating to before diagnostic methods, where it prohibits the use of sonography for gender identification along with resulted to constraining everyone's 2nd abortions, as well as legislation regarding safety of child from sexual crimes, that demands tracking of unauthorized physical relationships, making juveniles who experiences perilous conceptions seeking access to pregnancy termination. In India, termination is permitted in specific conditions. This can be done on a variety of contentions till unborn is 140 days of age.

6.3.5 Legal Context of Ethiopia

This country reformed their deliberative pregnancy termination laws after 2004. Termination access was formerly just permitted for safeguarding a female's existence along with protect her overall condition. Circumstances of assault, pedophilia, genetic abnormality, or if the female's existence, bodily condition is in peril, having bodily or psychological abnormality, being kid who is bodily or psychologically unsuited for delivery, existing law authorizes pregnancy termination. It seems a progressive law for after sub-Saharan time, still very few was heard about its execution for lengthy period. After 2005, state approved nationwide principles as well as requirements on secure termination, which allowed utilization of drugs which were not permitted before, as recommended by WHO. According to countrywide research conducted by the Guttmacher after 2007, about twenty seven percent of pregnancy termination would be lawful after the next several times, however majority terminations would still be risky.

This should be obvious that multitude of complicated pregnancy termination rules as well as limitations serve no legislative or community health-care rationale. This is straightforward as well as unmistakable that termination is secure if that is provided at the female's demand as well as is globally suitable and attainable. Little preexisting legislation are suited for function by this standpoint, as they just rehash all feasible variation of similar constraints.

7. Findings and Recommendations

7.1 Study Findings

7.1.1 Total prohibition on deliberative pregnancy termination does not assuage the crime rate rather amplifies the rate of accessing injurious and unsafe pregnancy terminating processes.
7.1.2 In reforming laws, foreign Court verdicts may be utilized as well as in interpreting Bangladesh's Constitutional entitlements basing on global human rights standards.
7.1.3 Response of International bodies in the field for protecting human rights answering the question of reforming laws.
7.1.4 Reformed and flexible laws are required to deal with voluntary pregnancy termination cases.
7.1.5 Legal theoretical approaches such as Jural postulate, Fetus's person-hood, pro-choice and modern feminism, cultural relativism, Liberalism, Person-hood, Equal Treatment, provide support for reforming and framing flexible laws regarding deliberative pregnancy termination.

7.2 Recommendations

7.2.1 Specific laws should be provided to deal with deliberative pregnancy terminations.
7.2.2 Those laws should be reformed which cynically criminalize all deliberative pregnancy termination cases other than life-saving purpose and making laws more flexible.
7.2.3 Foreign Court judgments should be applied as well as Constitutional promise should be interpreted basing on global human rights model.
7.2.4 Policies and more legislation should be introduced for protecting women.
7.2.5 The right to access safe medical ambience should be specified by policies or laws.
7.2.6 Detrimental laws should be changed which are in guise of safeguarding women.

8. Concluding Remarks

As previously discussed that Penal Code does not apply to MR, according to concerned policy document, because pregnancy is challenging or unfeasible to verify. Instead, MR should be viewed as a temporary means of asserting non-enceintcy for a female who is under danger of becoming expectant, regardless of if the woman is expecting or not. Notwithstanding MR amenities accessibility, which are also supported by governmental equipment and numerous people take recourse to illegal and unsecured pregnancy termination, owing to a paucity of understanding, legislative confusion, and the classificational penalization of pregnancy termination in actuality under the Code of 1860. Moreover, international judgments can be mentioned at this point. Although *Roe* judgment seems to be a convincing standard, relying only on this in long-term may be proven to be counterproductive, considering its vulnerability like a model, including in United States. Consequently, previous liberal Court rulings should be cited in this matter before the highest Court of this country. The restriction on pregnancy termination in circumstances of egregious embryonic abnormalities and sexual offense, example is manifestly incongruous with human right to personal as well as familial existence, according to the highest Court of Ireland's judgement. Moreover, Mexican Court recently issued a milestone judgement declaring that punishing pregnancy termination as a criminal is not just, paving way for pregnancy termination to be legalized in state. In the conclusion, *Roe* may demonstrate that concerned Court's ruling to decide entitlements ensured by Constitution is extremely unstable on its own, along with therefore termination should be discussed in the parliament as portion of a larger cultural discussion in order to protect challenging female's entitlements against contrast idea supporting group threats. Force will be on parliament to resolve disparity among our country's commitments under human rights along with existent legislative and administrative context relating to pregnancy termination if the highest Court rules that unduly wide prohibition regarding pregnancy termination seems discriminatory.

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