

A Comparative Analysis of Paper Abortion Laws in India and Denmark

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Abstract

Paper abortion, an issue that is still mainly the object of discussion and debate, involves the stated legal rights of men to disclaim their parental obligations before the birth of a child. It aims at equalizing gender based reproductive justice by proffering a reproductive option to the man similar to that of the woman, be it an abortion or adoption. The idea of paper abortion is based in the notion that while women should remain the decision makers on the reproductive issues, men remain tied to parental obligations irrespective of their desires. Consequently, this paper provides an insight into paper abortion with a focus on India and Denmark. As Denmark has progressive gender equality policies, the country serves as a good backdrop for discourses about male RRI. However, Danish law does not present any codified male rights to reproductive liberties at present. On the other hand, India's conservative socio-legal culture and traditional gender roles assign no space for the discussion of male reproductive rights. Indeed, the consequences of paper abortion go beyond right of individuals relating to ethical issues such as child protection, financial costs of bearing children while single, and social beliefs about equal and fair share by both parents. The concept deviates from the current social and legal expectation and provision both in the United States and Japan which poses questions on men's independence, the mother's entitlement and the child. It is against this backdrop that this paper seeks to discuss the viability, advantages and disadvantages of paper abortion in these two different socio-legal contexts. It seeks to start the conversation regarding reimagining Reproductive Justice to mean the equal distribution of care for children across both genders.

Keywords: Paper Abortion, India, Denmark, rights, gender equality.

1. Introduction

Reproductive rights have long sparked complex dialogues regarding gender fairness, predominantly centered on women's authority over their bodies. This focus naturally emerged in response to patriarchal systems that denied females control over their reproductive health. However, as social values progress and perspectives broaden, discussions require examining men's reproductive liberties as well. One proposed idea is the concept of a paper abortion, introducing potential male reproductive self-determination. A paper abortion refers to a man's legal ability to renounce parental duties, like monetary obligations, prior to birth. By allowing

males to opt out of parenthood under set conditions, the notion aims to address frequently overlooked gender imbalances in reproductive decision making. Females' reproductive freedoms, like access to termination and adoption, empower them to make choices aligned with life situations and values. Yet males frequently face confined options once pregnancy occurs. In most areas, they are legally obliged to financially and emotionally support a child regardless of involvement in deciding to continue the pregnancy. Advocates of paper abortion argue this inequity is unfair as it forces males into fatherhood against consent while females retain choice to end or relinquish responsibilities. A paper abortion seeks to remedy this asymmetry by granting males a means to exercise reproductive autonomy.¹

The controversial prospect of paper abortion thrusts the reproductive rights discussion into uncharted legal and ethical terrain. By destabilizing long-held assumptions regarding male fiscal duty towards offspring, it forces reexamination of entrenched gender roles. However, contemplating single mothers shouldering the extensive load of sole child-rearing financially and socially is a sobering counterweight. A nuanced analysis must also consider the minors impacted, who lack participatory voice. While men advocate for their own interests, we cannot overlook the welfare of children or abandon mothers facing the demanding task of nurturing the next generation unaided. Only through conscientious regard for every stakeholder - male, female, offspring - can a just solution be attained that safeguards the wellbeing of all.²

Denmark and India showcase contrasting case studies for exploring the notion of paper abortion. Denmark, renowned for its progressive stance on equality between sexes, has established a lawful and social framework that nurtures candid conversations about shared parental duties. There is no specific provision for paper abortion under Danish law, the country's focus on equitable treatment of all genders produces fertile soil for debates on male reproductive rights. Discussions in Denmark regularly examine the feasibility of presenting such a mechanism while addressing potential effects for children and solo mothers. In contrast, prevailing societal norms in India pose major obstacles to even conceptualizing paper abortion. Rooted in patriarchal traditions, the Indian public has historically perceived men as providers and women as caregivers. This dichotomy allows little room for recognizing men's autonomy in reproductive matters. Furthermore, India's legal framework exclusively targets women's rights in issues of reproduction, as seen in the Medical Termination of Pregnancy (MTP) Act, which grants females the right to end a pregnancy under certain conditions. The lack of discourse concerning male reproductive rights in India underscores the cultural and lawful barriers to executing ideas like paper abortion.³

While women have long fought for sovereignty over their reproductive destiny, the rights of men have been left by the wayside in the debate. A reevaluation is in order to establish fairness for all parties in determining the start or prevention of parental responsibility. As issues now

¹ Laufer-Ukeles, P. (2011). *Reproductive choices and informed consent: fetal interests, women's identity, and relational autonomy*. *American Journal of Law & Medicine*, 37(4), 567-623.

² Cosentino, C. (2015). *Safe and legal abortion: An emerging human right? the long-lasting dispute with state sovereignty in ECHR jurisprudence*. *Human Rights Law Review*, 15(3), 569-589.

³ Jain, D. (2024). *Beyond bars, coercion and death: Rethinking abortion rights and justice in India*. *Oñati Socio-Legal Series*, 14(1), 99-118.

stand, the scales are unequally tilted with the fate of pregnancy and its life-altering conclusions governed singularly by one. Reform is required so that both sexes have a collaborative say in the profound decision of creating new life together or choosing divergent paths alone. Only through proper allocation of dominion for every gender involved can there be a well-balanced approach embraced by all.

2. Paper Abortion in Denmark

2.1 Legal Framework

Denmark's progressive stance on gender parity is evident, yet the nation lacks a lawful means of relinquishing parenthood on paper. The kingdom's rules governing maternal and paternal duties prioritize a spawn's wellbeing above all else. This stance leaves slight leeway for the solo rejection of obligation by either parent, irrespective of sex. Danish regulation necessitates that both progenitors furnish financial, emotional, and developmental support to their youngster, representing a dedication to shared childrearing accountability. Though the want of a formal authorized framework for renouncing duty without legal termination is clear, Denmark's concentration on sex impartiality has sparked debates on the topic. Advocates propose that a legalized system permitting men to opt out of parental accountability could synchronize with the broader principles of procreative justice and fairness under the law.⁴ While Danish advocates for gender equality contend that reproductive freedom should not be restricted to women alone, and that men should have the choice to opt out of parenthood under certain conditions similar to unintended pregnancies where their input is not considered, Denmark has yet to implement any legislation or precedent that plainly addresses a man's ability to relinquish responsibilities before a birth occurs. The nonexistence of a formalized legal process for paper abortion emphasizes the difficulties in equitably treating both sexes as equals while also safeguarding the well-being of prospective offspring. Meanwhile, others argue that allowing either parent to detach pre-birth could negatively impact not just the unborn child's livelihood but also the remaining guardian's welfare if unexpected. A nuanced balance remains elusive.

2.2 Male Reproductive Rights

The notion that Danish law could allow males to relinquish paternal duties has earned interest among some, though talk of such a reform mostly remains conceptual rather than procedural. Proponents of equalizing reproductive autonomy argue the status quo unfairly affects men in situations where their participation in conception was nonconsensual or the woman later decided to carry the pregnancy through without his agreement, a complexity with no simple solution. Meanwhile, others view introducing such an exemption as incompatible with children's rights and interests or as weakening the societal framework of responsibility.⁵ They argue that allowing men to legally opt-out of parental duties would bring fairness to

⁴ Ravn, A. B., & Rosenbeck, B. (2008). *Gender and Family Policies in Denmark in the 20th Century*.

⁵ Siegel, R. B. (2006). *Sex equality arguments for reproductive rights: their critical basis and evolving constitutional expression*. *Emory LJ*, 56, 815.

reproductive matters, allowing males to exercise autonomy akin to females' right to terminate a pregnancy or place a child up for adoption. Opponents of paper abortion emphasize its potential detrimental effects on both the child and mother, however. They argue that letting fathers unilaterally reject responsibilities could lead to monetary and emotional hardship for solitary mothers, who would then have to take on the whole burden of raising the kid alone. Additionally, critics point out that such a framework may undermine the legal and moral duties of parenthood, which are viewed as pivotal to the child's wellbeing. Some state that giving males this choice could result in complex situations with custody, child support, and the psychological development of any offspring. A solitary mother in this scenario would shoulder complete fiscal and emotional responsibility without the second parent. In contrast, others believe paper abortion affords males reproductive rights equal to those of females and view the current laws as unfairly favoring mothers. The debate remains contentious with reasonable perspectives on both sides.⁶

2.3 Challenges and Opportunities

Implementing paper abortion in Denmark would require addressing several challenges. The primary concern is ensuring that the welfare of the child remains protected. Legal provisions would need to carefully balance the rights of the father with the needs of the mother and the child. Structured legal debates and pilot studies could provide insights into how such a system might work without compromising child welfare. Despite these challenges, Denmark's emphasis on gender equality provides an opportunity to explore paper abortion as a potential addition to its progressive legal framework.⁷ By addressing the concerns of all stakeholders and ensuring that the rights of mothers and children are not compromised, Denmark could lead the way in introducing a nuanced approach to male reproductive rights.⁸

3. Paper Abortion in India

3.1. Legal Framework

In India, the concept of paper abortion is virtually nonexistent. The country's legal framework for reproductive rights is centered exclusively on women, as outlined in the Medical Termination of Pregnancy (MTP) Act, 1971. This Act grants women the right to terminate a pregnancy under specific conditions, such as when the pregnancy poses a risk to their physical or mental health or in cases of rape, incest, or severe fetal abnormalities. However, the Act does not provide any mechanism for men to renounce parental responsibilities, regardless of the circumstances.

⁶ *Ibid.*

⁷ Dahlerup, D. (2018). *Gender equality as a closed case: A survey among the members of the 2015 Danish parliament. Scandinavian Political Studies*, 41(2), 188-209.

⁸ Greene, M. E., Mehta, M., Pulerwitz, J., Wulf, D., Bankole, A., & Singh, S. (2006). *Involving men in reproductive health: contributions to development.*

India's family law, which governs parental rights and responsibilities, places a strong emphasis on the welfare of the child. Under Section 20 of the Hindu Adoption and Maintenance Act, 1956, a father is legally obligated to provide maintenance for his child until adulthood. Similarly, the Code of Criminal Procedure (CrPC) under Section 125 mandates that a father must provide financial support for his child, irrespective of his marital status or consent to the pregnancy. These provisions reflect a societal expectation that men fulfill their financial and parental duties, even in cases of unintended pregnancies.⁹

Notably, Indian courts have upheld the principle of parental responsibility in several cases. For instance, in *Bhuvan Mohan Singh v. Meena (2014)*¹⁰, the Supreme Court of India stated that while society might not say so in uncertain terms nonetheless it's generally believed that when one becomes a parent they always take on certain responsibilities for their children. A good father cannot ignore this kind of religious belief. The welfare of their children predominates all other considerations. The Judicial standpoint dictated by this approach presents challenges for introducing paper abortion in India, which would necessitate major legal reforms to divert focus away from the welfare of the child and reestablish men's reproductive rights.

3.2. Male Reproductive Rights

Given India's socio-legal framework, the male reproductive autonomy is known to a limited extent. In a patriarchal society where men are traditionally regarded as providers, authorizing them to disclaim parental obligations just doesn't seem to fit in with cultural norms. As a result, men have few legal options for contesting paternity in the event of unintended pregnancies. Progressive Voices, an Indian advocate group for men's rights in the reproduction process, contends that the current legal system is unjust. It does not give males the option to refuse paternity in cases of unplanned pregnancies. They call for policy that respects reproductive autonomy for women, as well as men. For instance, a paper abortion clause might provide men with a legal way of renouncing responsibilities in specific situations e. g. when the woman becomes pregnant under false pretenses or without her consent. In addition to not addressing these concerns, cultural resistance in India makes such changes unlikely in the near future. Despite these arguments, the laws emphasis on a child's welfare as well as its mother makes it very unlikely that such regulations will be introduced in the short term. Moreover, social opposition to the idea of paper abortion indicates deeply rooted cultural beliefs about family obligations as a higher priority than personal freedom for individuals.¹¹

3.3. Challenges and Opportunities

Introducing the notion of paper abortion in India would necessitate overcoming sizeable lawful, social, and cultural obstacles. Chief amongst the challenges is reconciling the concept with the country's robust focus on child welfare. Any authorized provision permitting males to renounce

⁹ Huntington, C. (2015). *Postmarital family law: A legal structure for nonmarital families*. *Stanford Law Review*, 167-240.

¹⁰ AIR 2014 SUPREME COURT 2875.

¹¹ Stillman, M., Frost, J. J., Singh, S., Moore, A. M., & Kalyanwala, S. (2014). *Abortion in India: a literature review*. New York: Guttmacher Institute, 12-14.

parental accountability would necessitate confirming that the monetary and emotional requirements of the little one are sufficiently addressed. An additional obstacle is cultural resistance to redefining conventional sex functions. In a society where males are envisioned to be suppliers, the notion of allowing them the option to choose out of parenthood could possibly encounter substantial backlash. Broad public awareness campaigns and instructional initiatives would be essential to fostering a broader comprehension of male reproductive liberties. Regardless of these challenges, the concept of paper abortion may possibly function as a catalyst for broader discussions on gender equality in India. By incorporating male reproductive rights into the discourse, policymakers could possibly start to deal with the systemic inequities that exist in the present authorized framework. This would necessitate a comprehensive approach, like lawful reforms, broad public awareness campaigns, and help programs for solitary mothers.¹²

4. Comparative Analysis

Denmark's progressive stance on gender equality provides a conducive environment for discussions on paper abortion, reflecting its broader commitment to addressing gender disparities.¹³ While the country's laws have yet to endorse a male ability to disclaim parenthood responsibilities, the nation's philosophy of equality implies future examination of this idea could be promising. In contrast, India's legal framework and social standards do not acknowledge reproductive rights for men, focusing solely on empowering women's autonomy through Acts such as the one allowing termination of pregnancy up to a certain point. While Denmark's openly progressive culture permits nuanced debates on gender justice, India's conventional norms and patriarchal values present sizeable obstacles to recognizing reproductive self-determination for males. Men in this nation are generally viewed primarily as providers, and the notion of a male rejection of parental duties would likely face social resistance due to perceived tensions with priorities of family and children's well-being. Both countries must navigate the complex balance between protecting men's reproductive rights, the welfare of the child, and the rights of the mother, with Denmark advancing these discussions and India requiring foundational shifts in legal and societal attitudes.

5. Conclusion and Recommendations

The notion of paper abortion deconstructs the idea of female reproductive rights by entering the discourse of male reproductive rights and parental obligations. Although, Denmark is known to have progressive legal and cultural climate for such discussions this aspect remains quite difficult in practice. The lack of legislative measures which would permit the legal cancellation of parental obligations on the part of the father corresponds to the general societal values and trends towards child protection and equal parenting. However, due to the Denmark's focus on gender equality, there is a possibility the country can lead in eventual formulation of

¹² Ganatra, B., & Elul, B. (2003). Legal but not always safe: three decades of a liberal abortion policy in India. *Gaceta Médica de México*, 139(s1), 103-108.

¹³ Larsen, V. (2019). *Traces of Secularism in Danish Development Policy on Gender Equality*.

policies that will give equal rights to both male reproductive health and fertility and the rights of potential offspring. India's socio-legal system and culture make it practically impossible even to imagine paper abortion. Specifically, it is only in India that medicalized abortion laws like the Medical Termination of Pregnancy (MTP) Act only protect women's decisional capacities but provide no means for men to relinquish parenting. Moreover, tradition that has been rooted heavily interferes with people's perception of the male role as a breadwinner rendering the paper abortion concept unpopular. This is why the fundamental changes in India's cultural perception and policies are still to come to include male SRHR in the discussion at all. The idea that paper abortion needs to be considered as an actual problem in reproductive justice can reduce gender inequalities in both nations. However, any framework must respect the best interest of the child, the rights of mothers must not be an hindrance and must also check on instances of misuse. Both Denmark and India have a special role in furthering this discourse and while the approach in both the countries may vary due to cultural and legal systems of both the countries.

5.1. Recommendations

5.1.1. Denmark: Denmark should take the lead in exploring the feasibility of paper abortion through structured research and pilot programs. While assessing initiatives granting men pre-birth parental rights renunciation warrants consideration, delicate balancing of complex, intersecting interests is imperative. Thoroughly evaluating potential social, economic, and legal impacts on all stakeholders, especially children's welfare and women's autonomy, must precede policy changes. Consulting representatives from diverse disciplines and communities could strengthen accountable, equitable frameworks. Legal experts, sociologists, and gender advocates collaborating on comprehensive studies might design solutions respecting male reproductive choice without disproportionately burdening single mothers. Additionally, Denmark could explore support systems ensuring policy revisions do not exacerbate challenges for vulnerable groups.

5.1.2. India: Before that, India at least needs to begin to build awareness around and a discourse on male reproductive rights that would be a stepping stone to the larger gender equality conversation. Public campaigns may confront prevailing gender ideologies and also serve to encourage shared patterns of parenting. At the same time, the State must embark on the legal and ethical conversations to consider the possibility of paper abortion in the Indian milieu. This can serve as one step toward broader changes in the laws by including male reproductive rights in legislative reform processes and expose injustice to men in cases of accidental pregnancies. Nevertheless, these interventions need to include strong single mother and child supports to diminish possible negative effects.

Denmark and India can actively tackle systemic gender inequalities and bring mens' reproductive rights into the legal and cultural forefront. Free from the repressive hand of religion, a less sex-obsessed Denmark can show us all how to have it all – balancing reproductive freedom with the well-being of the child and the rights of the mother. India, despite a host of cultural and legal obstacles, could take the early steps toward major reforms

so as to widen the field of reproductive justice. By acknowledging the nuance in paper abortion, and through a process of inclusive policy making, the two countries can encourage greater fairness and justice with regard to reproductive rights and gender equality for everyone.

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