

# The Interplay of Realms in Shaping Access to Safe and Legal Abortion Services in Sri Lanka in Cases of Rape-Induced Pregnancies

WAP Anuradhi<sup>1</sup> & NM Wedaarachchi<sup>2</sup>

<sup>1</sup>Faculty of Business and Social Science Studies, Kingston University, London, United Kingdom

<sup>2</sup>Faculty of Law, General Sir John Kotelawela Defence University, Sri Lanka<sup>2</sup>

#<piyumianuradhi@yahoo.com>

**Abstract**— *In Sri Lanka, abortion is only permitted when the life of the mother is in danger, making it illegal in most cases. However, regardless of the legal restrictions, women still seek and access illegal abortion services. It is evident that Rights Groups have been advocating for decriminalization of abortion in the country for many years with the aim of ensuring safer and equitable access to abortion services as the clandestine practices poses significant risks to women's health and well-being, occasionally resulting in tragic consequences, including loss of life. Therefore, this paper revolves around analysing the multifaceted factors influencing access to abortion focusing on the interconnections between legal, social, economic and healthcare sectors with the prime goal of striving towards ensuring women's reproductive rights, safeguarding their health and preventing unnecessary loss of life. The study begins by examining the legal frameworks surrounding abortion in both Sri Lankan and UK jurisdictions. Furthermore, the study investigates the social attitudes, cultural beliefs associated with abortion, economic implications of accessing safe and legal abortion services and the healthcare sector's role in providing reproductive healthcare services for survivors of rape seeking abortion services. By examining the interplay between these sectors in the two jurisdictions, the study aims to identify barriers and facilitators that shape access to safe and legal abortion services in case of rape-induced pregnancies in Sri Lanka and to raise the urgent need for comprehensive reforms by drawing insights from best practices observed in the UK jurisdiction.*

**Keywords**— **Rape-induced Pregnancies, Abortion, Reproductive Rights**

## I. INTRODUCTION

Abortion is a deeply contentious issue and a highly debated and sensitive topic worldwide. This issue becomes even more complex and sensitive when considering survivors of sexual violence, who not only face physical challenges resulting from unwanted pregnancies but also endure psychological trauma from the assault. As a result, abortion in case of rape-induced pregnancies has given rise to prioritizing the access to safe and legal abortion services and to provide survivors with autonomy and support in navigating the aftermath of rape (World Health Organization, 2012).

However, in order to do that it is important to understand that, access to safe and legal abortion services is a complex

issue that intersects with multiple factors of society which include legal, social, economic and healthcare domains. In the case of pregnancies resulting from rape, the interplay between these factors becomes even more critical, as it directly affects the reproductive rights and well-being of women who have experienced sexual violence and many of them being resorting to unsafe and clandestine abortion practices, jeopardizing their health and well-being (Department of Census and Statistics, 2013).

To begin with, when looking at the legal landscape surrounding abortion in Sri Lanka it is clear that legal provisions relating to abortion is highly restrictive as the Penal Code criminalizes abortion except when the life of the pregnant woman is at risk. This limited exception leaves women who become pregnant as a result of rape in a vulnerable and challenging position, with few legal options for terminating their pregnancies. Beyond legal considerations, abortion in Sri Lanka being surrounded by social stigmas and cultural norms, societal attitudes and cultural factors also create a climate of shame, discrimination and judgment, forcing women into secrecy and potentially compromising their physical and mental well-being thereby further compounding the challenges they encounter (Kumar et al., 2017). When looking at the healthcare sector's response and provision of services that are integral to ensure access to safe and legal abortion services it is evident that the limited availability of comprehensive reproductive healthcare services, lack of accessible counselling services as well as limited access to safe abortion procedures and post-abortion care also compounds the difficulties faced by women seeking abortions. Furthermore, access to safe and legal abortion services can also be influenced by economic factors such as financial constraints and inequalities. In Sri Lanka the cost of abortion services, including consultation fees and medical procedures can be a significant burden for marginalized populations including rape survivors.

Therefore, it is evident that understanding the interplay between the legal, social, economic and healthcare sectors is essential for comprehensively addressing the challenges faced by rape survivors in accessing safe and legal abortion services in Sri Lanka. Moreover, it is also noteworthy that advocating for evidence-based policy changes and addressing the systematic barriers will endeavour to contribute to the advancement of reproductive rights and the well-being of rape survivors in the country.

## II. METHODOLOGY

This paper employs a doctrinal research methodology in order to investigate the interplay between legal, social, economic and healthcare sectors in shaping access to safe and legal abortion services in cases of rape-induced pregnancy in Sri Lanka and the UK. Qualitative primary data has been collected by UN Treaties, Conventions, Penal Code No. 2 of 1883 and other statutory enactments such as the Medical Ordinance and the Termination of Pregnancy Act No. 22 of 2008 of Sri Lanka and the Abortion Act 1967 of UK and judicial decisions and qualitative secondary data has been collected from books, newspapers and journal articles while quantitative secondary related to economic indicators and abortion statistics data has been collected from pre-done surveys and reports. Furthermore, the author has adapted a comparative approach by analysing the jurisdiction of United Kingdom (UK) in order to compare and obtain best practices from the UK, aiming to inform policy and improve access to safe and legal abortion services in the county.

## III. RESULTS & DISCUSSION

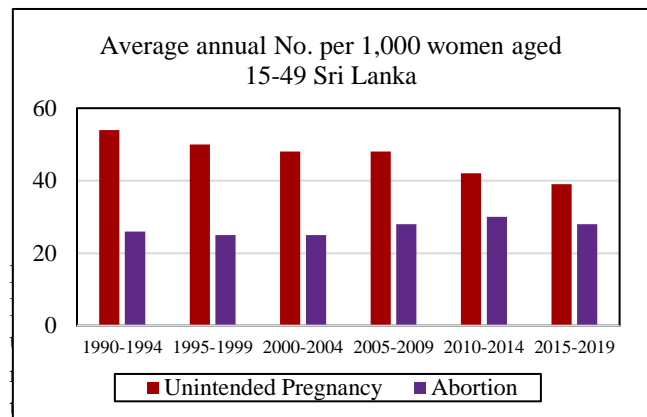
### A. The Broader Landscape of Abortion in Sri Lanka

When looking at the most recent tragic incidents that happened in the country, the death of a 13-year-old girl from Mullaitivu as result of an illegal abortion following an alleged case of rape by a relative can be taken into account. A study conducted in 2015 revealed that illegal and unsafe abortions account for approximately 10 to 13 percent of maternal deaths in Sri Lanka, making it the third leading cause of death during pregnancy. Due to illegality of the procedure, there is limited available data on the subject. However, a commonly cited study from 1999 indicated that approximately 1 in 20 females including both women and girls between the ages of 15 and 49 had undergone an abortion. In the year 2016, the Health Ministry estimated that there were approximately 658 abortions performed daily in Sri Lanka (Ganguly, 2022). Present estimates suggest that this number has increased to approximately 1000 per day. A survey conducted in 2009 by the Department of Forensic Medicine and Toxicology at the University of Colombo, has revealed that for every 1000 live births in the country, there were 740 abortions (Pethiyagoda, 2018).

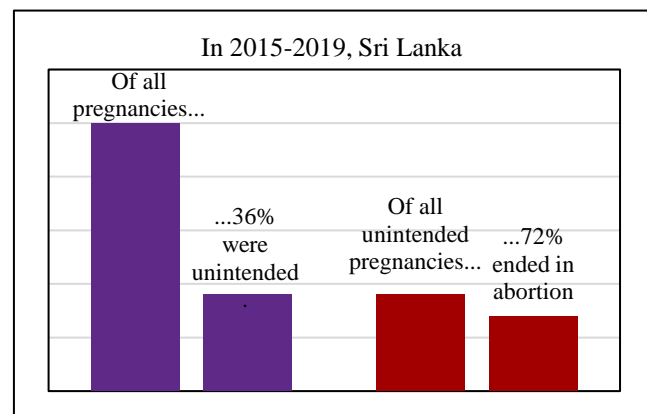
During the period of 2015-2019 in Sri Lanka, there have been a total of 576,000 pregnancies annually. Out of these pregnancies, approximately 208,000 have been unintended and 149,000 of them have resulted in abortion.

Accordingly, it is evident that despite rigid legal provisions, a significant number of abortions are carried out in Sri Lanka often under unsafe conditions, every year leading to maternal morbidity and mortality (Fernando, 2022).

In order to provide a comprehensive understanding of the reproductive health landscape in Sri Lanka, the following figures represent the above unintended pregnancy rate, abortion rate and the pregnancy outcomes in the country.



abortion has increased from 48% to 72%.



**Figure 2: Pregnancy Outcomes**

**Source: Bearak J et al., Country-specific estimates of unintended pregnancy and abortion incidence: a global comparative analysis of levels in 2015–2019, BMJ Global Health, 2022, 7(3).**

### B. The Interplay between Legal, Social, Economic and Healthcare Sectors in shaping access to safe and legal abortion services in case of Rape-induced Pregnancy in Sri Lanka

#### 1. The Existing Legal Framework relating to Abortion in cases of Rape-induced pregnancy in Sri Lanka:

In Sri Lanka, abortion is extremely restrictive and illegal in general except in very limited circumstances. The legal provisions surrounding abortion in Sri Lanka are governed by the Penal Code, Medical Ordinance and the Termination of Pregnancy Act.

The Penal Code contains provisions that permit abortion only when it is necessary to save the life of the pregnant woman or to prevent grave injury to her physical or mental health (Penal Code, Section 303). Accordingly, under Section 303, any person who causes a woman to miscarry intentionally, except in certain specified circumstances, is committing a criminal offence and can face imprisonment for up to 3 years. The exceptions include when the abortion is carried out to save the mother's life. The same sanctions apply to women who induce their own miscarriages. The Code does not outline specific procedural conditions for medical treatment of pregnancy, except for the requirement

of pregnant woman's consent. Accordingly, in addition to Section 303 which addresses causing miscarriage as an offence, Sections 304, 305, 306 and 307 address various offences such as causing miscarriage without the woman's consent, causing death by indenting to prevent a child from being born alive or causing its death after birth and causing the death of an unborn child through culpable homicide.

As per the Medical Ordinance as well, the ground under which abortion is legal is to save the pregnant woman's life. If a registered medical practitioner determines that continuing the pregnancy would endanger the life of the pregnant woman, an abortion may be performed to save her life (Medical Ordinance, Section 4(2)(c)).

In the same manner, under the Termination of Pregnancy Act No. 22 of 2008 abortion is allowed in the situations when the continuation of the pregnancy would endanger the life of the mother, when the continuation of pregnancy would cause grave injury to the physical and mental health of the mother and when there is a substantial risk that the child, if born would suffer from a physical or mental abnormality or be seriously handicapped.

Furthermore, it is crucial to consider international human rights conventions and treaties that Sri Lanka is a party to as these international instruments have an impact on the interpretation and implementation of the existing legal framework although not being directly binding. For instance, CEDAW recognizes the rights of women to access reproductive healthcare, including abortion in certain circumstances. However, it is important to note that the specific provisions of CEDAW have not been incorporated into Sri Lankan domestic law.

Accordingly, it is worth noting that the Sri Lankan law does not explicitly list rape as a ground for abortion, although there have been longstanding calls for reform, including proposals by the Law Commission of Sri Lanka in 2013 on legalizing abortion in cases of rape due to the reason that country's successive governments' failure to enact new legislations.

#### *The Evolution of Abortion Rights in Sri Lanka:*

In Sri Lanka, abortion laws have historically been quite restrictive, but they have evolved over time. Penal Code of Sri Lanka, which was enacted in 1883, criminalized abortion except if the pregnancy represented a danger to the mother's life. The law was amended in 1938, to allow for abortion in cases where the pregnancy posed a threat to both the physical or mental health of the mother. This law remained until 1980 when the Indecent Representation of Women (Prohibition) Act was passed, which further restricted abortion. The Act made it a criminal offense to publicize or promote abortion services and provided for heavy penalties for those who violated the law.

In 1995, the Sri Lankan Ministry of Health issued guidelines that permitted abortion in certain circumstances, including when the pregnancy posed a threat to the life of the mother, when the pregnancy resulted from rape or incest, and when the child would be born with a serious physical or mental

abnormality. However, these guidelines were not legally binding and did not have the force of law.

Likewise, there has been another recent development when Justice Minister Ali Sabry called the Parliament to consider legalizing abortion in cases of rape. This is a significant development as Sri Lanka's laws regarding abortion have always been restrictive (Human Rights Watch, 2022).

#### *2. Social Attitudes and Cultural Factors surrounding abortion in the context of Rape-induced pregnancy:*

Often a society's attitudes towards women and their rights serve as a clear reflection of the extent of misogyny and the patriarchal foundations within that society. Prioritizing the rights of an unborn child over those of its mother diminishes the status of the woman who carries the child. In a society that normalizes patriarchy such as Sri Lanka, women's individualism and choices are already limited and eroded (Botejue & Brendon, 2022). Accordingly, in Sri Lanka abortion is one such topic that is surrounded with ethical and moral implications leading to debates about the value of human life and the rights of the unborn.

In countries with deep cultural or religious opposition to abortion such as Sri Lanka, these discussions can have significant social consequences and the issue of rape-induced pregnancy adds another layer of complexity. The conservative nature of the society often leads to stigma, shame, and victim-blaming which can further exacerbate the challenges faced by women in such situations.

However, it is important to note that attitudes towards abortion are not uniform across the entire population of the country. There are individuals and groups who advocate for the recognition of women's right to choose and emphasize the importance of providing access to safe and legal abortion services for rape survivors such as Women in Need (WIN), Women's Education and Research Centre (WERC), Women's Action Network (WAN), Women and Media Collective (WMC), Family Planning Association of Sri Lanka (FPASL) and Viluthu the Centre for Human Resource Development (Karunaratne, 2023).

#### *3. Economic Implications and Challenges in accessing safe and legal abortion services for women in the case of Rape-induced pregnancy:*

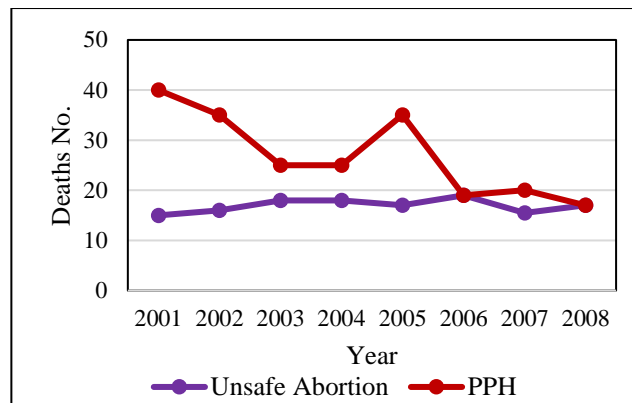
Accessing safe and legal abortion services for women in the case of rape-induced pregnancy in Sri Lanka presents numerous economic implications and challenges. The intersection of financial constraints, limited availability of services and societal stigma creates a complex and difficult environment for women seeking appropriate medical care in such circumstances. One of the significant economic challenges is the limited accessibility of safe and legal abortion services. As mentioned before, Sri Lanka has strict regulations on abortion, with only a few circumstances where it is legally permitted, such as when the life of the pregnant woman is at risk. In cases of rape-induced pregnancy, there is no specific provision in the law to address this situation. As a result, women may find struggle to find healthcare facilities that provide safe and legal

abortion services, leaving them with limited options. The scarcity of healthcare facilities offering abortion services contributes to the economic implications. These economic implications and challenges are further compounded for women from marginalized communities. In rural areas, where healthcare resources are often limited, women may need to travel long distances to access a facility that provides safe abortions. This entails additional costs for transportation, accommodation and time off work, making the process financially burdensome for many women, especially those from low-income and socioeconomic backgrounds. Therefore, the lack of financial resources to cover the costs of safe procedures and the unavailability of adequate information are some significant economic barriers. In addition, it is also evident that private healthcare providers who offer such services often charge high fees, making them unaffordable for many women. All these financial burdens force women to consider alternative options, including unsafe clandestine procedures, which pose significant risks to their health and well-being. Accordingly, it can be stated that the economic implications and challenges in accessing safe and legal abortion services for women in the case of rape-induced pregnancy in Sri Lanka are significant (Karunaratne, 2023).

#### 4. Healthcare Sector's Role and availability of abortion services in Sri Lanka:

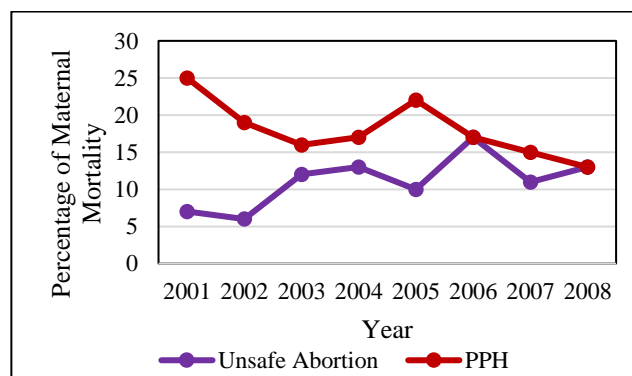
Generally, a healthcare sector plays a vital role in ensuring the well-being and reproductive rights of individuals. Accordingly, the healthcare sector in Sri Lanka encompasses a wide range of services, including primary healthcare, hospitals and specialized medical facilities. The government has made significant efforts to improve healthcare infrastructure and services across the country, leading to improved health outcomes for the population. The sector is regulated by the Ministry of Health, which sets policies, standards and guidelines for healthcare delivery. When it comes to abortion, although Sri Lanka has been on the track to achieving reduction in maternal mortality as stipulated by the 5<sup>th</sup> Millennium Development Goal with high political commitment to improving maternal health, the Ministry's failure in addressing unsafe abortion as a cause of maternal mortality is clear in the analysis of recent mortality data from the Family Health Bureau of Sri Lanka (Senanayake et al, 2011).

Between 2001 and 2008, the main causes of maternal mortality in Sri Lanka were identified as postpartum hemorrhage, cardiovascular disease, hypertension in pregnancy, and unsafe abortion. The Ministry of Health made significant efforts during this period to address these issues, leading to a notable decline in maternal deaths. The total number of maternal deaths decreased from 167 in 2001 to 134 in 2008. This decline was primarily driven by a reduction in deaths caused by postpartum bleeding, which decreased from 41 (24%) to 17 (13%) during the analyzed period.



**Figure 3: Total Number of Deaths from Unsafe Abortion & Postpartum Haemorrhage (PPH): Sri Lanka, 2001-2008.**

Source: Family Health Bureau, Ministry of Health Sri Lanka



**Figure 4: Deaths from Unsafe Abortion and Postpartum Haemorrhage (PPH) as a Percentage of Maternal Mortality: Sri Lanka, 2001-2008.**

Source: Data from Family Health Bureau, Ministry of Health Sri Lanka

Although the number of deaths related to unsafe abortion remained relatively stable at around 15 to 20 per year, the proportion of deaths attributed to unsafe abortion increased from 8% in 2001 to 13% in 2008. This data indicates that despite the overall progress, the issue of unsafe abortion remained unaddressed in Sri Lanka. By 2008, the mortality rate from unsafe abortion was equivalent to that of postpartum hemorrhage, which is the leading cause of maternal mortality in many impoverished countries.

In summary, during the period between 2001 and 2008, Sri Lanka witnessed a decline in maternal mortality, primarily driven by a reduction in deaths from postpartum hemorrhage. However, the proportion of deaths caused by unsafe abortion increased, highlighting the need for further attention and interventions in addressing this issue.

While maternity services are provided free of charge in the public sector, the legal restrictions on abortion in Sri Lanka prevent women from accessing this service in government hospitals. However, similar to other restrictive settings, abortion services are readily accessible through the private sector in Sri Lanka. These clandestine services in the private

sector operate without regulation, leading to uncertainty regarding their quality and cost (Thalagala, 2010).

#### *The Evolution of Healthcare Sector relating to Abortion:*

When looking at the successful steps that have been taken in the healthcare sector, in 2015 the Sri Lankan Ministry of Health established the National Guidelines on post-abortion care, ensuring that women who have undergone illegal abortions can seek medical assistance for any complications without the fear of prosecution. Healthcare providers working in government facilities are obligated to provide post-abortion care services and cannot refuse based on personal, moral, or religious beliefs (National Guidelines on Post Abortion Care, 2015). Post-abortion care services are primarily delivered in specialized gynecology units, as stated in the guidelines. However, the guidelines acknowledge the importance of having emergency post-abortion care available even at basic rural health posts. Medical officers at primary care health facilities are expected to diagnose complications resulting from abortions and initiate treatment before referring patients to higher-level facilities. The guidelines also recognize various methods for managing incomplete abortions, including manual vacuum aspiration, dilatation and evacuation, and the use of drugs such as misoprostol (National List of Essential Medicines, 2009).

However, it is worth noting that misoprostol was not approved by the authorities in the country and its registration has been failed in 2010 as the responsible bodies were unable to reach a decision and failed to list Misoprostol as an essential medicine in Sri Lanka's Essential Medicine List (Kumar, 2012)

#### *C. A Comparative Analysis between the Legal framework prevailing in Sri Lanka and UK pertaining to Reproductive Rights and Abortion in Case of Pregnancy resulting from Rape*

In the UK the right to abortion is protected. The legal framework for abortion in England, Scotland and Wales is established by the Abortion Act 1967 as amended by the Human Fertilization and Embryology Act of 1990. It states that an abortion is legal if it is performed by a registered medical practitioner and authorized by two doctors who agree in good faith and that at least one of the following grounds is met (Abortion Act 1967, UK);

- (a) The pregnancy has not exceeded 24 weeks, and continuing the pregnancy would pose a greater risk of physical or mental harm to the pregnant woman or any existing children in her family than if the pregnancy were terminated.
- (b) The termination is necessary to prevent grave and permanent injury to the physical or mental health of the pregnant woman.
- (c) Continuing the pregnancy would pose a risk to the life of the pregnant woman greater than if the pregnancy were terminated.
- (d) There is a substantial risk that if the child were born, it would suffer from severe physical or mental abnormalities that would significantly impair its quality of life.

The case of Royal College of Nursing of the United Kingdom v. Department of Health and Social Security in 1981 confirmed that abortion should be regarded as a procedure conducted by a medical team consisting of doctors, nurses, midwives, and other qualified healthcare professionals, following established standards of medical practice. It was emphasized that a doctor should assume responsibility for overseeing "all stages of the treatment for the termination of pregnancy" (Royal College of Nursing v DHSS, 1981).

Prior to 1967, The Bourne decision of 1938 where the evidence indicated that defendant performed an operation of abortion on 14 years old girl who was pregnant as a result of rape had already established that an abortion could be legally justified if a doctor believed, based on reasonable grounds and adequate knowledge, that continuing the pregnancy would result in the woman becoming physically or mentally devastated. This ruling was significant as it expanded the grounds for lawful abortion beyond solely preserving the woman's life, recognizing the importance of considering her overall mental and physical well-being (Rex v. Bourne, 1938).

Apart from the grounds of Mental and physical well-being of the pregnant woman who is desiring to undergo an abortion, as provided by Section 1(2) of the Abortion Act, it also states that when making a decision regarding the impact of continuance of pregnancy on women's health, the doctors have the authority to consider the pregnant woman's current social and financial circumstances.

In comparing the legal frameworks surrounding reproductive rights and abortion in cases of pregnancy resulting from rape, there are significant differences between Sri Lanka and the UK. Sri Lanka's legal framework is highly restrictive, allowing abortion only in specific circumstances, including cases of pregnancy resulting from rape. In contrast, the UK has a more permissive legal framework that recognizes a woman's right to access abortion services based on the risk to her physical or mental health, which includes cases of rape. These differences reflect varying approaches to reproductive rights and women's autonomy in these two countries. Accordingly, the UK places a greater emphasis on women's autonomy and reproductive rights, allowing them to make decisions about their bodies and pregnancies in contrast to Sri Lanka that limits women's autonomy and places restrictions on their access to safe and legal abortion services.

#### *D. A Comparative Assessment of the interplay between Social, Economic and Healthcare Sectors in Sri Lanka and UK pertaining to Reproductive Rights and Abortion in Case of Pregnancy resulting from Rape*

Generally, the right to abortion is a deep-rooted legal right in the UK, and women have access to safe and legal abortion services unlike in Sri Lanka. Accordingly, on that ground it is also evident that abortion in terms of the social, economic and healthcare contexts UK differ significantly.

Firstly, when looking at the social and cultural contexts, in Sri Lanka, societal attitudes and cultural norms play a significant role in shaping the discourse around reproductive



rights and abortion. There are stigmatization and social taboos associated with abortion, making it challenging for women to openly access information and services related to reproductive health. In contrast to Sri Lanka, in the UK, it generally has a more liberal social environment regarding reproductive rights. Public opinion and societal acceptance of a woman's right to choose an abortion, especially in cases of rape, tend to be more prevalent. It is evident that these supportive social attitudes contribute to creating an environment where women feel empowered to make decisions about their reproductive health.

Secondly, when looking at the economic context, in Sri Lanka economic factors, such as financial constraints and limited access to healthcare resources, affect a woman's ability to access safe abortion services. Women, especially from marginalized communities or lower socio-economic backgrounds face additional challenges in accessing affordable and quality reproductive healthcare services. In contrast, the UK's well-established healthcare system, including the National Health Service (NHS), provides more accessible and affordable reproductive healthcare services. Economic barriers may still exist for some individuals, but the availability of comprehensive healthcare coverage and financial support programs reduce the economic burden on women seeking abortion services.

Lastly, when looking at the context of healthcare, the healthcare sector in Sri Lanka faces challenges in providing comprehensive reproductive healthcare services, including access to safe abortion. Legal restrictions and limited availability of trained healthcare professionals who can provide abortion services contribute to the lack of accessibility and quality of care. Therefore, most women resort to clandestine and unsafe procedures due to limited options within the formal healthcare system. However, when looking at the jurisdiction of UK the healthcare sector is better equipped to provide comprehensive reproductive healthcare services, including safe and legal abortion. Abortion services are available through a well-regulated healthcare system, and trained healthcare professionals, including doctors, nurses, and midwives, are involved in providing these services. The presence of guidelines and protocols ensures the provision of high-quality care in accordance with established medical standards. During the pandemic of COVID-19 in 2020, a temporary measure was implemented by the UK government that allowed women in England to access early abortion at home without having to go to a clinic. And this temporary measure has also been made permanent in March 2021 across the country.

The interplay between the social, economic, and healthcare sectors in Sri Lanka and the UK significantly influences reproductive rights and abortion access, particularly in cases of pregnancy resulting from rape. While the UK generally exhibits more progressive social attitudes, a robust healthcare system, and greater accessibility to reproductive healthcare services, Sri Lanka faces challenges related to cultural norms, limited resources, and legal restrictions.

#### IV. CONCLUSION

It is manifested that Sri Lanka's abortion rights have progressed slowly and incrementally, as legal changes have reflected a gradual shift towards more liberal abortion attitudes. However, despite these legal developments, the need for further advocacy on this issue is highlighted due to the fact that implementation, societal attitudes, economic barriers and the role of healthcare continue to be conservative and frequently act as a barrier to access to safe and legal abortion services. This point is further proved, when comparing the Sri Lankan jurisdiction with the UK as it is highlighted that there are significant differences between the two countries.

Sri Lanka's legal framework surrounding abortion is highly restrictive, limiting access to safe and legal abortion services, even in cases of rape-induced pregnancy. Cultural norms and stigmatization further contribute to the barriers faced by women seeking abortion. The social environment and attitudes towards reproductive rights are less supportive, making it challenging for women to exercise their autonomy and make informed decisions about their reproductive health. Economically, women in Sri Lanka, particularly those from marginalized communities, face barriers due to financial constraints and limited access to healthcare resources. The healthcare sector struggles to provide comprehensive reproductive healthcare services, including safe abortion, due to legal restrictions, limited availability of trained healthcare professionals, and inadequate infrastructure. In contrast, the UK exhibits a more permissive legal framework that recognizes a woman's right to access safe and legal abortion services, including in cases of rape-induced pregnancy. The supportive social attitudes and a well-established healthcare system ensure accessibility, affordability, and high-quality care for women seeking abortions. Economic factors may still pose challenges for some individuals, but comprehensive healthcare coverage and financial support programs mitigate the barriers.

Accordingly, in conclusion it is worth noting that this is the time to take action for the issue of establishing right to abortion in Sri Lanka through the legalization of abortion under any reasonable circumstance, especially in case of rape-induced pregnancies as amending the legal framework of a country being the core solution for all the issues surrounding other contexts.

Therefore, this comparative study underscores the need for Sri Lanka to address legal restrictions, promote social acceptance, enhance healthcare infrastructure, and provide comprehensive reproductive healthcare services, including safe and legal abortion services, in cases of rape-induced pregnancy. Accordingly, lessons have been learned from the UK's approach to ensure women's reproductive rights are upheld, enabling them to make informed decisions and access the necessary healthcare services without fear of stigma, legal repercussions, or financial burdens.

#### V. RECOMMENDATIONS

In order to address the challenges surrounding access to safe and legal abortion services in Sri Lanka, a comprehensive

sectoral transformation is needed, encompassing the legal, social, economic, and healthcare contexts. The starting point for this transformation should be a review and reform of the legal framework governing abortion in the country.

Accordingly, in the light of the above discussion following recommendations can be taken into account in establishing access to safe and legal abortion services in the country as well as in other developing countries with similar settings.

Firstly, with the need to recommending reforms in Sri Lankan legislation to ensure that safe and legal abortion services are available to women especially, for survivors of rape or incest, emphasizing the importance of protecting women's rights and autonomy a bill should be introduced including provisions for the;

- Legalization of abortion to make abortion legal and accessible to women who require the procedure.
- Providing access to safe, affordable and legal abortion services for women within the first 20 weeks of pregnancy and the access to accurate information and counselling on the procedure.
- Regulation of abortion services to ensure that they are safe, affordable accessible to all women. Accordingly, the government shall establish a regulatory body responsible for licensing, inspection and monitoring of abortion service providers.
- Establishment of Medical Practitioner's Rights to give the right to conscientious objection in providing abortion services. However, medical practitioners who object to providing abortion services must provide patients with information and referrals to other service providers who can provide the service.
- Imposing of legal penalties for any person who performs illegal abortions or provide false information with the intent of obtaining an abortion.

Also, the Penal Code can be reformed allowing for abortion under any reasonable circumstances, such as in cases of rape or incest in addition to when the pregnancy poses a risk to the life or health of the mother.

#### REFERENCES

##### Acts and Legislations

Universal Declaration of Human Rights 1948 (UDHR)  
International Covenant on Civil and Political rights 1966 (ICCPR)  
Convention on the Elimination of All Forms of Discrimination Against Women 1979 (CEDAW)  
Penal Code 1883  
Medical Ordinance No. 26 of 1927  
Termination of Pregnancy Act No. 22 of 2008  
Abortion Act 1967

##### Cases

R v Bourne [1938] 3 All ER 615  
Royal College of Nursing v DHSS [1981] 2 WLR 279

##### Books and Articles

Furthermore, awareness campaigns addressing misconceptions, reducing stigma and promoting empathy and support for women, especially survivors of rape-induced pregnancy seeking abortion services can also be developed fostering clear and persuasive messages stated as follows;

*"The right to abortion is a fundamental aspect of women's reproductive health and as well their overall well-being, gender equality and empowerment. It is essential that women have access to safe and legal abortion services and that their right to make decisions about their own bodies and lives is respected and protected. Denying women that right to choose whether or not to continue a pregnancy can have serious consequences including negative impacts on physical and mental health, economic security, and overall well-being.*

*Or*

*"When women are denied access to safe and legal abortion services, they may resort to unsafe, illegal, and life-threatening methods such as self-induced abortions or seeking out unlicensed providers. These methods can result in serious health complications and even death. Moreover, denying women the right to make decisions about their own reproductive health and lives is a violation of their human rights."*

*Or*

*"The right to abortion is also crucial for gender equality and women's empowerment. When women have control over their own reproductive health and decisions, they are better able to participate fully in society, pursue education and employment opportunities, and engage in political and social activities. This, in turn, can lead to greater gender equality and empowerment."*

In addition to the above it can also be recommended to provide funding for abortion services especially, for women who cannot afford to pay for them by themselves.

Kumar, A., Hessini, L., & Mitchell, E. M. (2017). Conceptualising abortion stigma. *Culture, Health & Sexuality*, 19(11), 1199-1214.

Human Rights Watch. (2022, March 10). Reform Sri Lanka's Draconian Abortion Law. Retrieved from <https://www.hrw.org/news/2022/03/10/reform-sri-lankas-draconian-abortion-law>

Guttmacher Institute. (2022). Sri Lanka. In Guttmacher Institute, Retrieved from <https://www.guttmacher.org/regions/asia/sri-lanka>.

Fernando, N. (2022). Bodily Harm: Abortion and the Rights of Women in Sri Lanka. Ground views. Available at: <https://groundviews.org/2022/06/29/bodily-harm-abortion-and-the-rights-of-women-in-sri-lanka/> [Accessed 15 June 2023] DOI: <http://doi.org/10.4038/jccpsl.v24i2.8149>.

Ganguly, Meenakshi Sri Lanka's. (2022, March 10). Draconian Abortion Law. Reform Sri Lanka's Draconian Abortion Law | Human Rights Watch. <https://www.hrw.org/news/2022/03/10/reform-sri-lankas-draconian-abortion-law>.

Karunaratne, R.A.R., (2023). A Sociological Perspective on Abortion in Sri Lanka. [Online]. FHSS Journal. Available at: <http://fhss.sjp.ac.lk/publication-committee/2023/04/24/a-sociological-perspective-on-abortion-in-sri-lanka/> [Accessed: June 13, 2023].

Botejue, L. & Brendon, D. (2022). Bodily Harm: Abortion and the Rights of Women in Sri Lanka. Groundviews. Available at: <https://groundviews.org/2022/06/29/bodily-harm-abortion-and-the-rights-of-women-in-sri-lanka/> [Accessed: June 13, 2023].

Senanayake H, Goonewardene M, Ranatunga A, Hattotuwa R, Amarasekera S, Amarasinghe I. Achieving Millennium Development Goals 4 and 5 in Sri Lanka. *BJOG*. 2011;118(suppl 2):78–87

Thalagala N. *Process, Determinants and Impact of Unsafe Abortions in Sri Lanka*. Colombo, Sri Lanka: Family Planning Association of Sri Lanka; 2010

Kumar R. Misoprostol and the politics of abortion in Sri Lanka. *Reproduction Health Matters*. 2012;20(40):166–174

#### Reports

Department of Census and Statistics. (2013). Sri Lanka Demographic and Health Survey 2012. Ministry of Health, Sri Lanka.

World Health Organization. (2012). Understanding and addressing violence against women: Sexual violence. World Health Organization.

Ministry of Healthcare and Nutrition. *Overview of Maternal Mortality in Sri Lanka 2001–2005*. Colombo, Sri Lanka: Family Health Bureau; 2009.

Family Health Bureau. *Annual Report on Family Health Sri Lanka 2008–2009*. Colombo, Sri Lanka: Ministry of Healthcare and Nutrition; 2010.

National Guidelines on Post Abortion Care. Second Edition. Ministry of Health, Nutrition and Indigenous Medicine, Sri Lanka. 2015 <https://abortion-policies.srhr.org/documents/countries/02-Sri-Lanka-National-Guidelines-on-Post-Abortion-Care-Ministry-of-Health-2015.pdf>

National List of Essential Medicines, Sri Lanka. Fourth Revision. Report of the Expert Committee on Essential Medicines, 2009. <https://abortion-policies.srhr.org/documents/countries/03-Sri-Lanka-Essential-Medicine-List-2009.pdf>

#### ABBREVIATIONS

UDHR- Universal Declaration of Human Rights  
ICCPR- International Covenant on Civil and Political Rights

CEDAW- Convention on the Elimination of All Forms of Discrimination Against Women  
PPH- Postpartum Hemorrhage

#### AUTHOR BIOGRAPHIES



Author holds a L.L.B (Hons.) from the Faculty of Law, General Sir John Kotelawela Defence University and is currently pursuing her Master's Degree in MA in Human Rights at Kingston University London. With a special interest in research writing author has presented many research papers on various interesting topics. The areas of interest are Human Rights, International Relations and Criminal Justice.



Author is an Attorney-at-Law, Notary Public and a Commissioner of Oaths in Sri Lanka holding a L.L.B (Hons) from the Faculty of Law, General Sir John Kotelawela Defence University and is currently practicing as a Lawyer specialized in Civil Law. The areas of interest are Human Rights Law, Environmental Law, Contract Law, Public International Law and Business Law.