

**COMPARATIVE ANALYSIS OF THE REGULATORY
FRAMEWORK FOR WOMEN'S REPRODUCTIVE RIGHTS TO
ABORTION IN NIGERIA AND THE UNITED KINGDOM**

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Abstract

This research employs a comparative analysis through doctrinal methodology to explore essential questions regarding effects of legal frameworks on women's rights regarding reproduction, the effect of social attitudes in shaping these laws, and the subsequent implications for maternal health outcomes. It emphasizes how cultural beliefs, and religious influences significantly contribute to the stigma surrounding abortion, particularly in Nigeria, where reproductive rights face considerable challenges. The deeply rooted societal norms and religious beliefs often result in discriminatory practices that restrict easy accessibility to safe and legal abortion services, compromising their fitness and wellbeing. In contrast, the United Kingdom presents a more supportive landscape for women's health and rights, largely fuelled by progressive movements and advancements in scientific knowledge. The UK's legal framework, especially the abortion act of 1967, allows for wider access to abortion services under various

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circumstances, reflecting a more nuanced understanding or comprehension of women's health needs. This conducive environment encourages open dialogue about reproductive health, empowers women to make informed choices, and ultimately leads to improved maternal health outcomes.

Keywords: Abortion, Abortion right, Maternal healthcare, Reproductive acts, Women's right

1.0 Introduction

The concept of abortion stands at the intersection of morality and law, embodying complex socio-legal dynamics that vary across different cultural, religious, and political contexts. Defined as ending a pregnancy by removing the pregnancy tissues, like the foetus, placenta, including other products of conception, from the woman's uterus.¹ The language used to describe abortion includes terms such as voluntary abortion, medically induced abortion, pregnancy termination, and therapeutic termination, with each term conveying distinct connotations and implications in public discussions.²

The abortion debate largely revolves around women's rights to control their bodies, the inviolability of human life, and the state's role in regulating reproductive health care. The socio-legal contexts of abortion differ significantly among nations, reflecting different historical, cultural, and legislative domestic frameworks. Nigeria and the United Kingdom (UK) provide compelling case studies for examining these differences and their impacts on reproductive rights, public health, and moral values. In Nigeria, abortion laws are very restrictive, rooted in religious and cultural values that stigmatize abortion and limit women's access to safe reproductive

¹American College of Obstetricians and Gynecologists, 'Induced Abortion' (2021) <<https://www.acog.org/womens-health/faqs/induced-abortion>> accessed 17 February 2024.

²ibid

healthcare.³ in Nigeria, the illegal code act⁴ and the punishing code act⁵, which vary between the southern and northern regions of the country, primarily governed abortion laws, the criminal code act only permits abortion to save the life of the woman⁶, while the penal code act allows abortion not only to preserve the woman's life, but also their corporal health, and mental health.⁷it is however important to state that aside from these circumstances above, abortion is highly frowned upon under both criminal and penal code leading many women to resort to hazardous revenue of terminate pregnancies, contributing to motherly mortality and morbidity.⁸ The UK, in contrast, has adopted a more liberal approach to abortion, with laws that prioritizes women's reproductive autonomy and healthcare needs.⁹ in the UK, abortion laws has been liberalized through the chancellor enactment of the abortion act 1967. This act allows for abortion up to 24 weeks gestation with certain exceptions.¹⁰the law balances women's rights to obtain abortion services with considerations for foetal viability and public interest. Despite legal access to abortion, there are still disparities in service provision particularly in Northern Ireland, where access was

³World Health Organization, *Safe Abortion: Technical and Policy Guidance for Health Systems* (2nd edn, World Health Organization 2012) <https://apps.who.int/iris/bitstream/handle/10665/70914/9789241548434_eng.pdf> accessed 17 February 2024.

⁴ Criminal Code Act, Cap c38, Laws of the Federation of Nigeria

⁵*Penal Code Act* Cap 53, Laws of the Federation of Nigeria 2004.

⁶ Section 228-230

⁷ Section 233-236

⁸S A Adedini, C Odimegwu, E N Imasiku, D N Ononokpono, and L Ibisomi, 'Regional Variations in Abortions in Nigeria: A Nationwide Cross-Sectional Study' (2017) 21 *African Journal of Reproductive Health* 89.

⁹Royal College of Obstetricians and Gynecologists, *The Care of Women Requesting Induced Abortion* (2019) <https://www.rcog.org.uk/globalassets/documents/guidelines/abortion-guideline_web_1.pdf> accessed 17 February 2024.

¹⁰*Abortion Act* 1967, s 1(1)(a).

restricted up until recently.¹¹historically, abortion regulation in Nigeria and the United Kingdom reflects evolving societal attitudes, religious influences, and legal frameworks. In Nigeria, abortion laws are deeply rooted in religious and cultural and moral values, with historical prohibitions as a result of colonial-era legislation and traditional beliefs. The criminal code act of 1916, inherited from British colonial rule, criminalizes abortion except it is carried out to save the life of the woman. As a result, abortion is often stigmatized resulting to high rate of unsafe abortion and maternal mortality.¹²

Navigating the intersection of morality and law regarding abortion requires a nuanced understanding of the socio-legal contexts in Nigeria, and the UK. By examining the historical, cultural, and legislative factors shaping abortion regulation in these countries, this study seeks to illuminate the complexities surrounding reproductive rights and legal frameworks.

2.0 Women's Right

The UN charter in 1945, acknowledged the notion of self-rights and fundamental liberties should be similarly available or equally accessible to everyone "without distinction or discrimination based on sex."¹³Since that time, numerous international human rights instruments have reinforced that everyone be accorded equal rights from those listed in these documents, without any shape of distinction or favouritism based on gender or other reasons.¹⁴ This was, of course, a powerful moment in the history of international law, as women for the first time were accorded full status as human persons, marking a move away from the historical concepts of law

¹¹Department of Health and Social Care, *Abortion Statistics, England and Wales: 2020* (2021) <<https://www.gov.uk/government/statistics/abortion-statistics-for-england-and-wales-2020>> accessed 18 February 2024.

¹² Ibid

¹³*United Nations Charter*, Article 1(4).

¹⁴*Universal Declaration of Human Rights* (UDHR), Article 2; *International Covenant on Civil and Political Rights* (ICCPR), Article 2(2) and 3; *International Covenant on Economic, Social and Cultural Rights* (ICESCR), Article 2(1) and 3.

which regarded women as not being full legal and civil persons.¹⁵ Importantly, it was also a statement of equality against the traditional view of women as men's dependants, or chattels belonging to the family headed by the father or husband.¹⁶

These commitments have often proved much easier to proclaim than actually implement, if the plethora of reservations filed to CEDAW is anything to go by. The convention was established in 1979 as one milestone in emphasizing the pandemic severity of gender variation and the desperate need for firm-stepping assenting measures to deal with this situation. Alarming, some reservations to CEDAW openly contest the core principle of gender equality.¹⁷ The democratic republic of Algeria's reservation concerning the principle of equal rights is particularly noteworthy. The nation argues that the stipulations of article 16, which address equal rights for both men and women in all aspects of marriage—encompassing both the marriage itself and its termination must align with the Algerian family code. This reservation represents the commitment of Algeria to its national law in respect to gender equality.¹⁸ Also, as noted by UN women human rights officials in a 2017 statement to the human rights council on International Women's Day, advancement of women has proceeded very slowly, and true gender equality remains far off globally. In addition, gains made by women presently face the threat of reversal through various conservative political and religious dogmatism.¹⁹ Further,

¹⁵UDHR, Article 16(1). See further ICCPR, Article 23(4)

¹⁶Ibid

¹⁷J Clark, 'Vienna Convention Reservations Regime and The Convention on Discrimination against Women' (1991) 85 *American Journal of International Law* 281; see ch 5.

¹⁸A E Mayer, 'Islamic Reservations to Human Rights Conventions' <https://www.verenigingrimo.nl/wp/wp-content/uploads/recht15_mayer.pdf> accessed 21 June 2024, 34.

¹⁹*International Women's Day Statement by United Nations Women's Human Rights Experts*, 34th session.

the hard-won advances in women's rights have been largely threatened by efforts to combat international terrorism.²⁰

3.0 Reproductive Right in Nigeria

Gbadamosi rightly observed in his work explanation of women's right of right of entry to in safe hands and legal abortion in Nigeria²¹ that although the Nigerian constitution provides that there shall be no favouritism of any kind especially on the basis of sex or religion, it is sad that since independence, successive government have refused to recognise the right to reproductive health of women and consider that there is no discrimination since there is access to contraceptive. Members of the Nigerian Senate demonstrated their refusal to grant women true reproductive freedom by fiercely opposing a reproductive health bill that was supported by the society of gynaecology and obstetrics of Nigeria (SOGON).²² Unfortunately, lawmakers and critics have already referred to this bill as an "abortion bill" and began insulting the Senator who introduced it in the upper legislative chamber on behalf of SOGON, despite the fact that it addressed every aspect of women's reproductive health rights

Of the Human rights Council, 7 march 2017 <
<https://www.ohchr.org/en/statements/2017/03/international-womens-day-statement-united-nations-womens-human-rights-experts>> accessed 23 June 2024

²⁰Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, part III, 'A Gender Perspective on Countering Terrorism', UN Doc A/64/211 (3 August 2009) <https://www.ipinst.org/wp-content/uploads/2012/06/pdfs_terrorism-directory_20-SRHumanRightsCT.pdf> accessed 21 June 2024, paras 18–53.

²¹G Olaide, 'Justification of Women's Right of Access to Safe and Legal Abortion in Nigeria'

<file:///c:/users/www.com/downloads/justification_of_women_s_right_of_access.pdf>
accessed 24 May 2024.

²² Ibid

in Nigeria.²³ According to Okonofua²⁴ the Nigerian senators are ignorant and unaware of the thought of a procreative health rights. He believes that policy makers immediately assume that reproductive health right simply means abortion right alone. This misconception he argued, has to be do with the influence of their religious and moral believes rather than logic and evidence-based fact of the need of contemporary Nigerian women and the extent of the damage that restrictive abortion laws is causing the Nigerian women.²⁵ He opined that while traditional leaders have great influence on the policy maker, they are equally unwilling to get involved with reproductive health rights.²⁶

4.0 Legal Frameworks of Abortion in Nigeria

4.1 The Constitution

Nigerian constitution is the grundnorm from which other legislation derive legitimacy. Although the Nigerian constitution does not expressly mention abortion, it provides for right to life of every individual. The constitution, therefore, grants every human a right to life and prohibits taking of life intentionally, save where the death sentence is imposed on an individual by a competent court for a criminal offense which the person has been convicted of in Nigeria.²⁷

There has been substantial debate about the interpretation of the right to life enshrined in this provision and whether it applies to unborn children. Some argue that any law permitting abortion infringes upon this right, rendering

²³F Okonofua, 'Nigeria: It's Not Abortion Bill' *This Day* (Nigeria) <<http://allafrica.com/stories/200603150601.html>> accessed 24 May 2024.

²⁴ F E Okonofua, A Hammed, E Nzeribe, B Saidu, T Abass, G Adeboye, T Adegun and C Okocha, 'Perceptions of Policy Makers in Nigeria Toward Unsafe Abortion and Maternal Mortality' (2009) 35 *International Perspectives on Sexual and Reproductive Health* 194–202.

²⁵Ibid

²⁶Ibid

²⁷Section 33 *Constitution of the Federal Republic of Nigeria* (CFRN) 1999.

such laws unconstitutional. However, this argument lacks a solid foundation, as Nigerian law seems to clearly exclude unborn children from the definition of persons who can be killed. Consequently, the legal framework does not support the notion that granting abortion rights violates the legal security of the right to life, thus complicating the discussion surrounding abortion laws in the country.²⁸ This distinction raises important questions about the legal status of unborn children and the implications for women's reproductive rights within the existing legal context. Additionally, the constitution further provides that "everyone has the right to their own personal freedom, and nobody can be denied it unless the following circumstances apply, or a legally approved method is followed." The right to personal liberty in Nigeria entitles every person to their freedom, however, there are exceptions and limitations defined by law. Primarily, it ensures that individuals cannot be arbitrarily deprived of their freedom except under specific circumstances and through procedures provided by law. This means that the state or any other entity cannot infringe upon an individual's liberty without lawful justification. However, there are instances where deprivation of liberty is permissible, but such actions must adhere to legal procedures established by the law. These exceptions generally encompass circumstances like arrest, detention, or imprisonment, all of which must be executed in line with the established legal framework.

4.2 The Nigerian Criminal and Penal Code

In Nigeria, both the criminal and penal codes stipulate strict regulations regarding abortion, permitting it solely when essential to save the mother's life. These provisions criminalize the act of abortion in most circumstances, emphasizing preservation of maternal life as the sole permissible exception. This legal framework underscores the country's stringent stance on abortion, reflecting broader societal and cultural attitudes towards reproductive health and rights within Nigeria.

²⁸Criminal code act (1916), § 307

Section 228 of the criminal code provided that "any person who unlawfully administers poison or other noxious substances to a woman, or uses force or any other means whatever for the reason of carrying out that intent, whether the woman be or not pregnant, and whether it is with or without her consent, unless her life is in danger as a result of the pregnancy or it is for the purpose of saving her life, commit a criminal act and is liable to a penalty not exceeding fourteen years imprisonment."²⁹ therefore, this has rendered it criminal liability of up to 14 years imprisonment if one, even professional mediators, can induce in the subject an abortion by any means, even if pregnancy may not be positively verified. Similarly, in this light, section 235 of the penal code provides a similar offense, fixing 14 years' imprisonment as that which shall be imposed upon any person who prevents a child from being born alive.³⁰

The criminal code further stipulates that any woman who intentionally seeks to induce her own miscarriage, in spite of whether she is pregnant, is committing a felony. This includes unlawfully administering poison or other harmful substances to her, employing any form of force, or utilizing any means whatsoever to achieve this end. Moreover, if a woman allows others to administer such substances or means to her, she is equally culpable under the law. The penalty for this offense is a penitentiary judgment of up to seven years.³¹ This provision highlights the legal consequences faced by women who attempt to terminate their pregnancies, reflecting the broader legal and societal attitudes toward abortion and women's autonomy in the context of reproductive health. The potential for significant imprisonment underscores the restrictive nature of the law and the implications it has for women's rights and health decisions.

²⁹*Criminal Code Act* (1916) CAP. (C38) Laws of the Federation of Nigeria 2004, § 228.

³⁰*Penal Code Act* (1960) CAP. (532) Laws of the Federal Capital Territory of Nigeria 2007, § 235.

³¹*Criminal Code Act* (1916) CAP. (C38) Laws of the Federation of Nigeria 2004, § 229.

This provision states that it is a punishable offense, with a penalty of up to seven years in prison, for a woman without any cause of action, deliberately or intentionally attempt to terminate her own pregnancy by any means, regardless of her actual pregnancy status. For example, if a woman suspects she might be pregnant perhaps due to a missed period and ingests saltwater in an attempt to induce a miscarriage, she would still be committing an offense under this provision, even if she later finds out she was not pregnant. Additionally, the penal code indicates that anyone who engages in actions that could be considered culpable homicide and subsequently causes the death of a viable unborn child through such actions will face severe penalties, including life imprisonment or a shorter term, along with potential fines. This underscores the serious legal ramifications associated with attempts to terminate pregnancies and highlights the broader implications for women's reproductive rights and health.³² This clause makes abortion of a quick foetus that is, a foetus with life inside of it a crime.

Providing drugs or instruments to facilitate an abortion is also a criminal offense under the code. Section 230 states that any individual who illicitly supplies or procure any item for someone else, knowing it is intended for the illegal purpose of inducing a miscarriage, regardless of whether the woman is pregnant, commits a felony and is issue to a prison sentence of three years.³³ this provision establishes an offense for anyone who provides or obtains anything knowing it will be used to induce an abortion. It is immaterial whether the woman is actually pregnant or not. Consequently, a neighbourhood pharmacist who sells drugs to a pregnant woman or a delivery person who prepares saltwater, being aware of its intended use, could potentially be held accountable under this provision.

³²*Penal Code Act* (1960) CAP. (532) Laws of the Federal Capital Territory of Nigeria 2007, § 236.

³³*Criminal Code Act* (1916) CAP. (C38) Laws of the Federation of Nigeria 2004, § 230,

Section 232 of the penal code equally that anyone who knowingly causes a woman to miscarry commits an offence.³⁴ The court took this clause into consideration in *Pam-tok v state*.³⁵ In this case, the complainant was found guilty of causing miscarriage, as per section 232 of the penal code. The prosecution charged the appellant with performing a procedure that resulted in the miscarriage of a "three-month-old" foetus for a female secondary school student. The appellant raised his defence by stating that the procedure was conducted to preserve the student's life after she experienced prejudiced miscarriage and haemorrhage nonstop. Despite the appellant's arguments on appeal that his defence wasn't adequately considered, the court upheld the conviction. The court reiterated that the trial judge had properly considered the appellant's defence in the summing up of evidence. Furthermore, since the appellant needed to demonstrate acting in good faith to save the student's life, and the prosecution's evidence indicated otherwise, the conviction and punishment were upheld, and the appeal was denied.

Section 328 of the criminal code stipulates that any individual who prevents the birth of a child during childbirth, through any action or inaction that would be considered unlawful killing if the child had been birthed alive and subsequently died, is committing a felony. Such an individual is subject to a penalty of life imprisonment.³⁶

Moreover, it is important to reiterate that the only circumstance in which abortion is permissible performed without repercussions is when life preservation of the mother is required. This legal allowance is supported by section 297 of the criminal code, which asserts that an individual will not face criminal liability for conducting a surgical procedure performed in good faith, with appropriate competence and care, on an individual for their

³⁴*Penal Code Act* (1960) CAP. (532) Laws of the Federal Capital Territory of Nigeria 2007, § 232.

³⁵*Pam-tok v State*, No. FCA/K78

³⁶*Criminal Code Act* (1916) CAP. (C38) Laws of the Federation of Nigeria 2004, § 328.

own benefit or on an unborn kid to protect the mother life. This provision emphasizes that the legality of such an operation hinge on its reasonableness, considering the patient's condition at the time and all relevant situations. This legal framework underscores the priority given to the mother life and health in conditions where abortion may be essential for her well-being.³⁷

This provision however raises two key issues regarding its interpretation. Firstly, there's the question of what constitute a "surgical operation." is it synonymous with medical procedures in general? Does it encompass practices like administer prostaglandins, which many medical professionals consider safe and effective for inducing abortion, or other methods such as menstrual removal or anti-progestin standstill (abortion pill)?³⁸ It appears that the term "surgical operation" is used strictly, suggesting a requirement for procedures aimed at saving the mother's life. Therefore, it's improbable that the defence would accept alternative methods for inducing miscarriage under this provision.

The second question is what "conservation of the mother's life" means. Does it imply an immediate threat to her life, or does it extend to other factors: her physical and mental health, or at least suspicion of a threat to the mother's life? While the Nigerian courts are yet to elaborate or explain this term, the English case of *r v. Bourne*,³⁹ decided under a similar legal provision, suggests that preserving the life of the mother should include not only the protection of her physical but also of her mental well-being. In this regard, the acquittal case of Dr. Aleck Bourne - a recognized gynaecologist - who, contrary to the law, invited the police to prosecute him for having

³⁷*Criminal Code Act* (1916) CAP. (C38) Laws of the Federation of Nigeria 2004, § 297.

³⁸A.O. Ilumoka, 'Reproductive Rights: A Critical Appraisal of the Law Relating to Abortion' in M.N. Kisekka (ed), *Women's Health Issues in Nigeria* (Tamaza Publishing Co Ltd, 1993) 89.

³⁹*R v Bourne* [1938] 3 All ER 615 (Eng).

conducted an abortion on a 14-year-old girl who had been raped.⁴⁰he was afterwards indicted under the provisions of section 58 of the offences against the person act 1861 for unlawfully procuring the abortion. However, he was acquitted by the court that found he had acted bona fide to preserve the life of the young woman who was bound to suffer serious physical and psychological trauma.

The court recognized that the termination of the pregnancy as a result from the rape was necessary to defend the girl's physical and mental wellbeing. This ruling established a precedent that actions taken to protect a woman's life and wellbeing including mental health can be considered justifiable under the legal framework surrounding abortion. The *R v. Bourne*, case illustrates the legal system's acknowledgment of the complexities surrounding the issue of abortion, particularly in circumstances involving trauma and the potential long-term impact on a young woman's health. By acquitting Dr. Bourne, the court emphasized that the conservation of a mother's life can extend beyond mere physical survival, encompassing the imperative to prevent severe emotional and psychological distress that may arise from carrying an unwanted pregnancy to term.

It has been contended that the rigorous enforcement of the criminal code implies that all pharmacists, medical professionals, and institutions, including family planning clinics, that provide and administer intrauterine devices (iuds) and the "morning-after pill" are implicated⁴¹who could potentially be found guilty of offenses under the criminal code. This is due to the fact that these methods are considered forms of post-conception birth control.

It is important to highlight that section 233 of the penal code addresses the offense of causing a woman's death with the intent to induce a miscarriage. This section states, "whoever, with the intent of causing a woman's

⁴⁰Ibid

⁴¹Ibid

miscarriage, whether she is pregnant or not, performs any act that results in her death shall be punished: a. With incarceration for a term that may make bigger to fourteen years and may also incur a fine; and b. If the act is performed without the woman's approval, with life imprisonment or a shorter term, and may also incur a well."

This provision creates a distinct offense for intentionally cause a woman's death in arrange to encourage a miscarriage. This approach is different from the criminal code, which may classify abortion-related deaths as either murder⁴² or manslaughter, contingent upon the circumstances. Under both statues, consent is immaterial and does not serve as a defence. However, under the penal code, consent may be regarded as a mitigating factor.

The provision of section 233 was given judicial blessing in the case of *Attorney-general of the federation v. Ogunro*.⁴³ In this case, the deceased was a pregnant woman who was hospitalized due to difficulty breathing and deteriorating health. Despite multiple recommendations from medical professionals to terminate the pregnancy for her well-being, she chose to refuse the procedure. Tragically, she ultimately passed away from congestive cardiac failure. Her family, dissatisfied with the hospital's explanation for her death, filed a complaint, prompting the trial of the hospital owner under section 233 of the penal code, which addresses causing a woman's death with the intent to induce a miscarriage.

However, both the trial court and the court of appeal acquitted the defendant of all charges. The court of appeal emphasized that in cases where intent to induce a miscarriage result in a woman's death, the prosecution carries the burden of not only establishing the reason of death but also demonstrating that what the defendant did was the direct cause of the deceased's death. This ruling underscored the necessity for a clear connection between the defendant's conduct and the outcome of the woman's death, highlighting the

⁴²*Criminal Code Act* 1916, §§ 316, 319

⁴³*Attorney-General of the Federation v Ogunro* [2001] 10 NWLR (Pt 720) 175.

legal complexities involved in such cases. The courts required substantial evidence to support the claim that the defendant's actions had directly led to the tragic circumstances surrounding the woman's health and subsequent demise. As a result, the acquittal illustrated the challenges faced in prosecuting cases related to maternal health and the legal nuances regarding consent and medical decision-making.

4.3 The National Health Act 2014

This act was enacted in 2014, it is a significant piece of legislation that address various aspects of healthcare delivery in the country, including reproductive rights. The act establishes the BHCPF to expand right of entry to reproductive health treatments and other primary health care services expand access to reproductive fitness treatments and other primary health care services.⁴⁴ The act also mandates the provision of maternal and child health services, which encompasses prenatal care, skilled attendance during childbirth, and postnatal care. These services are essential components of reproductive health care.⁴⁵ The act includes provisions for family planning services aimed at enhancing reproductive health and reducing maternal mortality. It emphasizes the availability of contraceptives and counselling services.⁴⁶

5.0 Legal Framework of Abortion in the UK

The abortion law in the United Kingdom is particularly relevant to Nigeria because of their historical ties rooted in colonialism. During British rule, Nigeria's early abortion legislation was modelled after the offences against the person act 1861 from the UK, which included specific provisions on abortion. This influence continued in 1916 when Nigeria adopted the criminal code, a legal framework introduced by British colonial authorities that governed various aspects of law throughout the country. Forty-two years later, the penal code was introduced in northern Nigeria to better align

⁴⁴*National Health Act 2014*, s 1.

⁴⁵*National Health Act 2014*, s 11.

⁴⁶*National Health Act 2014*, s 12.

with the cultural values and norms of the predominantly Muslim population in that region. It is important to note that the penal code is heavily based on British colonial law in India, highlighting the broader impact of colonial legal traditions on Nigeria's legal framework. This historical connection underscores how British colonial policies have shaped Nigeria's legal system, especially regarding abortion laws, embedding elements of British legal thought into Nigerian statutes. The legacy of this colonial influence is still evident in contemporary discussions about abortion rights and regulations in Nigeria.

5.1 Efforts and Legislative Measures that Paved the Way for the Abortion Act of 1967

The road towards the abortion act of 1967 was influenced by increasing public apprehension, individual efforts, and prior legal frameworks. Liberal MP David steel's private member's bill in 1966 served as a pivotal moment, sparking momentum for reform. Subsequent parliamentary meetings and deliberations played major roles in the passage of the act in 1967. It's important to highlight that the act didn't suddenly legalize abortion; rather, it expanded the circumstances under which a woman could lawfully terminate a pregnancy, simplifying the legal landscape for both women and medical practitioners.

The abortion act of 1967 received considerable support from the labour government, especially from key figures like Kenneth Robinson, the minister of health at the time. Robinson played a pivotal role in garnering governmental backing for the legislation.⁴⁷ The abortion act of 1967 brought about immediate and substantial shifts. It directly decreased the incidence of fatalities and complications arising from illegal and dangerous abortions, representing a noteworthy improvement in women's healthcare. The legalization of abortion significantly reduced the dangers associated with unsafe procedures, leading to a major decline in mortality and

⁴⁷Ibid

morbidity rates. The abortion act also recorded varied responses from society. While some people viewed it as a crucial reform, others, especially certain religious and conservative factions, opposed it, contending that it compromised the sanctity of life.

Therefore, while the act brought notable improvements in healthcare, it also sparked ongoing societal discussions that continue to shape the abortion discourse today. As previously noted, the current abortion law in the UK is governed by the abortion act of 1967, which was amended by section 37 of the human fertilization and embryology act 1990. this act allows a registered medical practitioner to lawfully terminate a pregnancy, provided the following two conditions are satisfied: if two licensed medical professionals working in good faith believe that there is a higher risk of continuing a pregnancy that has not progressed past twenty-four weeks than there would be if it were terminated, or if the pregnant woman's if continuing the pregnancy would negatively impact the woman's physical or mental health, or harm the health of any existing children, or if termination is deemed necessary to avoid serious and lasting damage to the woman's physical or mental well-being, or if carrying the pregnancy to term would pose a greater risk to her life than ending it, and if there is a high likelihood that the child would be born with significant physical or mental abnormalities that could cause severe disabilities, a termination may be justified...⁴⁸

However, it is crucial to emphasise that if a professional or registered medical practitioner truly and honestly believes that an abortion is mandatory to save the pregnant woman's life or to thwart serious, permanent harm to her bodily or cerebral health, they are not required to get the consent of two other registered medical practitioners before performing the procedure. Additionally, the act gives people the freedom

⁴⁸Human Fertilization and Embryology Act 1990, c 37, s 1(1)(a)-(d) (substituted 1 April 1991) (with savings in force 1 August 1991) and made under S.I. 1991/480, art 2(a); S.I. 1991/1400.

to decline any treatment they have a conscientious objection to, unless it is compulsory to save the woman's life or to keep away from serious, long-lasting harm to her bodily or cerebral health.⁴⁹

In all, the abortion act of 1967 comprises several fundamental components. These include the legalization of abortion, the establishment of guidelines for abortion procedures, and the integration of abortion services into the National Health Service (NHS). This legislation initially legalized abortion up to 28 weeks of gestation. However, this timeframe was subsequently reduced to 24 weeks in 1990 through the human fertilisation and embryology act. With the act, abortion procedures can only be conducted in a hospital or at a location authorized by the secretary of state. Additionally, two doctors must concur, in good faith that terminating the pregnancy would pose less risk to a woman's physical or mental health than continuing with the pregnancy. The act also allowed for abortions to be performed by the National Health Service.⁵⁰

Despite the progress achieved by this act, it has faced criticism on many fronts. Firstly, it has been argued that the act does not afford women the right to choose for themselves, as the decision regarding abortion eligibility remains in the hands of their doctors.⁵¹ Secondly, the grounds for abortion are ambiguously defined, granting doctors significant discretion and leading to potential abuses of power, including the influence of personal opinions and prejudices. Additionally, the requirement for two doctors to certify legal grounds for termination creates delays.⁵² Lastly, there is no

⁴⁹The Human Fertilisation and Embryology Act 1990 allowed for advancements in reproductive health. S. 4(2) provides specific guidelines regarding the use of RU 486, which was approved for use in Britain for pregnancies up to 9 weeks' duration in 1991.

⁵⁰Section 1(3) was substituted by the Health and Care Act 2022 (c 31), ss 178(2), 186(6).

⁵¹**E.D. Harris, 'The Abortion Act 1967: Out of Date and Out of Time?'** (31 July 2018) Keep Calm Talk Law <http://www.keepcalmtalklaw.co.uk/the-abortion-act-1967-out-of-date-and-out-of-time/> accessed 27 February 2024

⁵²**Sally Sheldon, 'The Decriminalization of Abortion: An Argument for Modernization'** (2016) 36 *Oxford J.L. Stud.* 334-65.

legal or statutory mandate for health authorities to ensure adequate provision of abortion services to those in need.⁵³

As such, amendments have been called for to the law, some of the proposals include allowing abortion to be available on request particularly during the first three months of pregnancy and requiring only one doctor's approval up to 24 weeks, making doctors declare their conscientious objections while securing the right of women to consult or be referred to another doctor; and obliging health authorities to provide comprehensive and easily accessible healthcare services, family planning, pregnancy testing, counselling, and safe abortion services to meet local women's needs.⁵⁴ Meanwhile, in 2008, lower house members of parliament in the UK had a consensus to maintain the current legal limit of 24 weeks for abortion.⁵⁵ However, it has to be taken into consideration that in Northern Ireland, the Abortion Act of 1967 is not in effect. Instead, the Offences Against the Person Act 1861 and the Criminal Justice Act (Northern Ireland) 1945 regulate abortions, reserving them in law as unlawful except under certain circumstances.⁵⁶ Rather, the sole exception is that an abortion performed in good faith to preserve the mother's life is permissible. The phrase "preserving life" has been liberally construed to embrace elements not merely involving a threat to life itself but also on factors touching the mother's physical and mental health.⁵⁷

⁵³ Ibid

⁵⁴ **The Campaign for Choice, 'Obstacles to Abortion'** (n.d.) Abortion Law Reform Association
<http://central.gutenberg.org/article/whebn0000178922/abortion%20in%20the%20united%20kingdom> accessed 27 February 2024.

⁵⁵ **MPS Reject Cut in Abortion Limit** (21 May 2008) BBC News
http://news.bbc.co.uk/2/hi/UK_news/politics/7412118.stm accessed 27 February 2024.

⁵⁶ **Offences Against the Person Act 1861**, s. 58 (UK); **Criminal Justice Act (Northern Ireland) 1945**, s. 25.

⁵⁷ Ibid

6.0 Conclusion

This research comprehensively explored the multifaceted dimensions of abortion laws and practices, particularly in the contexts of Nigeria and the United Kingdom. Examining the legal framework governing abortion in both jurisdictions, the study highlighted stark contrasts between Nigeria's restrictive policies and the UK's more liberal regulations. This research points out that while Nigeria's legal environment is largely influenced by cultural, religious and traditional beliefs that prioritize the sanctity of life, the UK framework reflects an evolving social perspective that recognizes the rights and women's health as a priority. The study successfully achieves its goal of critically analysing the legal, socio-cultural and ethical dimensions of abortion, addressing the urgent issue of reproductive health in Nigeria, where restrictive laws result in high charge of insecure abortions and motherly mortality. The study equally points out that the lack of clear legal provisions and medical oversight in Nigeria increases the risks to women's health, emphasizing the urgent need for legal reform to ensure safe right of entry to abortion services.

The study suggests legal reform for safe abortion access which will involve amending existing laws to allow for legal and safe abortion services under broader circumstances, such as cases of rape, incest, foetal anomalies, and risks to the woman's mental and physical health. This would align with global standards and improve women's health outcomes.

The study suggests there is need for legal reform for safe abortion access: amend existing laws to allow for legal and safe abortion services under broader circumstances, such as cases of rape, incest, foetal anomalies, and risks to the woman's mental and physical health. This would align with global standards and improve women's health outcomes. In addition, comprehensive sexual education should be implemented. Mandatory comprehensive sexual enlightenment as well as reproductive health education implemented in schools and communities. This education should include information on contraception, family planning, and the legal rights

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related to reproductive health, helping to mitigate the incidence of unintended pregnancies as well as unsafe abortions.