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A Global Review of Laws on Induced Abortion, 1985–1997

By Anika Rahman, Laura Katzive and Stanley K. Henshaw

Context: *The legal status of induced abortion helps determine the availability of safe, affordable abortion services in a country, which in turn influences rates of maternal mortality and morbidity. It is important, therefore, for health professionals to know both the current status of abortion laws worldwide and the extent to which those laws are changing.*

Methods: *Abortion-related laws in 152 nations and dependent territories with populations of one million or more were reviewed, and changes in these laws since 1985 were documented.*

Results: *Currently, 61% of the world's people live in countries where induced abortion is permitted either for a wide range of reasons or without restriction as to reason; in contrast, 25% reside in nations where abortion is generally prohibited. However, even in countries with highly restrictive laws, induced abortion is usually permitted when the woman's life is endangered; in contrast, even in nations with very liberal laws, access may be limited by gestational age restrictions, requirements that third parties authorize an abortion or limitations on the types of facilities that perform induced abortions. Since 1985, 19 nations have significantly liberalized their abortion laws; only one country has substantially curtailed legal access to abortion.*

Conclusions: *A global trend toward liberalization of abortion laws observed before 1985 appears to have continued in more recent years. Nevertheless, women's ability to obtain abortion services is affected not just by the laws in force in a particular country, but also by how these laws are interpreted, how they are enforced and what the attitude of the medical community is toward abortion.* International Family Planning Perspectives, 1998, 24(2):56–64.

Although the legal status of induced abortion is not the only factor influencing women's ability to access abortion services, it remains a key determinant. Where access to abortion is restricted by law, medically trained practitioners are usually less willing to provide the service, the cost of the service in private facilities may be high and services are rarely available in public hospitals (which are often the only source of safe medical care for low-income women).

In addition, in such countries, because training in abortion procedures often is not routinely provided to physicians, outmoded medical procedures may be used to perform the service and the provision of contraceptive services after an abortion may be overlooked. Women with an unwanted pregnancy also may not know a physician willing to risk prosecution by helping them. Moreover, fear of prosecution may even affect physicians' treatment of women with complications arising from spontaneous abortion or from unsafe clandestine abortion, and may cause women to delay seeking care. Where abortion is legal, maternal morbidity and mortality generally are lower, often because abortions are performed by trained medical professionals, are safer and more available, and cost less.

In this article, we update and expand on earlier work[1] to briefly summarize the laws governing abortion in most countries around the world, and discuss all major changes in abortion laws since 1985 in countries with populations of more than one million. Whenever possible, our analysis is based on the texts of national laws. In some cases, we obtained translations and other information from such sources as the *International Digest of Health Legislation* (published by the World Health Organization) and the *Annual Review of Population Law* (published by the United Nations Population Fund and the Harvard Law School).

In addition, we derived extensive information regarding the interpretation of national laws from a series of books entitled *Abortion Policies: A Global Review*, which were published between 1992 and 1995 by the Population Division of the United Nations Department for Economic and Social Information and Policy Analysis. Finally, previously published works on abortion laws in Commonwealth countries[2] and on abortion laws in Francophone countries[3] also provided valuable information.

Determining the legal status of abortion in any given nation is a complex task. Laws regarding abortion are addressed in multiple statutes, codes and regulations, all of which apply simultaneously. Where abortion is generally available, numerous types of laws—including judicial opinions, social security laws and health codes—regulate it as a medical procedure. Where abortion is criminalized, it is usually addressed in the penal code. Yet most governments, even those that criminalize the procedure, permit abortion under at least some circumstances, and they may set forth these exceptions to the penal code in separate laws and decrees.

Abortion's legal status is also affected by general principles that apply to any type of law. For example, although the penal codes of some nations explicitly prohibit all abortions, other sections of these codes permit the "defense of necessity."* Thus, in such nations, an abortion necessary to save the life of a pregnant woman would be legal.

*A general legal principle that, in the context of abortion, excuses from criminal liability a person who acts reasonably to save her own life or the life of another.

Anika Rahman is director of the International Program and Laura Katzive is a legal fellow at the Center for Reproductive Law and Policy, New York. Stanley K. Henshaw is deputy director of research with The Alan Guttmacher Institute, New York. The authors would like to thank Elizabeth Roff and Taylor Haas for their research assistance and Rebecca Cook and Laura Bliss for their helpful comments. The work upon which this article is based was supported in part by a grant from the Wallace Global Fund.

Overview of Current Laws

We classified the laws of 152 nations and dependent territories with a minimum population of one million into five categories indicating the circumstances under which a pregnant woman could legally obtain an abortion—to save her life, to preserve her physical health, to safeguard her mental health, on socioeconomic grounds and without restrictions as to reason. Rather than rely upon varying and unpredictable standards of interpretation, such as general medical practice or legal opinions issued by attorneys general, we categorized these laws based on a literal reading of the statutes, as they are interpreted in known binding judicial opinions and ministerial regulations.

In many countries, laws are interpreted more liberally than would be suggested by their literal interpretation; in others, they are interpreted more restrictively. In addition, the extent of enforcement may vary within countries. Therefore, our classifications do not necessarily indicate the extent to which legal abortion services are permitted in practice or are actually available. For example, although abortion is legally permitted in India on numerous grounds, the law is specific about the types of facilities and medical practitioners necessary to undertake a legal abortion procedure. Hence, legal abortion services are unavailable in many rural areas, and a majority of abortions provided are believed to be performed in facilities and by personnel not authorized by law. In contrast, Bangladesh permits abortion only to save a woman's life, yet the availability of menstrual regulation* services there ensures that abortion within eight weeks of a woman's last menstrual period is widely available.[4]

Countries in the first category of Table 1 (page 58) have the most restrictive laws. Those in each subsequent category recognize additional legal grounds for abortion. This progressive scheme is not affected by two other grounds for obtaining legal abortions—"juridical grounds" (when pregnancy results from rape or incest) and "fetal impairment grounds" (when there is a strong probability that the fetus has developed or will develop a serious anomaly). These supplementary grounds for abortion may be specified in their own right or may be regarded as factors affecting a woman's mental health or socioeconomic status when the law permits consideration of such conditions. Because nations that recognize juridical or fetal impairment grounds may fall into any of the first four categories in Table 1, we separately identify all such nations in the table.

Some countries permit abortion on additional grounds not appearing in Table 1. For example, Israel, in addition to permitting abortion on mental health, juridical and fetal impairment grounds, allows abortion when the pregnant woman is unmarried, under "marriage age" or older than 40.[5]

The most restrictive laws are those that either ban abortion entirely or permit it only to save the life of the pregnant woman. Such laws define abortion as a criminal offense, with penalties for the provider and often for the woman as well. Twenty-five percent of the world's population lives in the 54 countries—located mainly in Africa and Latin America—that have laws of this type.

These laws allow for saving the life of the woman in two ways. Many explicitly exempt from punishment providers who perform an abortion when a woman's life is in danger. For example, Tanzania's penal code states that "a person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon . . . an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time, and to all circumstances in the case."[6]

Other nations recognize the defense of necessity. In a number of countries in this category, such as Congo (Brazzaville) and Mali, the penal codes permit the defense of necessity for a range of criminal acts, including abortion, although they rarely specify the life-threatening conditions that would justify abortion. Moreover, even when women and providers act within these principles, they may still be subject to criminal prosecution. The principles may be raised as a defense to such prosecution; the success of the defense is likely to be based upon the particular facts of the situation and the manner in which they are received by the presiding judge or officer.

Twenty-three countries, home to 10% of the world's population, have somewhat less restrictive laws that permit abortion to protect the pregnant woman's physical health. These sometimes require that the threatened injury to health be serious or permanent. Peru's penal code, for example, lists abortion as a crime but states that an abortion performed by a physician with the woman's consent is "not punishable" when it is the "sole means of saving the life of the pregnant woman or of avoiding grave and permanent harm to her health."[7] A similar provision in Zimbabwe's Termination of Pregnancy Act allows a pregnancy to be ended by a medical practitioner when its continuation "so endangers the life of the woman concerned or so constitutes a serious threat of permanent impairment of her physical health that termination… is necessary to ensure her life or physical health."[8]

Laws that permit abortion to protect a woman's mental health are in force in 20 countries and affect approximately 4% of the world's population. In most of these nations, legislation explicitly recognizes mental health grounds for abortion. However, several one-time British colonies, including Jamaica, Gambia, Sierra Leone and Trinidad and Tobago, have retained Great Britain's former, restrictive abortion law, as it was interpreted in a 1938 English case (*Rex v. Bourne*) that permitted a legal abortion if continuing the pregnancy would render the woman a "mental wreck."[9]

While the Bourne principle is theoretically applicable in other Commonwealth countries that do not have superseding legislation or judicial interpretations, physicians in those nations generally will not perform abortions on mental health grounds in the absence of explicit government recognition of such grounds.[10]

The interpretation of "mental health" varies around the world. It can encompass the psychological distress suffered by a woman who is raped, the mental distress caused by socioeconomic circumstances or a woman's psychological anguish over a medical opinion that a fetus is at risk of being impaired. For example, India's Medical Termination of Pregnancy Act, which permits abortion on socioeconomic grounds, recognizes that the anguish of an unwanted pregnancy resulting from contraceptive failure could constitute a "grave injury to the mental health of the pregnant woman," and could thus justify an abortion.[11]

Twenty percent of the world's population lives in the six countries that permit abortion on socioeconomic grounds. Such laws, which typically permit consideration of a woman's economic resources, her age, her marital status, and the number of her living children, are generally interpreted liberally. In some of these countries (Great Britain, Taiwan and Zambia), the law allows the effect of the continued pregnancy on a woman's living children to be considered; in the others (Finland, India and Japan), socioeconomic concerns are placed within the framework of protecting the woman's health.[12]

Finally, the least restrictive abortion laws—those that permit abortion without

*Menstrual regulation is the aspiration evacuation of the uterus, which can be performed manually with a syringe and a hollow flexible plastic tube and is generally done without confirmation of pregnancy.

Table 1. Countries, by restrictiveness of abortion law, according to region, 1997

Abortion restrictiveness	The Americas and the Caribbean	Central Asia, the Middle East and North Africa	East and South Asia and the Pacific	Europe	Sub-Saharan Africa	
To save the woman's life	Brazil–R Chile–ND Colombia Dominican Republic El Salvador–ND Guatemala Haiti Honduras Mexico–R Nicaragua–SA/PA Panama–PA/R/F Paraguay Venezuela	Afghanistan Egypt–SA Iran Lebanon Libya–PA Oman Syria–SA/PA United Arab Emirates–SA/PA Yemen	Bangladesh Indonesia Laos Myanmar Nepal Papua New Guinea Philippines Sri Lanka	Ireland	Angola Benin Central African Rep. Chad Congo (Brazzaville) Côte d'Ivoire Dem. Rep. of Congo–F Gabon Guinea-Bissau–SA/PA Kenya Lesotho	Madagascar Mali Mauritania Mauritius Niger Nigeria Senegal Somalia Sudan–R Tanzania Togo Uganda
Physical health	Argentina–R (limited) Bolivia–R/I Costa Rica Ecuador–R/I (limited) Peru Uruguay–R	Kuwait–SA/PA/F Morocco–SA Saudi Arabia–SA/PA	Pakistan Rep. of Korea–SA/R/I/F Thailand–R	Poland–R/I/F/PA	Burkina Faso–R/F/I Burundi Cameroon–R Eritrea Ethiopia Guinea	Malawi–SA Mozambique Rwanda Zimbabwe–R/I/F
Mental health	Jamaica–PA Trinidad & Tobago	Algeria Iraq–SA/F/R/I Israel–F/R/I Jordan	Australia Hong Kong–F/R/I Malaysia New Zealand–F/I	Northern Ireland Portugal–PA/F/R Spain–F/R Switzerland	Botswana–F/R/I Gambia Ghana–F/R/I	Liberia–F/R/I Namibia–F/R/I Sierra Leone
Socioeconomic grounds			India–PA/R/F Japan–SA Taiwan–SA/PA/I/F	Finland–R/F Great Britain–F	Zambia	
Without restriction as to reason	Canada–L Cuba*–PA United States–PV Puerto Rico–PV	Armenia* Azerbaijan* Georgia* Kazakstan* Kyrgyz Rep.* Tajikistan* Tunisia* Turkey*–SA/PA Turkmenistan* Uzbekistan*	Cambodia†–PA China–PA/L Mongolia* N. Korea–L Singapore‡ Vietnam–L	Albania* Austria† Belarus* Belgium† Bosnia-Herzegovina*–PA Bulgaria* Croatia*–PA Czech Rep.*–PA Denmark*–PA Estonia* France*–PA Germany† Greece*–PA Hungary* Italy§–PA Latvia* Lithuania* Macedonia*–PA Moldova* Netherlands–PV Norway*–PA Romania† Russian Fed.* Slovak Rep.*–PA Slovenia*–PA Sweden** Ukraine* Yugoslavia*–PA	South Africa*	

*Gestational limit of 12 weeks. †Gestational limit of 14 weeks. ‡Gestational limit of 24 weeks. §Gestational limit of 90 days. **Gestational limit of 18 weeks. *Notes:* For gestational limits, duration of pregnancy is calculated from the last menstrual period, which is generally considered to occur two weeks prior to conception. Thus, statutory gestational limits calculated from the date of conception have been extended by two weeks. ND=Existence of defense of necessity is highly doubtful. SA=Spousal authorization required. PA=Parental authorization required. R=Abortion allowed in cases of rape. I=Abortion allowed in cases of incest. F=Abortion allowed in case of fetal impairment. L=Law does not indicate gestational limit. PV=Law does not limit previability abortions.

restriction as to reason—are found in 49 countries that are home to 41% of the world's population. China, the most populous nation, falls within this category, as do most industrialized nations, including France, Germany, Italy, the Russian Federation and the United States. Many of these nations, however, impose a gestational limit on the period during which women can readily access abortions.

Several of these nations impose constraints other than gestational limits on women who seek abortion services. For example, Belgium requires that the pregnant woman be in a state of "distress;" in Italy, a woman must reflect upon her decision for one week before terminating her pregnancy.[13] We nevertheless classify these countries in the "least restrictive" category because the woman herself makes the final determination about whether she will have an abortion.

Several nations, including Australia, Canada, Mexico, Switzerland and the United States, have a federal system of government in which each constituent portion of the federation—usually a local state—may regulate abortion differently. Local abortion regulations in Canada, Switzerland and the United States are sub-

ject to federal limitations concerning the degree to which abortion can be restricted by local governments; in contrast, in Australia and Mexico, laws regarding abortion may vary throughout the nation. In Table 1, we classify the legal status of abortion in Australia and Mexico in terms of the abortion law that affects the largest part of the population.

Other Legal Restrictions

A nation's laws often contain conditions that must be observed for an abortion to be classified as legal. These additional restrictions may include limits on gestational age or on the type of medical facility in which the procedure may be performed, requirements for third-party authorizations or for waiting periods, and mandatory counseling for and registration of the abortion. Governments justify the imposition of such constraints by citing concerns about the safety of abortion services, an interest in the protection of the viable fetus, spousal and parental interests, and moral or ethical concerns.

•*Gestational age*. Gestational age limits for abortion on request range from fetal viability in the United States, Puerto Rico and the Netherlands and 24 weeks in Singapore to 12 weeks in 33 nations (Table 1).[14] There is, however, no uniform method of calculating gestational age. In most countries, the duration of the pregnancy is calculated from the first day of the last menstrual period. In others, pregnancy is deemed to begin on the estimated date of conception—about two weeks later. Often, the law does not specify which method of calculation should be used—thus potentially allowing the law to be applied differently depending on the method of calculation used by the provider. For consistency, the gestational limits indicated in Table 1 were all calculated from the last menstrual period.

In nations where abortions are available until a particular gestational age, abortions are still permissible after the prescribed gestational age, but only under limited circumstances. Several nations, such as Belgium, France, and Great Britain, permit an abortion at any time to protect a woman's life or health or on fetal impairment grounds. Others, such as the Russian Federation and South Africa, permit abortion on mental health or socioeconomic grounds beyond the gestational age limit, but before a specified point later in the pregnancy.[15]

•*Third-party authorization*. Fourteen countries require a husband to authorize his wife's abortion (Table 1). In some of these, though, the need for the husband's authorization can be bypassed. For example, Morocco requires spousal authorization, but the chief medical officer of a province or prefecture may override the husband's refusal if a physician is able to demonstrate that the procedure is necessary to protect the woman's health.[16]

In addition, parental authorization for a minor's abortion is required in 28 nations. In several, though, including Denmark, Italy and Norway, a minor may forgo parental authorization if she seeks authorization from a court or hospital committee instead.[17]

A number of nations also require abortion providers to obtain approval from other doctors or professionals prior to performing an abortion. Benin and Lebanon, for example, impose on physicians a duty to consult with other doctors and to certify that an abortion is necessary to save the woman's life. Even in countries with relatively liberal laws, such as Great Britain, two physicians must certify that an abortion is legally justified. Laws vary in the number of concurring opinions they require to approve the procedure. Israel and Panama, for instance, require approval by a hospital committee or a panel of physicians.[18]

•*Medical facilities and personnel*. Most nations' laws specify the types of medical facilities in which abortions may be performed and the categories of health providers permitted to perform this procedure. In Great Britain, India and South Africa, for example, abortion services are restricted to government hospitals or to other authorized health care facilities. Belgium requires only that abortions be performed under "good medical conditions" in a facility with adequate means of providing the woman with counseling and information on the public support to which she would be entitled should she deliver and elect either to keep the baby or put it up for adoption.[19]

Similarly, while laws may require that only licensed physicians perform abortions, a few nations—including Botswana and Cameroon—specify only that a registered or qualified "medical practitioner" must perform the procedure. Costa Rican law stipulates that if no physician is available, a midwife may perform an abortion. And in Bangladesh, family welfare personnel may perform menstrual regulations.[20]

•*Mandatory counseling*. Counseling requirements generally demand that a pregnant woman be provided with information about the risks of abortion, sources of support for married and unmarried mothers, adoption and ways to get help with social problems resulting from a pregnancy. In the United States, the Supreme Court in 1992 upheld a state law requiring that women seeking abortions be informed of the nature and risks of the procedure and the likely gestational age of the fetus, and be offered a brochure containing pictures of fetuses and alternatives to abortion.[21]

In some cases, the information provided to women attempts to be neutral by including a discussion of the risks of pregnancy and childbirth. However, some counseling requirements seek to discourage abortion. Germany's law is a striking example of biased counseling: A woman seeking an abortion is required to undergo counseling aimed at dissuading her from terminating her pregnancy.[22]

Counseling requirements are often accompanied by mandatory waiting periods. In Germany, an abortion may only be performed three days after counseling;[23] likewise, the U.S. Supreme Court upheld a state's mandatory 24-hour waiting period, and a number of other U.S. states have similar requirements.[24] Similarly, in Belgium, a woman may not have an abortion until six days after a physician has informed her of the procedure's risks and of alternatives to abortion.[25]

•*Restrictions on information*. It is common for countries to limit advertisements regarding abortion. Where restrictions on abortion itself are minimal, as in France and Greece, the policy may result from the belief that medical care should be noncommercial. Such restrictions on information generally distinguish commercial advertising for abortion services from information directed toward medical professionals. Where abortion is rarely permitted, an advertising ban is often a component of the attempt to restrict abortion. For example, in several nations in West and Central Africa, including Cameroon, Chad and Côte d'Ivoire, "incitement to abortion" through the sale, distribution or display of information is a criminal offense.[26]

•*Fees*. Finally, while many governments that allow abortion on broad legal grounds include it in their national health insurance coverage, some are selective in their funding of abortion services. Austria and Lithuania only subsidize abortions performed for medical reasons. Other grounds for subsidizing abortion include rape (in Bulgaria) and the woman's status as a minor (in Israel).[27] A number of Central and Eastern European nations have instituted fees for abortion services since changing to a market economy.

Table 2. Countries that liberalized or restricted their abortion law between January 1985 and December 1997, by region

Region	Country
Liberalized	
The Americas/ Caribbean	Canada*
Central Asia/Middle East/North Africa	Algeria
East & South Asia/ Pacific	Cambodia,* Malaysia, Mongolia,* Pakistan
Europe	Albania,* Belgium,* Bulgaria,* Czechoslovakia,*,† Germany,* Greece,* Hungary,* Romania,* Spain
Sub-Saharan Africa	Botswana, Burkina Faso, Ghana, South Africa*
Restricted	
Europe	Poland

*Abortion now available without restriction during the first trimester.
†Since 1993, the Czech Republic and the Slovak Republic.

Recent Trends

Although induced abortion was almost universally illegal in the first half of the 20th century, laws were liberalized between 1950 and 1985 in almost all industrialized nations and in a number of other nations around world.[28] Table 2 documents the most significant revisions, both liberalizing and restrictive, in abortion laws that have occurred between January 1, 1985, and December 31, 1997, by indicating those legal changes that would change a nation's classification in Table 1 from one category to another.

Overall, 19 countries have reduced restrictions on abortion, including 12 that have made first-trimester abortion available without restriction as to reason. Only one country has moved to a more restrictive category. This suggests that the liberalizing trend evident before 1985 has continued in recent years. In the last two years alone, two countries moved to permit abortion without restriction as to reason. However, draft bills that seek to limit abortion are currently under consideration in a number of nations around the world.

• *The Americas*. In North America, the most significant change occurred in Canada, where the nation's highest court struck down a national abortion law in 1988. No Canadian federal criminal law has replaced the voided abortion law. While abortion regulations have been introduced in the provinces, those that tend to criminalize abortion are likely to be struck down as an unconstitutional infringement on the federal government's exclusive power to enact criminal law. For example, in 1993, Canada's Supreme Court nullified a provincial law that prohibited abortions from being performed in facilities other than hospitals.[29]

• *Central Asia, North Africa and the Middle East*. In 1985, Algeria revised its public health laws to expand the grounds for legal abortion to include preservation of the woman's mental health when it is "seriously jeopardized" by the continued pregnancy. Abortion on this ground must occur prior to the viability of the fetus.[30]

• *East and South Asia and the Pacific*. Overall, abortion laws in this region have been liberalized, with four countries having broadened their grounds for legal abortion: In 1989, Malaysia amended its penal code to permit abortion within 120 days of conception when the continued pregnancy poses a threat to the woman's life or to her physical or mental health greater than would the termination of the pregnancy; in the same year, Mongolia amended its health law to permit most abortions during the first 12 weeks of gestation, and at any time thereafter if the procedure is medically necessary; in 1990, as part of an effort to render its penal code more compatible with Islamic law, Pakistan made abortion legal when the procedure constituted "necessary treatment;" and in 1997, Cambodia enacted a new abortion law making services permissible with no justification required during the first three months of pregnancy.[31]

• *Europe*. In the European region, change has been consistent with the global trend toward liberalization of abortion laws. Several formerly Communist nations revisited their abortion laws. In Albania, Bulgaria, the former Czechoslovakia, Hungary and Romania, new laws permit most abortions during the first 12 or 14 weeks of pregnancy.[32] In Poland, where abortion had been permitted on socioeconomic grounds, the law was revised in 1993 to permit abortion only when a pregnancy threatened the woman's life or health and on juridical and fetal impairment grounds. A more liberal law enacted in 1996 was overturned by the Constitutional Court in 1997.[33]

Abortion laws in Western Europe have also changed since 1985. In 1990, Belgium amended its penal code to permit a woman in a state of "distress" to obtain an abortion before the end of the 12th week of gestation. In 1986, Greece liberalized its abortion law, removing most restrictions on abortion during the first 12 weeks of pregnancy. Finally, in 1985, the Spanish national legislature amended the penal code to permit abortion when necessary to avert a "serious risk" to a woman's physical or mental health.[34]

Furthermore, Germany has made several changes in its abortion law. In 1995, in an attempt to reconcile the abortion laws of the former East and West German republics, Germany adopted a law that broadened the circumstances under which abortion is available in what was West Germany, while restricting the circumstances in the former East Germany. The new law provides that abortion cannot be prosecuted during the first 14 weeks of pregnancy and is available without limitation as to reason, but also adds several new procedural requirements, including mandatory counseling intended to dissuade the woman from having an abortion. In addition, most abortions are no longer covered by national health insurance.[35]

• *Sub-Saharan Africa*. The few changes that have occurred in Sub-Saharan Africa have been in the direction of liberalization. Ghana amended its criminal code in 1985 to allow abortion to protect a woman's physical or mental health and on juridical and fetal impairment grounds. In 1991, Botswana amended its penal code to permit abortion during the first 16 weeks of gestation to preserve a woman's life or physical or mental health, as well as on juridical and fetal impairment grounds; in 1996, Burkina Faso amended its penal code to authorize abortion to protect a woman's life or health and on juridical and fetal impairment grounds; and in the same year, South Africa enacted a new abortion law (one of the most liberal in Africa) that permits abortion with no justification required during the first 12 weeks of pregnancy, within 20 weeks on numerous grounds and at any time if there is a risk to the woman's life or of severe fetal impairment.[36]

Although not reflected in Table 2, recent events in other countries also merit mention.

• In 1989, Chile repealed a health code provision that permitted an abortion on "therapeutic" grounds; abortion is currently illegal on all grounds.[37]

• Similarly, El Salvador amended its Penal Code in 1997 to eliminate all exceptions to its prohibition on abortion.[38]

• In a 1994 case challenging Colombia's restrictive abortion law, the Constitutional Court held that the right to life is constitutionally protected from the moment of conception.[39]

• Although Indonesia enacted legislation in 1992 to expand the circumstances under which an abortion is legal, the effect of such reform has been to further restrict abortion services, because the former law had been interpreted liberally.[40]

• Ireland's Supreme Court held in 1992 that a constitutional provision protecting the right to life of the unborn did not pre-

vent a 14-year-old rape victim from legally traveling to England to obtain an abortion. Holding that abortion was not prohibited when there was a "real and substantial risk to the life" of the woman, the Court ruled that the girl could obtain an abortion because the procedure was necessary to prevent her from committing suicide. In a subsequent referendum, a proposed law excluding the risk of suicide as a threat to life justifying abortion failed to pass.[41] While the right of Irish women to travel to obtain an abortion under limited circumstances is now firmly established, abortion services remain essentially unavailable in Ireland.

• In Mexico, where abortion is regulated at the state level, liberalization in some states has coincided with restriction in others. For example, in 1985, Colima reformed its penal code to permit abortion on fetal impairment grounds, while in 1994, Chihuahua amended its state constitution to protect the right to life from the moment of conception.[42]

• In its 1992 decision *Panned Parenthood v. Casey*, the U.S. Supreme Court recognized that women seeking an abortion prior to fetal viability must be able to do so with minimal government intrusion, but held that state restrictions designed to persuade a woman to choose childbirth were permissible if they did not place an "undue burden" on a woman's ability to access an abortion. (This standard allows more restrictions on a woman's right to choose to have an abortion than did the 1973 *Roe v. Wade* decision.) The result over the last five years has been an increase in state-level restrictions on abortion, such as mandatory counseling and waiting periods.[43]

Efforts to liberalize abortion laws are underway in a number of nations, such as in Great Britain, Nepal, Northern Ireland, Portugal, Sri Lanka and Switzerland. In Nepal, for example, where abortion is currently prohibited under most circumstances, the parliament is considering a bill that would allow menstrual regulation on request up to 12 weeks. On the other hand, in other countries, attempts are being made to restrict women's access to abortion. For example, in the former Soviet Union, where since 1955 abortion laws had been among the most liberal, several national legislatures, including those of Belarus and the Russian Federation, have been considering restrictive abortion legislation.[44]

Factors Affecting Availability

Because laws are subject to widely varying interpretations by governmental authorities and by medical personnel and because enforcement is uneven or (sometimes) nonexistent, the literal wording of laws paints an imperfect picture of their impact on medical practice and on the actual availability of legal abortion services. Moreover, the attitudes of the medical community and the inadequacies of a country's health care system may limit abortion availability even where services would be legally permissible.

Varying Interpretations

There are many places where restrictive laws have gradually been reinterpreted to allow abortion under a wider range of circumstances. In many postcolonial nations, inherited restrictive laws have been modified by executive decrees. For example, while Mozambique retained Portugal's former restrictive abortion law (which when enacted in 1886 prohibited all abortions except those necessary to save the life of the woman), a 1981 Ministry of Health decree permits abortions in hospitals for women whose health is at risk or who become pregnant while using an intrauterine device.[45]

Similarly, because Haiti incorporated the French Penal Code of 1810 into its own criminal law, abortion is legally forbidden absent a threat to the woman's life, but it is also officially permitted to preserve the woman's physical health and on juridical and fetal impairment grounds. And Indonesia observed an abortion law imposed upon it in 1918 by its Dutch colonizers—one that prohibited abortion under all circumstances—until the early 1970s, when the Chief Justice of the Indonesian High Court declared that medical professionals would not be prosecuted for performing abortions if their training and methods were appropriate. Thus, before the law was changed in 1992, some abortions were tolerated in Indonesia.[46]

In Switzerland, a national law permits abortion if the woman's life or health is threatened by the pregnancy, but it is interpreted liberally in some cantons to allow most abortions, while in other cantons no abortions at all are permitted.[47] Among the 20 countries that allow abortions for mental health reasons, national abortion statistics suggest that in Hong Kong, Israel and New Zealand, such provisions are interpreted to allow most women seeking abortions to obtain them, while in most of the others, relatively few legal abortions are allowed.[48]

Enforcement

Restrictive abortion laws are difficult to enforce because in the absence of victims, authorities find it difficult to learn of violations and locate willing witnesses. Some countries, however, attempt to enforce abortion restrictions not only against providers but also against women who have abortions. In Nepal, for example, abortion is considered criminal homicide under most circumstances, and is punishable by prison terms for both the woman and the provider. While the exact number who have served prison terms for abortion is unavailable, it is estimated that two-thirds of the women presently incarcerated in Nepal have been convicted of undergoing an illegal abortion. Such women are disproportionately poor, since wealthy women can discreetly obtain medically safe abortions in urban private clinics, with little fear of prosecution. (Some travel to India, where the abortion law is less restrictive.) Women with few resources, however, turn to traditional birth attendants or attempt to induce an abortion themselves, risking both physical injury and criminal prosecution.[49]

In Chile, where abortion is illegal under all circumstances, women who seek medical treatment in public hospitals after being gravely injured during an unsafe abortion (either self-induced or performed by a nonmedical provider) are likely to face prosecution; certain hospitals routinely report such women to the police. An estimated 1,000 abortion prosecutions occurred per year during the mid-1980s. While prison sentences for women who have undergone abortions average only 41 days, the penal code provides for five-year sentences, and pretrial detention may extend to several months. As in Nepal, however, wealthy Chilean women can obtain abortions in private clinics, where they are likely to receive safe services and are unlikely to be reported to the police.[50]

Prosecution of abortion patients has also been reported in Namibia, where abortion is permitted on mental health grounds. While Namibia's law is relatively liberal, the law's procedural prerequisites—including approval requirements from multiple physicians—make abortion legally available only to wealthy and educated women, with poor and rural women often resorting to unauthorized procedures. While the number of women prosecuted for undergoing an abortion is unavailable, press reports suggest that women seeking clandestine abortions face a very real risk.[51]

Other Factors Affecting Access

The legal status of abortion is not the only—or even necessarily the most important—factor determining the availability of safe abortion services. Much depends on the attitude of the medical

community and the public. In Nigeria, for example, where abortion is permitted only if the woman's life is in danger, the need for safe abortions is recognized by physicians, and many private doctors offer the service. Similarly, safe abortion services were provided openly by physicians in parts of Belgium and the Netherlands before those nations liberalized their laws.[52]

On the other hand, resistance by the medical community may make safe abortion services scarce even in circumstances where it would be permitted. Physicians may take a moral stance against abortion, refusing to perform abortions even when the nation's law would allow it. This was the case in Poland in 1991, when the Second National Congress of Polish Physicians declared abortion unethical when not necessary to protect a woman's life and when pregnancy did not result from a criminal act.[53]

The ethical guidelines published by the Medical Council of the Republic of Ireland in 1992 are even more restrictive, declaring that no circumstances exist under which an abortion is medically justified. Thus, even if a doctor were to find some basis under Ireland's restrictive abortion law for providing an abortion, doing so might result in charges of medical misconduct and possible loss of the license to practice medicine. In addition, the abortion laws of numerous countries, including Great Britain, Italy and Singapore, have conscientious objection clauses.[54]

While the scope of these provisions remains uncertain, they often permit medical and paramedical personnel who oppose abortion on moral or religious grounds to declare their objection and be exempt from having to perform or assist in abortions in nonemergency situations. Physician and community opposition to abortion has left parts of Austria, Germany and the United States without abortion services, even though abortion is legally permitted without restriction as to reason.

In nations where abortion is allowed for health indications, medical providers may read statutes narrowly. In Pakistan, for example, physicians are cautious in their application of the abortion law, particularly in their reading of the term "necessary treatment," and will provide abortions only when the pregnant woman suffers from a serious medical ailment, even though the statute itself does not state that the "treatment" must be related to physical health.[55] Similarly, the laws of some countries (Ghana, for example[56]) permitting abortion to preserve the woman's mental health would allow more general availability of abortion services than is now the case. In many countries that allow abortion to save the woman's life or in case of rape or incest, no or very few abortions are performed because of conservative attitudes and complicated procedural requirements for obtaining approval.

On the other hand, in some countries government policy goes beyond permitting safe abortion to ensuring that services are widely available. In Denmark, for example, where the law states that a woman is "entitled" to undergo an abortion during the first 12 weeks of pregnancy, county health boards are responsible for providing services, and each county has at least one hospital with capacity to perform abortions. Abortions are free of charge for women who obtain services in their own counties. Similarly, France requires that each local area have at least one public hospital that offers abortion services.[57]

In several countries, laws have been enacted to counteract the violent tactics of some citizens who oppose abortion. In France, "obstruction of abortion services," either by disrupting abortion facilities or by threatening providers or procurers of abortion services, has been a criminal offense since 1993.[58] The offense carries prison terms or fines (or both). There have been a number of high-profile prosecutions under this law.[59] A similarly worded law enacted in the United States in 1994 (known as the Freedom of Access to Clinic Entrances Act) provides for prison terms and fines and creates a basis for private legal action.[60]

Conclusions

Although women's ability to choose abortion remains controversial, a majority of the world's women live in nations where abortion is legal under many circumstances. Moreover, in the past decade, the global trend toward the liberalization of abortion laws has apparently continued. However, merely presenting the number of nations liberalizing or restricting their laws may overstate the momentum toward liberalization: Movements to restrict abortion are active in many parts of the world and have the support of influential religious authorities.

Abortion laws have an important influence on the availability of safe and affordable services. Where laws are liberal and information about the location of abortion services is more widely disseminated, physicians are more likely to provide services and usually are better trained in modern methods of abortion. In such nations, abortion services are also offered in public health facilities, and contraceptive services are more likely to be provided to abortion patients, all of which results in improved maternal health.

Given the global trend toward legalization of abortion laws, the availability of safe services has been enhanced. However, a more complete picture of worldwide access to safe abortion services can only be obtained after assessing both the manner in which laws are interpreted and enforced and the attitudes of the medical community toward induced abortion.

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Resumen

Contexto: *El estado legal del aborto inducido ayuda a determinar la disponibilidad de servicios seguros y asequibles en un país, lo cual a su vez influye en los índices de mortalidad y morbilidad maternas. Es importante, por lo tanto, para los profesionales de salud conocer el estatus actual de las leyes de aborto a nivel mundial y en qué medida estas leyes están cambiando.*

Métodos: *Las leyes relacionadas con aborto en 152 naciones y territorios dependientes con poblaciones de un millón de habitantes o más han sido revisadas y se han documentado los cambios producidos en estas leyes desde 1985.*

Resultados: *Actualmente, el 61% de la población mundial vive en países donde el aborto inducido está permitido bien ante una amplia variedad de razones o sin que se requiera justificación alguna; en contraste, el 25 % reside en naciones donde el aborto está generalmente prohibido. Sin embargo, incluso en países con leyes altamente restrictivas, el aborto inducido por lo general es permitido cuando la vida de la mujer está en peligro; por el contrario, incluso en naciones con leyes muy liberales, el acceso puede estar limitado por restricciones respecto al período de la gestación, por requisitos de que una tercera parte autorice un aborto o por limitaciones respecto al tipo de instalaciones para realizar abortos inducidos. Desde 1985, 19 naciones han liberalizado significativamente sus leyes sobre aborto; sólo un país ha reducido el acceso legal al aborto.*

Conclusiones: *La tendencia global hacia la liberalización de las leyes de aborto observada antes de 1985 parece continuar en los últimos años. Sin embargo, la capacidad de las mujeres de obtener servicios de aborto se ve afectada no solamente por las leyes de un país concreto, sino también por la forma en que son interpretadas estas leyes, cómo se respetan y cuál es la actitud de la comunidad médica hacia el aborto.*

Résumé

Contexte: *Le statut légal de l'avortement provoqué permet de déterminer la disponibilité de services d'avortement sûrs et abordables dans un pays, et cette accessibilité influence à son tour les taux de mortalité et de morbidité maternelle. Il est dès lors important pour les professionnels de la santé de connaître à la fois l'état courant des lois sur l'avortement dans le monde et leur évolution.*

Méthodes: *La législation régissant l'avortement dans 152 nations et territoires dépendants comptant au moins un million d'habitants a été examinée, et son évolution documentée depuis 1985.*

Résultats: *61% de la population du monde vivent aujourd'hui dans des pays où l'avortement provoqué est admis pour un large éventail de raisons ou sans justification requise. Par contre, 25% résident dans des nations où la procédure est généralement interdite. Même dans les pays soumis à des législations particulièrement restrictives, toutefois, l'avortement provoqué est généralement admis lorsque la poursuite de la grossesse mettrait autrement la vie de la femme en danger. Même dans les nations dotées de lois fort tolérantes, par contre, l'accès à la procédure peut être limité par des restrictions d'âge gestationnel, des exigences d'autorisation de tiers ou d'autres restrictions quant aux types d'établissements autorisés à la pratiquer. Depuis 1985, 19 nations ont considérablement libéralisé leurs lois sur l'avortement; un seul pays y a réduit l'accès légal.*

Conclusions: *La tendance mondiale de libéralisation des lois sur l'avortement observée avant 1985 semble s'être poursuivie ces dernières années. L'aptitude des femmes à obtenir la procédure est cependant affectée, non seulement par la législation en vigueur dans un pays particulier, mais encore par la manière dont cette législation est interprétée et exécutée, et aussi par l'attitude des cercles médicaux à l'égard de l'avortement.*