

Abortion: Medical and Moral Aspects*

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Every country in the world has its abortion problem, and no country seems satisfied with legislation on therapeutic abortion. In the United States, where the matter is purely a state problem, a similar situation prevails.

The attitudes toward therapeutic abortions, and here the term therapeutic is used in the widest sense to indicate any legal abortion, are as follows:

1. No formal indication;
2. Medical indications only;
3. Medical indications supported by socioeconomic grounds;
4. Socioeconomic indications occasionally supported by medical grounds; and
5. Abortion on demand.

There are some countries which permit abortion on demand, a notable example being Japan, but this is not widespread, and no state in the United States permits abortions on demand. As a matter of fact, until quite recently there were only two attitudes toward therapeutic abortion in the United States: either no formal indication or medical indication (disease) only. Recently this country has moved in the direction of medical indications supported by socioeconomic grounds, a number of states adopting this type of statute. The states that have done this are Colorado, North Carolina and California. The first two approved abortion for

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maternal, fetal, and legal indications. The California statute became law after a provision authorizing abortion in cases of possible deformity or mental impairment of the fetus was deleted.

Virginia Law

Under Virginia law, it is necessary that the abortion be done only for the purposes of saving the life of the mother or the unborn child. On truly medical grounds it is difficult to imagine the situation in which an abortion would save the life of an unborn child. I would not think that the usual postmortem Caesarian section would come under this category. A number of years ago the Attorney General for Virginia ruled that the words "saving the life of the mother" did not mean that it had to be absolutely certain that she would die if the abortion was not performed, but that an abortion was lawful if it was for the purpose of preventing a progression of her present disease or was necessary to maintain her present state of health (written communication, Feb. 28, 1952). Still, this did not provide for those cases in which the female had been subjected to rape and was impregnated thereby, nor was it interpreted as covering mental disease.

Definition of Therapeutic Abortion

I think it becomes perfectly apparent that it is impossible to define precisely what constitutes grounds

for a therapeutic abortion. In the final analysis, the decision will have to be made by the profession, within limits, of course. It is obvious that the frequency of abortions varies from area to area depending upon the consensus of thinking in the area as to what constitutes a therapeutic abortion. I know of a number of areas where the physicians have felt very strongly that a young girl, say, under the age of 16, who has been subjected to criminal violence and has been made pregnant thereby, is entitled to a therapeutic abortion on the grounds that her present state of health will be affected. Other areas are quite adamant and refuse to consider these grounds valid for therapeutic indication. What I am trying to say is that, in the long run, regardless of the law, the definition of what constitutes an abortion will often be a matter of personal judgment for the physician or a group of physicians who are practicing in a particular area. I have seen this develop in Virginia during my practice. As I have said previously, Virginia law does not cover impairment of mental health as an indication for therapeutic abortion. However, there has been a gradual change in the thinking of physicians and, indeed, in my own thinking. I now advise the physicians that *if* they in good faith are convinced that the continuation of a pregnancy is likely to result in an impairment of the patient's mental health, apart from physical considerations, then I feel this is a lawful indication for therapeutic abortion. One of the problems is that physicians, like all other people, are conditioned by their training and environment. This results in physicians who will have nothing to do with abortions under any circumstances, no matter what the indications. Other physicians take a very liberal view on what constitutes a therapeutic abortion and are prepared, quite ethically, of course, to abort a patient on what some of us would consider rather tenuous

grounds. Thus, a physician, when faced with the problem of abortion, has to battle, first, with his own conscience and, secondly, with the conscience of his fellow practitioners in the community.

Change in Law

The question arises as to how the law should be in view of our current moral and ethical thinking with respect to abortions. Naturally, opinion ranges all the way from people who think there should be an absolute prohibition, to people like myself who feel that an abortion is a completely personal matter between a female and her physician and has nothing to do with anybody else. To me it is not a legal, moral or ethical issue. I am ready to admit that my personal opinion is an extremely radical one and certainly is not supported by the majority of laymen and physicians at this time. I am confident that in the future, albeit far in the future, this eventually will be the legal, moral and ethical thinking of people in general. I am the first to admit that it will not be in my lifetime and, perhaps, not in my children's lifetime. I must say, however—modestly, of course—that this has been the lot of radical thinkers since time immemorial.

Change in Attitude

In any event there is, I think, considerable ground swell for liberalization of abortions from a legal point of view. I get the feeling that, even among the most conservative thinkers, there is a relaxation of the strict moral concept against abortion. This is just a feeling and I may be wrong, but I can not help feeling that it is true. Why this change in attitude? It is difficult to say.

I think that all our views on social and economic problems tend to become more liberal as time goes on. The necessity for populating the country and the world has

given way to some real concern that we are, in fact, becoming overcrowded. I think that, to a degree, respect for human life has diminished, as evidenced by the frequency of bloodletting in twentieth century wars, pogroms, etc. Radical innovations in human organ transplants have produced, in some ways, a cohesiveness among people, gradually replacing the concept of the individual being completely sufficient unto himself. These are all factors which, I believe, have subtly changed our views.

Statement of Policy by Medical Society of Virginia

The new laws in Colorado and North Carolina reflect, in part, changing opinion. The winds of change are certainly moving throughout the land. The AMA has relaxed its stand on abortion after a period of 96 years and now recognizes both the mother's health and the possibility of fetal deformities as indications for terminating a pregnancy. Virginia will certainly follow the trend; a statement of policy on abortions was issued by the Medical Society of Virginia on October 21, 1967. The statement, which recommended that the law be amended to include further indications for abortion, reads as follows:

- (1) There is documented medical evidence that continuance of the pregnancy is likely to threaten the health or life of the mother; or
- (2) There is documented medical evidence that the infant is likely to be born with incapacitating physical deformity or mental deficiency; or
- (3) There is documented medical evidence that the continuance of a pregnancy resulting from legally established statutory or forceful rape or incest is likely to constitute a threat to the mental or physical health of the patient.

Furthermore, the circumstances described above shall be recognized as

valid indications for induced abortion only when:

- (1) Two physicians (other than the attending) be consulted and because of their recognized professional competence have examined the patient and have concurred in writing; and
- (2) The procedure be performed in a hospital accredited by the Joint Commission on Accreditation of Hospitals.

The Society further recommended that, if there is any legislation enacted in accordance with these provisions, it should clearly exempt from liability for malpractice the physician who, on moral or religious grounds, refuses to either perform or recommend therapeutic abortion.

Lack of Socioeconomic Grounds

The legislation to liberalize the abortion laws which was introduced at the 1968 session of the General Assembly and closely incorporated the above recommendations was referred to the Virginia Advisory Legislative Council for study. They will bring in recommendations prior to the next session. A glance at this statement of policy will show that there is no provision whatsoever for socioeconomic considerations. This is strange in view of the fact that Virginia has a radical sterilization statute which permits sterilization merely on request. I would have thought there would also have been some inclusion of socioeconomic grounds for abortions. All doctors are familiar with the fact that socioeconomic grounds are probably the primary basis for non-therapeutic or illegal abortions. Of the mass number of abortions done each year in this country, the greater number are performed on married women who are seeking the abortion purely for socioeconomic reasons. They simply feel that they cannot support an additional child and will seek any means they can to obtain the necessary operation. I think it rather in-

teresting that Great Britain, which has recently modified its abortion laws, has taken into account socioeconomic pressures. Their law permits the physician to allow the mother's "total social environment" to be taken into account in considering an abortion. It may well be, of course, that the law which comes out of the General Assembly will have some such provision.

Rape or Incest

In any event, even with the liberalization of the current law, the problems of abortion will vary from community to community, depending upon the medical community's opinion as to what constitutes dangers to the health or life of the mother or the unborn infant. With respect to the Medical Society's recommendation on pregnancy induced by rape or incest, I am not sure that I quite understand what they mean by "legally established statutory or forced rape." I take it that they intend that the incest or rape must be followed by a conviction for the offense

before an abortion could be induced. With the usual delays in the law now prevailing, this is likely to prove lethal to any hope of getting abortions performed on rape or incest victims, since the long delays would permit a woman to be para 5, gravida 5 before we are likely to get any legal judgment.

Conclusion

In any event, all abortion laws—especially the newer laws—are rather elastic. I presume that they will be applied rigidly or leniently depending upon the attitude of the physician. Given a liberal attitude, I suppose the deciding factor would be whether the woman concerned wishes to have the baby or prefers to terminate the pregnancy. I have a feeling that any woman in the United States today who takes the latter attitude will have an abortion, therapeutic or non-therapeutic, medical or lay. In the long run, legislation against abortions is like any legislation against sin; it is commendable but ineffectual.