CHAPTER V

IMPACT OF ABORTION LAW ON ABORTION MORTALITY
WITH REFERENCE TO ILLEGAL ABORTION

Induced abortion is and probably has been for centuries one of the most widely used methods of birth control throughout the world, in spite of strong condemnation by many governments, religious bodies and most of the medical profession. \(^1\) The incidence of abortion in the world at large is not exactly known. Estimates vary from 30-50 million per year or about 40-70 per 1000 women of the reproductive age group, which gives an abortion ratio of 260-450 per 1000 live births (International Planned Parenthood Federation, 1976). In India, it has been estimated that about 6(six) million abortions take place every year of which 4(four) millions are induced and 2 millions spontaneous. In spite of the availability of various contraceptives for birth control, abortions either legal or illegal continue to occur all over the country. \(^2\)


With the advances in medical services, the incidence of maternal deaths has shown a considerable decline. Mortality about abortions is a controversial subject. Illegal abortions are widely believed to be associated with very high maternal mortality. In India the mortality rate is reported to be 7.8 per 1000 random abortions; as compared to the figures of 0.66/1000 abortions done under the R.T.P. Act 1971. This is because most of the random abortions are illegally performed.\(^3\) It can be assumed that there has not really been a decline in the cases of septic abortion even after the implementation of the Act in 1971, as a large number of patients still prefer to get the abortion induced in real secrecy and only register in hospital when complications arise.

Prior to the liberalisation of R.T.P. laws in India the Shah Committee (1967) estimated that the abortion rate in India was 13/1000 population (5 spontaneous and 8 induced). It is estimated that sepsis occurs in 5-10 percent of all abortions and septic abortion is one of the major causes of maternal mortality.

mortality both in developed and developing countries.  

Any abortion associated with fever and signs of pelvic or generalized sepsis is considered septic abortion. Most septic abortions result from illegal abortions but sepsis may follow spontaneous and elective abortion. The data from Indian Council of Medical Research (I.C.M.R.)'s collaborative study on sequelae of induced abortion indicate that about 2.5 per cent of M.T.P. cases develop sepsis. There is no information on the sepsis rate following illegal induced abortion, but the rate is likely to be many fold greater than the sepsis rate in elective abortions. It is estimated that the risk of dying from sepsis after illegal abortion is 50 (fifty) times greater than after legal abortion. The data from a collaborative study on maternal mortality showed that septic abortion was the most common cause, accounting for nearly one third of the maternal deaths due to obstetric causes.  

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5 Ibid. p. 76.  
6 Ibid.
Septic abortion is a global problem and death from illegal and unskilled abortions play considerable role in the maternal mortality pattern of any country. Septic abortions in fact reflect the social inadequacies, lack of health and sex education, as well as poor concern for a septic and poor skill of the practicing abortionists. The delay in seeking aid due to longing for secrecy makes management difficult, results of treatment poorly rewarding and costs the lives of many mothers in their prime.7

The mortality survey conducted all over India has shown a definite decline in the maternal mortality in recent years. However, a parallel decline in deaths due to septic abortion is not observed. A breakthrough which was expected and hoped for, with the introduction of the new Abortion Act in 1972, has failed to show any appreciable impact on reduction of maternal deaths caused by septic abortion. Thus, the reports all over the country show that 20-25% of all maternal deaths are caused by septic abortion.8


8Ibid, June 1979, No. 3 Vol. 29. Article by - Padubidri V, Kotwani d.G. - Septic abortions - 5 years review, pp.593-598.
Illegal abortion which most often terminates in a septic abortion is a problem of great medico-social importance particularly in developing countries like India. It is a public health problem and is associated with a high maternal mortality. Economic factors and ignorance play an important role in developing countries. The incidence of septic and criminal abortions is difficult to estimate even of reliable statistics. Criminal interference is denied and sometimes these cases are not admitted to hospital. Information and cause of death recorded on the death certificate is often misleading and fallacious just to avoid social and legal complications for the patient and the physician. Only the most complicated and the worst cases are admitted to hospital.\(^9\)

As 80% of women in India live in the villages number of induced criminal abortion among these women is very high. The cases of induced criminal abortion are frequently reported from Indian villages. Some cases are reported in literature where foreign body was detected in the urinary bladder within few

days. Different substances like pastes, strong soap-solutions, needle and wooden sticks are employed for abortion.

Report on such studies reveal five categories of practitioners of criminal abortions. 1) The physician abortionist, 2) The abortionist with limited medical training including nurses, midwives etc. 3) The "quack doctor" an unlicensed practitioner with no medical training 4) The amateur having no background or training 5) The self-abortionist desire to get rid of an unwanted pregnancy is a universal phenomenon and various methods are being used to terminate such pregnancies. The methods used to procure these abortions were very crude and it was performed usually by unskilled quacks in unhygienic conditions endangering the health and life of the mother. Of the numerous methods employed to induce abortion, the method of introduction of foreign bodies has been employed more commonly than any other method in most criminal abortions. These foreign bodies may be introduced by an abortionist or a relative or by the woman herself. The worse risks

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10Ibid, August 1986, No. 4 Vol. 36, Article by Khare S - Foreign body in the urinary bladder . P. 753

include infection, perforation, injury to adjacent structures, such as bowel or bladder because of faulty insertion of foreign body. The foreign bodies employed are of many varieties limited only by their availability and by patients' imagination and desperation.\textsuperscript{12}

The stick method is the most common method used for bringing about an abortion. Not only can the stick give rise to ascending infection but worse still it can injure the uterus and other intraperitoneal organs, making it a very dangerous procedure. The trend of the stick method has not changed despite legalisation of abortion.\textsuperscript{13}

The problem of criminal abortion is as old as mankind. No one shall ever know where it started and when. Its origin will remain shrouded in mystery. Criminal abortion concerns not only the obstetrician, but it is of equal concern to lawyers, sociologists, jurists, priests and philosophers and others. Criminal abortion is the principal cause of maternal

\textsuperscript{12}Ibid. April 1976, No. 2 Vol. 26, Article by Aggarwal, Sharda and Devi, P.K. - foreign body in the bladder employed to induce abortion, p. 333.

Unpleasant Sequelae of Criminal Abortion —
by — Sapre Shaila and Patil Sushila.
From — G.R.A. College, Gwalior.
Source — Journal of (O and G) of India (FUGSI) June 1984,
Vol. 34, No. 3, p. 568.

Unusual Case of Criminal Abortion by Surma Stick—Manju Misra et al p. 1190

X-ray showing metallic opacity on the right side of pelvic region.
Showing the metallic stick piercing the omentum.
mortality all over the world. It is believed that about 50,000 (fifty thousand) women die every year in USA due to criminal abortion. It is reported that in Australia, between 1967 and 1969, 52% (fifty two per cent) of the abortion deaths were due to criminal interference with pregnancies. During the above period the corresponding figure for England and Wales was 63% (sixty three per cent).

Prior to implementation of abortion law, induced abortion was legal only when there was medical evidence that continuation of pregnancy could seriously endanger mother's life. But such cases were very few. Due to lack of legal protection the others, therefore had to seek illegal abortions. Induced abortion is the deliberate attempt to remove products of conception. Such practice of interrupting healthy pregnancies to get rid of undesired births by resorting to abortion is an ancient one. But the procedures to procure such abortions were left in the hands of unskilled quacks who performed it under unhygienic conditions utterly dangerous to the health

and life of women. The social stigma attached to the widows and unmarried girls who become pregnant is so great that it compels them to resort to induced secret abortions. 17

The reasons for induced abortions have remained the same through the ages. Even married women who did not want to have any more children after the desired number, for varied reasons, also sought illegal abortions, due to the strict laws prevailing against such procedures in many parts of the world. Abortion has also been condemned since long on moral, social and religious grounds and therefore for centuries the criminal abortions with high maternal mortalities have remained a big problem throughout the world. 18

There are reports of the practice of abortion in old Roman Society. Soranus Ephesus (90-138 A.D.) a renowned physician in Rome, described in details the necessary indications supposed to interfere with child birth and thus warranted abortions. Later on realizing the restricted growth of Roman population authorities officially banned abortions. But with

17 Ibid.
18 Ibid. p. 2.
no good results. Even the threats of severe punishment by Septimius Severus (193-211) A.D. could not curb the incidence of abortion. Christianity had also no effects on it for long time when it came to stay in Rome. It condemned abortions on religious and moral grounds.19

In the western world, religious and ethical codes objected seriously the practice of abortion. In early English law, abortion was regarded as a misdemeanour only and not a criminal offence punishable under the law unless it was performed after "quickening", which meant the feeling of foetal movements in the womb by the mother.20 In the mid thirteenth century, for the first time abortion was placed under legal offences punishable under the civil law but again it was allowed to be performed after quickening. Later on Pope Pius in 1869 made all abortions punishable and labelled them a crime equivalent to murder.21

19 Ibid. p. 10.
20 Ibid.
21 Ibid. p. 11.
Aristotle in Greece accepted abortion as a permissible act and advocated that couples with more than the desired number of children should be allowed to procure abortion before getting the sensation of a living factus in utero. 22 Thomas Malthus, an economist, clergyman while studying the social and economic problem found that even "infanticide" was practised in England as well as in many other European countries due to population crisis. The first British abortion Legislation was introduced in 1803 and provided no punishment for such an offence.23

The practice of abortion has been continued in 20th century also and practised unabated all over world either to check the population growth or to meet the social and environmental demands. During the last two decades many countries of Eastern Europe and Asia have liberalised the abortion law. 24 Five of the six most populous countries in the world - China, India, the Soviet Union, the United States and Japan have permitted legal abortion in early pregnancy. There are many

23 Ibid. p. 11.
24 Ibid.
different roads leading to the legalisation of abortion. Thus, despite some continuing opposition, the majority of the world's population now has legal access to abortion as a means of fertility control.25

The earliest records of recognised abortifacients are found in the ancient Chinese texts written more than 4500 years ago during the reign of Emperor Shen Nung. The Babylonian king and the Jews however instituted severe penalties against abortion. Indeed abortion seemed to have been tolerated during the Egyptian and Roman civilization. During the reign of emperor King Julius Caesar the incidence of abortion reached a peak level in spite of offer to tax relief and special allowance to the large families.26

The innumerable illegal abortions endangering life and health of the pregnant women have led to the demand all over


26Das, Dr. Chanakya, Lee. 26th, p. 10.
the world that abortion laws should be liberalised. With the change of time there has also been a change in social attitudes and religious belief towards abortion. The legalisation of abortion by different countries with modern logic in the light of desires and requirements of a society is an important achievement in the mid-twentieth century. 27

The first country to introduce socio-social indications for legal abortions was Ireland as early as 1938. The concept was consequently adopted by other countries like, Sweden (1938), Japan (1948), Finland (1950), Denmark (1956), United Kingdom (1967), California (1967), New York (1969) and India (1971). 28

The experiences of other countries after liberalisation of abortion law showed that there was a spectacular increase of legal abortions throughout Eastern Europe, particularly in Czechoslovakia and Hungary. In Czechoslovakia it reached a

27Chakavacharia Dr. Vijey Kumer, Medical Termination of Pregnancy in the first trimester - op.cit., p. 2.
28Ibid., p. 12.
a peak in 1981 where there were 29 abortions per thousand women, which dropped to 22 in 1984. In Hungary liberalization of abortion was followed by continuous increase of legal abortions which reached its maximum in 1984 with 75 abortions per 1,000 women. In Japan also the number rose from 2,46,000 in 1949 to 1,170,000 in 1965 corresponding to annual rate of 11.1 abortions per 1000 population. In the first twelve months of liberalized law approximately 40,000 legal abortions were performed in England, Wales and Scotland giving a rate of 0.77 per 1000 (one thousand) population. In California there was an eight fold increase after the change of law and the rate increased from 1.8 abortion per 1000 live births to 500 per 1000 live birth in some hospitals.29

It was suggested that by making abortions more readily available it would no longer be necessary for the women to resort to dangerous methods of termination unwanted pregnancy. It was presumed that by liberalisation of abortion it might

be possible to reduce the mortality rate due to criminal abortions. But statistics from various countries reveal the falseness of the presumption.

Study from East European countries where abortion laws have been liberalized suggest the trend of illegal abortions. In Hungary, Bulgaria, Poland, Czechoslovakia and Yugoslavia where abortion laws have been extended to include social indications, there had been a striking increase in the number of legal abortions performed. However, the expected corresponding decrease in the number of illegal abortions had not occurred. In Denmark, in spite of extensive liberal abortion laws there were 4000 legal abortions and 12,000 to 15,000 illegal abortions in 1964. The number of legal termination of pregnancy may increase but it would not significantly reduce the incidence of illegal abortions.

In India, the government appointed a committee to report on the problem of illegal criminal abortions in 1964. The Shah committee estimated that approximately 3.9 million

\[30\] Ibid. June 1973, Vol. 23, No. 3. Article by Bhatt, V. Rohit and Soni M. Jyotana - Criminal abortion in Western India, p. 249.
abortions were criminally induced annually. In 1972 the population council of India reported that 15-20% of all maternal deaths in the country were due to criminal abortions. Thus the Medical termination of pregnancy Bill became law on 1st April, 1972 replacing the obsolete abortion law of 1861 which had seen no change for over a century. 

The mortality survey all over India has shown a definite decline in the maternal mortality in recent years. However, a parallel decline in deaths due to septic abortion has not been observed. A breakthrough which was expected with the introduction of the new abortion Act in 1972, has failed to show any appreciable impact on reduction of maternal deaths caused by septic abortion. Thus, the reports all over the country show that 20-25% of all maternal deaths are caused by septic abortion. As the deaths resulted from septic abortions failed to show any downward trend after introduction of M.T.P. Act, it only implies that for social reason many people are still going to quacks to procure abortions.

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33 Ibid. p. 595.
However, India is a vast country, the socio-economic conditions differ from state to state and it is well known that socio-economic conditions bear great influence on illegal abortions and on its consequences. Thus the impact of abortion law may be different in different regions.

The impact of abortion law on illegal abortion is thus questionable. Report from a teaching hospital of Delhi show that despite the implementation of R.T.P. Act the incidence of septic or illegal abortions remains quite high. Thus, an expectation that number of case of septic or illegal abortion will decline after R.T.P. regulation is yet to be fulfilled. Further, it is to be noted that R.T.P. indirectly helped to reduce the maternal mortality rate due to septic of illegal abortions as it was certain that a percentage of the cases of different studies and also of this 440 cases in the present study who had gone R.T.P. might have gone for illegal abortions increasing the number of maternal deaths. Thus the abortion law is having its impact on maternal mortality following illegal abortion slowly and it can be assumed with confidence that the abortion law at least prevented

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the expected natural yearly rise in the number of illegal or septic abortion cases which would have been taken place in the absence of such a law, besides its beneficial effects on maternal mortality due to illegal abortion.