

The hidden problems of illegal abortions in Thailand

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High rates of unplanned pregnancy and induced abortion were reported among young women in Thailand. Complications from illegal and low standard abortion are a current major health problem in the country. Abortion is considered to be a life-destroying act that counts as a serious bap (sin or demerit) in Thai culture. The current abortion law in Thailand stipulates that abortion is illegal except when performed by a medical practitioner in circumstances considered necessary when the pregnancy endangers the woman's health or conception had occurred during a sexual offense such as rape or incest. However, most Thai people feel that the abortion law should be amended because Thai society has changed radically in its attitudes over the past decade. The debate over legal reform of this law is still active. Thailand needs a multi-disciplinary approach to reduce and prevent the number of unplanned pregnancies and unsafe abortions, with special attention paid to the most vulnerable group of women. **Chiang Mai Medical Journal 2014;53(4):187-91.**

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Introduction

The recent revelation of 2,002 dead fetuses found in a Buddhist temple in Bangkok enlightened people of the hidden problem of illegal abortion in Thailand. The remains were widely believed to have come from many illegal abortion clinics in the city^[1]. Complications from illegal and low standard abortions are a current major health problem in the country. A woman dies every eight minutes worldwide from medical complications as a consequence of unsafe abortion^[2]. These victims were likely young people, perhaps teenagers, living in rural areas and having little or no family or social sup-

port to help with their unplanned and unwanted pregnancy. They might have been raped and did not seek medical attention or experienced an unexpected pregnancy from failure to use contraception. They possibly had little or no money for receiving a standard and safe abortion. Therefore, the attempt to self-induce termination of a pregnancy would be dangerous and probably unsuccessful. On the other hand, these women might seek an unqualified surgeon, who is relatively inexpensive, to terminate the pregnancy. Sadly, many of these women have died from medical complications as a result of

unsafe abortions. Intervention in order to prevent unwanted pregnancy is the key for solving hidden problems of unsafe abortions, by expanding access to modern contraceptive methods, providing safe abortion to the full extent of the law, and tackling legal and programmatic barriers against receiving a safe abortion.

The situation of abortion in Thailand

A total of 45.5 million induced abortions accounted for over one-fifth of approximately 210 million pregnancies reported worldwide in 1995. These aggregate numbers translated into a pregnancy rate worldwide of 160 pregnancies per 1,000 women aged between 15 and 44 years old^[3]. A high rate of induced abortion was reported among young women in Thailand as well. Thailand was ranked first for teenage pregnancy, which accounted for 17.2% of live births in 2009^[4,5]. Of those, 40.7% were unintended pregnancies^[6]. A study conducted in government hospitals revealed that of 13,090 cases of induced abortion, 47% were in women younger than 25 years old. Also, 21% of these young females were adolescents with little or no access to contraception^[7]. The most common reason for induced abortion was the pregnant women's strong desire to continue their education^[8].

Over 61% of pregnant women were younger than 25 years of age, and underwent an abortion performed by providers outside the standard health care system. Thirty percent of these were teens. Furthermore, only 29% of abortions performed outside the health care system were in the hands of qualified health care personnel such as physicians, obstetricians, nurses or midwives. Therefore, high numbers of severe medical complications from illegal abortion carried out by unqualified personnel were reported^[7]. The World Health Organization (WHO) estimated that the annual incidence of unsafe abortions in Thailand during 2003 was between 20 and 29 cases per 1,000 women aged between 15 and 44 years old^[9].

Problems arising from the Thai abortion law

The current abortion law in Thailand became effective in 1956. Section 301-305 of the Criminal Code of Thailand stipulates that abortion is illegal except when performed by a medical practitioner in circumstances considered necessary when the pregnancy endangers the woman's health or conception had occurred during a sexual offense such as rape or incest. A woman also can be criminalized if she allows someone to perform an illegal abortion on her^[10]. Several problems have been raised from the interpretation and implementation of this law.

Firstly, there is no clear definition of "health" in this law, and the whole range of physical and mental health, including social well-being as defined by the WHO, is not explicit. The courts tend to interpret health in the narrow context of physical health only. In 2001, the Thai Medical Council requested an interpretation of the meaning of health in the law. The Royal Institute therefore provided a broader interpretation, including both physical and mental health, but it had no juridical power. Secondly, although incest is not mentioned in the Code, in practice, medical professionals consider incest as a form of rape and abortion is generally provided. Thirdly, in cases of women seeking abortion because of rape, physicians are required under the Criminal Code to obtain proof of the crime and permission for an abortion from the police. However, in reality, most women are deterred from reporting rape to the police. Therefore, such women resort to unsafe abortion or continued pregnancy, due to the lack of proof and refusal by the physician to operate. Lastly, the law does not cover fetal indications. In 1995, a report stated that a medical school had been charged with violating the abortion law, as it reportedly terminated 362 pregnancies between 1981 and 1985 for women with rubella infection, as a result of severe congenital malformation^[11].

The debate over legal reform of this law started in 1973. The reform bill was passed in 1981 in

the House of Representatives, but later defeated in the Senate in 1983. Primarily, this was due to lobbying from a leader of a broad-based religious coalition, who continues to be a central figure in the anti-reform movement. The various governments that followed this have not taken up the efforts to legislate reform on this issue^[10]. According to a large-scale hospital-based survey on abortion in Thailand, several indications of abortion remain controversial, as to whether they should be included in legal reforms. These “illegal” indications for abortion are unlikely to be legalized in the near future. Consequently, abortion will remain a politically sensitive issue, which has been sensationalized in the press in order to counter reform efforts.

A recent debatable issue on reproductive health concerned a law to protect the right to educate pregnant students. In 2010, the Ministry of Public Health introduced a draft law; “Comprehensive Reproductive Health”, which aims to allow pregnant students to continue their study^[5]. In general, schools lack clear guidelines on whether to allow pregnant students to remain in schools, and decisions depend on the school executives. Within the law, all schools must allow pregnant students to continue their study, unless they prefer otherwise. In addition, the key contents of the draft law include the rights to access reproductive health services, maternal leave, and age-appropriate sex education for students. The Ministry of Public Health conducted a public hearing on the draft law on August 16, 2010. The meeting was attended by representatives from parents’ association networks, educational institutions, the Ministry of Education, Ministry of Public Health and a network of organizations working in women’s and children’s rights. All sectors were in favor of the draft law, but it has not yet been passed or acted upon by the Thai government.

Social attitudes towards abortion

Regarding attitudes towards abortion in Thailand, 95% of the Thai population is Buddhist of

the Theravada school. Abortion is considered to be a life-destroying act that counts as a serious bap (sin or demerit). Many women have cited this fear of bap as the main reason for continuing their unplanned pregnancy. In contrast to Buddhism in Thailand, Buddhists in Japan find abortion more acceptable. The Japanese practice of mizuko rites involves the parents praying for the well-being of the aborted fetuses in their rejected “lives”^[12]. Following the discovery of 2,002 fetuses dumped in a Bangkok temple, Suan Dusit Rajabhat University conducted a survey of 1,458 people living in Thailand’s capital and its neighboring provinces during December 2010. The survey showed that 65.6% of respondents felt that the abortion law should be amended because Thai society has changed its attitudes radically over the past decade. More than 62% of participants in the survey said that they could not comprehend why there were so many abortions, and about 15% said abortion was a sin and should be illegal. However, nearly half of the respondents (47%) said it was an individual right to have an abortion depending on their need. The poll’s margin of error was 5 percent, according to the survey’s administrators^[11].

Voices of Thai Physicians on Abortion

The number of Obstetricians and Gynecologists (OB/GYN) in Thailand is disproportionately low for the number of Thai women of reproductive age, which is 16 million, but there are only about 1,700 OB/GYN from a total of 26,000 physicians nationwide. Many OB/GYN are not willing to provide abortion services due to the current restrictive law, their personal beliefs, or religious reasons. The Department of Health (DOH) conducted a study in 2003 to determine the attitude of 3,324 Thai physicians on unsafe abortion^[13]. It showed that 90.3% of physicians agreed that unsafe abortion was a major health problem in Thailand that urgently required a solution. One of the many reasons for having an unsafe abortion was the current restrictive law. Eighty-six percent believed that the law was

not appropriate for current social attitudes and advanced medical technologies. Furthermore, strict enforcement of the law did not decrease the number of abortions. On the contrary, the law has led doctors into being reluctant to provide safe abortion services and forced women to seek unsafe abortion. Seventy-three percent of doctors said that amendment of the law would solve the problem. More than half of the physicians agreed that by following a new Law and Regulation, termination of pregnancy could be performed by a doctor at any week of gestation, with consent of the would-be mother and/or father. More than eighty percent of the physicians agreed with termination of a pregnancy if the fetus had severe disorder or hereditary disease as diagnosed by a prenatal specialist. The respondents differed on whether women should be able to terminate a pregnancy in the case of a failed permanent contraceptive, pregnancy in undergraduate adolescents, and for socioeconomic reasons with 41%, 52.6% and 57% agreeing with termination, respectively. However, 80.3% of the doctors said that they should have the right not to perform abortion services if they do not want to. More than 80% of them agreed that the services should be performed only by OB/GYN, in the proper place, and registered by the Ministry of Public Health. In Chiang Mai University, obstetricians agreed to perform an abortion for women whose fetus has an anomaly on condition of a signature from at least two obstetricians.

Conclusion

Thailand needs a multi-disciplinary approach to reduce and prevent the number of unplanned pregnancies and unsafe abortions, with special attention paid to the most vulnerable group of women. A recommendation to amend the abortion law should be drafted by a coalition of medical professionals, academics, lawyers, women's organizations, and public health advocates, and proposed to the Ministry of Health and the Thai Medical Council for future action. Although a law reform would not directly benefit a large

proportion of women who seek abortion for socioeconomic and family planning reasons, it is still well worth pursuing.

Despite a successful family planning program for married women in Thailand, unmarried women and adolescents are far from adequately covered. Social attitudes are a key barrier. Inadequate understanding of the proper use of contraceptive methods leads to contraceptive failure. Women-centered provision of family planning services, particularly for teenagers, and effective post-abortion counseling and services to prevent repeated abortion need more policy attention. Commitment to sustained public education would also be beneficial.

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ปัญหาที่ซ่อนเร้นของการทำแท้งผิดกฎหมายในประเทศไทย

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ปัจจุบันอัตราการตั้งครรภ์โดยไม่พร้อมและการทำแท้งพบได้สูงในวัยรุ่นไทย การทำแท้งเถื่อนหรือการทำ
หัตถการที่ไม่ได้มาตรฐานจากผู้ที่ไม่มีความรู้ทางการแพทย์ทำให้เกิดภาวะแทรกซ้อนที่รุนแรงยังคงเป็นปัญหา
ใหญ่ ความเชื่อของคนไทยเกี่ยวกับการทำแท้งยังคงเชื่อว่าเป็นการทำบาปและเป็นการทำลายหนึ่งชีวิต ในเชิง
กฎหมาย การทำแท้งถือว่าผิดกฎหมายในทุกกรณียกเว้นเพียงปัญหาอันตรายต่อสุขภาพของมารดาหากมีการ
ตั้งครรภ์ต่อ และกรณีฉุกเฉินขึ้น อย่างไรก็ตามประชาชนส่วนใหญ่มีความเห็นว่าควรมีการปรับปรุงร่างกฎหมาย
ทำแท้งเพื่อให้มีความทันสมัยทันยุคมากยิ่งขึ้น การแก้ปัญหและการป้องกันการทำแท้งผิดกฎหมายและการ
ตั้งครรภ์ในวัยรุ่นต้องการความร่วมมือจากหลายภาคส่วนเพื่อคุณภาพชีวิตของสตรีไทยที่ดียิ่งขึ้น **เชียงใหม่**
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คำสำคัญ: การทำแท้ง สถานการณ์ทำแท้งในประเทศไทย กฎหมายทำแท้ง การตั้งครรภ์โดยไม่พร้อม

