

Νόμοι περί αμβλώσεων: Ανασκόπηση διεθνούς βιβλιογραφίας

Induced Abortion Laws: A Global Review

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Περίληψη

Εισαγωγή: Η διακοπή μιας αδιατάρακτου κύησης εκτελείται σε αρχικό στάδιο της εγκυμοσύνης (<24 εβδομάδες), με αποτέλεσμα την απομάκρυνση του εμβρύου από τη μήτρα και το θάνατό του. Η οικονομική κρίση, ο στιγματισμός και ο φόβος για το μέλλον οδηγούν πολλές γυναίκες να σταματήσουν μια αδιατάρακτη εγκυμοσύνη.

Σκοπός: Αποτύπωση της κατάστασης σχετικά με τη διακοπή της ενδομήτριας εγκυμοσύνης με νομική προσέγγιση σε επιλεγμένες χώρες τριών ηπείρων.

Μέθοδος: Το υλικό αναζητήθηκε σε διεθνείς βάσεις δεδομένων (Pubmed, Google Scholar) χρησιμοποιώντας λέξεις-κλειδιά, όπως έκτρωση, αμβλωση, νομοθεσία, νομικό πλαίσιο και συνδυασμός τους. Για χωροταξικούς λόγους της μελέτης, επιλέχθηκαν να μελετηθούν δεδομένα σχετικά με τις χώρες: ΗΠΑ, Νότια Αφρική, Κύπρος, Ελλάδα, Δανία, Αγγλία.

Αποτελέσματα: Η μελέτη των δεδομένων καθιστά σαφές ότι οι περιορισμοί των νόμιμων αμβλώσεων δεν οδήγησαν σε σημαντική αύξηση των ποσοστών γεννήσεων, ενώ ο αριθμός των αμβλώσεων δεν επηρεάζεται από τη νομική τους αναγνώριση. Στην Αφρική και τη Λατινική Αμερική, όπου η αμβλωση είναι παράνομη στις περισσότερες χώρες, το ποσοστό έκτρωσης είναι 29/1000 γυναίκες αναπαραγωγικής ηλικίας και 32/1000 γυναίκες αντίστοιχα. Αντίθετα, στη Δυτική Ευρώπη όπου επιτρέπεται η έκτρωση, αναφέρονται 12/1.000 γυναίκες. Τέλος, στη Νότια Αφρική, όπου ο νόμος «απελευθερώθηκε» το 1997, ο ετήσιος αριθμός των θανάτων από αμβλώσεις μειώθηκε κατά 91% μεταξύ της οκταετίας 1994-2001.

Συμπέρασμα: Τα κράτη πρέπει: α) να λάβουν μέτρα για τον εκσυγχρονισμό της νομοθεσίας, β) να λάβουν μέτρα για την οικονομική στήριξη των γυναικών, ώστε ο οικονομικός παράγοντας να μην λειτουργεί ως καταλύτης διακοπής της αδιατάρακτου εγκυμοσύνης και γ) πρέπει να υιοθετηθούν προγράμματα πληροφόρησης και εκπαίδευσης του κοινού για την πρόληψη ανεπιθύμητων εγκυμοσυνών στα σχολεία και τους νέους, και να προωθηθεί η αγωγή σεξουαλικής και αναπαραγωγικής υγείας, σύμφωνα με τις κατευθυντήριες γραμμές της ΠΟΥ.

Λέξεις κλειδιά: έκτρωση, αμβλωση, νομοθεσία και συνδυασμός τους.

Abstract

Introduction: The termination of a pregnancy which does not present problems, is performed at an early stage of pregnancy (<24 weeks), resulting in the removal of the fetus from the uterus and the death of the fetus. The economic crisis, the stigma of an unwanted or extra-marital pregnancy, and the fear of the future lead many women to terminate an untroubled pregnancy.

Aim: To map the status of terminated endometrial untroubled pregnancy together with the legal approach in selected countries from three continents

Methods: Material was searched in international databases (Pubmed, Google Scholar) using keyword such as abortion, termination, legislation, legal framework and combinations of these words. For reasons of space the data studied was selected from the following countries: USA, South Africa, Cyprus, Greece, Denmark, England.

Results: The study of the data makes it clear that the limitation of legal abortion did not lead to a significant increase in birth rates, while the number of abortions is not affected by their legal recognition. In Africa and Latin America where abortion is illegal in the majority of their countries, the abortion rate is 29/1000 for women of reproductive age in Africa and 32/1000 women in Latin America. In contrast, in Western Europe where abortion is allowed, there are 12 / 1,000 women. Finally, in South Africa, where the law was "liberated" in 1997, the annual number of deaths from abortions decreased by 91% between the eight years 1994-2001.

Conclusion: States should: a) take measures to modernize the legislation; b) take measures to financially support these women so that economic factors do not act as a catalyst for the termination of untroubled pregnancies; and c) should adopt information and educational programmes in schools and for young people and indeed the public in general, to prevent unwanted pregnancies and to promote sexual health education in accordance with WHO guide lines

Keywords: abortion, induced abortion, legislation and their combination.

Introduction

The legal aspects of induced abortion are the subject of intense debate in many parts of the world, as they are a very important issue in the field of bioethics. The main concern is whether the fetus can be described as a human being and therefore abortion as a homicide, while opposing the woman's right to self-determination (Baltzi et al., 2012).

On the other hand, recent surveys indicate that the number of abortions is not affected by the legal recognition of the right to abortion or not. On the contrary, there appears to have been an increase in illegal and unsafe abortions and pregnancy-related mortality and with the minor net population growth (WHO, 2012).

Conceptual determinations and ideological trends.

Induced abortion refers to the interruption of an untroubled endometrial pregnancy of one or more embryos carried out at an early stage of pregnancy and up to 24 weeks, leading to the removal of the fetus from the uterus by artificial means, resulting in the death of the fetus (Kadi et al., 2015, Jones and Lopez, 2014).

The 24-week milestone is an international limit, which is determined on the basis of the minimum gestation age that ensures the viability of the fetus, as the heart development is completed at the 23rd week (Baltzi et al., 2012). Induced abortion can be artificially caused by chemical-pharmacological, surgical or other methods. (Kalaitzides et al., 2014). Induced abortions are divided into two categories, Therapeutic and Elective. In therapeutic abortion the procedure is carried out to preserve the physical and mental health of the woman. In addition the procedure is carried out when the fetus shows non-viable or very severe physical abnormalities. (Papaioannou et al., 2009). The case of therapeutic abortion cannot easily be the subject of moral investigation, as the preservation of life and the preservation of the health of the woman are superior to the fetus (Yavrouta et al., 2014). In problematic pregnancies, where termination is medically necessary and no other answer is available, the woman has no choice.

Elective abortion is not due to physical dysfunction and is not imposed for medical reasons. Women resort to it for many reasons, social and personal (Androulakis, 2017). For example when the pregnancy is the result of rape or when the pregnancy is extra marital or from career or professional choice or from failure to assume maternal or paternal obligations or failure to recognize paternity or assumption of responsibilities, etc. This type of abortion can raise various moral dilemmas and criticisms, as here there is a choice.

There are different perceptions about abortion that have essentially shaped two different fields: pro-life and pro-choice proponents (life advocates and advocates of choice). The first group (pro-life) expresses its moral and political opposition to selective abortion (e.g. in the case of gender selection of the fetus) and wishes to have a legal ban or the legal limitation of abortions (Dubuc and Coleman, 2007). They consider the human embryo as an individual with an automatic right to life. Speakers of this view also oppose the issue of euthanasia and embryonic stem cell research.

The second group (pro-choice) expresses the political and moral position that the decision to continue or to terminate pregnancy belongs exclusively to the woman as it relates to her body, personal health and future, while strongly emphasizing the concept of personal and reproductive freedom and human rights (Schonhardt-Bailey, 2008). For the promoters of the choice, as the embryo is not a real person and, as such, its rights cannot prevail over those of the woman, at least until the first is considered viable (Hewson, 2001).

Purpose of the study

This literature review aims to cite the current legal framework on induced abortion in selected countries.

Material and method

The bibliography was carried out through Pubmed and Google Scholar electronic databases in English and Greek. The keywords were used: abortion, pregnancy termination, artificial pregnancy termination, intentional abortion, induced, abortion, laws, legal framework. The research of bibliography was limited between 1980-2018. Specific countries of the three continents (Europe, Africa, America) were selected to study: USA, South Africa, Cyprus, Greece, Denmark, England.

Results

USA

The current law on abortion in the United States, following the United States Supreme Court's 1973 judgment and the subsequent accompanying decisions, describes abortion as a legitimate process. However, each State's legal framework may present some restrictive measures at varying degrees each time. Thus, there are different measures regarding the maximum allowable time limit for an abortion, followed by untroubled pregnancy, the requirement of parental information regarding pregnant minors and mandatory information on the risks of abortion in patients prior to the procedure (Harrison and Naylor, 1991).

It is estimated that in the United States, 7% of all abortion women are between 15 and 19 years of age (Jones et al, 2010). On an annual basis, about 750,000 women in the USA aged 15-19 report a pregnancy. In 2008, 59% of pregnancies at these ages resulted in birth, 26% in abortion and the remaining 15% in miscarriage. In addition, it is estimated that the number of women between 15 and 19 years of age who had an abortion was approximately 192,000 (Kost et al, 2012).

The number of women who violate their beliefs, values, desires and conscience is abundant in abortion after third-party intimidation or demands (Reardon, 2004). A relative study suggests that among the total of Americans who had abortions, 64% of them felt pressurised to carry out the procedure (Rue et al, 2004).

Africa

The history of women in the African continent conceals abject oppression, as they were not entitled to make any decision about their lives, including their reproductive function. However, in 1975 the National Party of the South African Government, in

order to reduce morbidity and mortality among women, introduced a law relating to abortion (Republic of Namibia, 1975) and the abortion framework under certain circumstances. The political liberalization of South Africa in 1994 meant the need for the laws to meet the needs of the majority, so women demand that their human rights be respected. Conditions now allow for compliance with the recommendations of the International Conference on Population and Development (ICPD) and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). In south Africa there was a need to reform the abortion law to improve women's health and to reduce their mortality. The 1996 Law conferring the right to terminate pregnancy represents an important step in the right of women to choose self-help (Mhlanga, 2003). The moral and legal aspects of abortion are the subject of intense debate in many parts of the world, as they are a very important issue in the field of bioethics. The main concern is whether the fetus can be described as a human being and therefore abortion as a homicide, while opposing the woman's right to self-determination (Baltzi et al., 2012). On the other hand, recent surveys indicate that the number of abortions is not affected by the legal recognition of the right to abortion or not. On the contrary, there appears to have been an increase in illegal and unsafe abortions and pregnancy-related mortality and with the minor net population growth (WHO, 2012).

Legal treatment of untroubled pregnancy in Europe

It has been established that the definition of abortion legislation is a complex issue in each country, as it includes several laws, codes and regulations with simultaneous validity. In countries where abortion is defined as permissible, it is characterized as a medical procedure and as such is delimited in a multitude of laws of various types, such as social security laws, medical codes and court opinions. On the contrary, in countries where abortion is not permissible it falls under the provisions of the Penal Code. Of course, most governments, even those that criminalize abortion, allow it to be executed under certain conditions, by legislating laws and decrees as exceptions to the Penal Code (Acosta, 2015). In addition, abortion laws may also be affected by general principles applicable to any type of law, such as the "defense of necessity", where abortion becomes lawful, although not normally allowed, in order to save the pregnant woman's life (Boxerman, 1990).

Denmark

In Denmark legislation on abortion is regulated by the 25th article of the Health Act. At the request of the woman, abortion can be done before the 12th week of pregnancy without any prior permission. After 12 weeks abortion can only take place if (Sundhedsloven, 2014):

1. pregnancy or childbirth may cause a risk of disruption to the mother's physical and mental health,
2. the woman is pregnant because of a sexual offence such as rape or incest,
3. there is a great risk that the child will suffer from a serious illness or disability as a result of a genetic predisposition or harmful effects caused during pregnancy,

4. the expectant mother suffers from some physical or psychological illness or other weakness, so that she cannot provide the child with the necessary care,
5. where pregnancy is likely to cause a serious and inevitable burden on the mother to care for other children of the family or to maintain the home. In this case permission is granted while age, employment, as well as the personal and financial situation of the family, is taken into account.

However, a prerequisite for abortion is the possibility that the continuation of pregnancy poses a threat to the life or health of a woman. The abortion of an embryo which can survive outside the uterus only be carried out if the child is at risk of having a serious organic or emotional illness as a result of a genetic disease. Doctors, nurses and other hospital staff retain the right to refuse to participate in such an abortion.

The request for an abortion must be submitted by the woman herself. If she is under 18 she must have the permission of her legal guardian. However, the Abortion and Sterilization Council has the possibility to designate as unnecessary the approval of the legal guardian. Finally, a woman requesting abortion should receive medical information and a counseling session before and after the procedure.

England

In England, abortion was banned until 1929. From then on, according to the "Declaration of Preservation of the Infant's Life", abortion would no longer be reprehensible, since it was done with a benevolent option, namely to save the life of the pregnant woman. In 1967, David Steel's Abortion Act simply brought about an extension of the exception that stated that in order to continue a pregnancy, the mother's life should not be endangered or threatened in any way by physical or mental health. In addition, the child should not have physical or mental problems that might pose a disability (Paintin, 2015). The results of the legislation were quickly discernable. In 1968 the first year after the act was made law the number of abortions per 100 women was 28, in 1969 the number was 50 while in 1980 the number per 1000 women had increased to 129 (Ashton, Machin, Osmond et al., 1983).

Cyprus

The Abortion Act in Cyprus was adopted in 1974 and amended recently in 2018. The legal framework of abortion in the Republic of Cyprus is governed by the Penal Code, in particular by Articles 167 and 169A. Legislation enshrines the right to interrupt a pregnancy in cases where psychological, social, and spiritual reasons require it, provided simultaneous approval of two doctors is ensured (Anagnostopoulou, 2011). In particular, abortion is permitted in exceptional cases where there is a substantial risk of some form of fetal dysplasia, which is subject to the opinion of two registered physicians or when the continuation of pregnancy may cause physical, mental or mental harm to the pregnant woman. In particular abortion is permitted when pregnancy is the result of rape, sexual abuse or incest. These specific circumstances, however, are required to be signed by the physician. In any case, the pregnancy is terminated only by a registered physician in accordance with the Doctors' Registration Law.

According to the same law, a person who publicly advertises, even disguised, medicines or other objects or ways as appropriate to cause artificial termination of pregnancy and provides services for carrying out artificial termination of pregnancy, is guilty of an offense and, if convicted, is subject to imprisonment for up to two years (Cypriot Legislation, 2018).

Greece

Greece holds one of the top positions in Europe in terms of the number of abortions. In 1992, sources estimated births to about 150,000 and abortions to 105,000 respectively (Hlioutakis, 1992). In 2001, one in four women of childbearing age reported at least one unwanted pregnancy that resulted in abortion. The rate for the ages of 16-24 was one in 10 women, while for the ages of 35-45 it was one in three women (Tobacco, Pitsikaki and Floka, 2007). Every year, over 250,000 abortions are estimated to occur in Greece, of which 40,000 refer to underage girls (under the age of 16). Also, one third of the women were married women who would have liked to avoid abortion had they had the financial freedom for a larger family (Bonis, 2002). At the same time, unofficial statistics show that the annual number of abortions is twice as large as the annual number of births (Dimoula, Iordani, Konstantinou et al., 2007). In addition, the complications of abortion appear to be an important cause of observed infertility in Greece. It is estimated that in Greek society, about 150,000 couples cannot become pregnant because they have at least one abortion (Ministry of Health and Social Solidarity, 2008, Papaioannou and Sapka, 2009).

In Greece, as in all European countries, in the middle of the 19th century the killing of unborn life after being separated from homicide, the killing of born life, was seen as a separate type of criminal behavior. In the second half of the 19th century abortion was prohibited with no exceptions from the time of conception while the punishment concerned the pregnant woman, the doctor carrying out the abortion and any other third person involved in the procedure. At the turn of the 20th century, liberalization efforts have been observed (Kressi, Kazalakis and Meladakis, 2007).

In Greece the Penal Code in Article 304 allows abortion (artificial interruption of pregnancy) only with the consent of the pregnant woman and only by a medical obstetrician/gynecologist with the aid of a qualified anesthesiologist in an organized nursing unit in the following cases:

1. if there is serious risk to the health or life of the pregnant woman or indeed if the mental strain caused by an unwanted pregnancy causes serious mental distress
2. if there are fears about genetic damage to the fetus
3. if the pregnancy resulted from rape or if the pregnant girl is under the age of 14
4. a general emergency situation where social/economic conditions put an untenable strain on the family causing severe mental distress based on the application of the Penal Code (Syriopoulou and Hassani, 2010).

In all cases a prerequisite is the consent of the pregnant woman, as well as the carrying out of all procedures of abortion by a doctor. In all other cases, the act is considered punishable. Additionally, under law, advertising of means of abortion, whether legal or illegal, is prohibited. Since 1986 abortion in Greece is no longer prosecuted. It is free, as long as the pregnant woman agrees (Nicolouli and Biberi, 2005).

It is noted that in the Civil Code, Article 1711 states that the embryo is to be inherited from the moment of conception and not birth, provided that it is born alive (Milapidou, 2011). Thus, while not being granted the right to life, he is nevertheless granted occasional rights. This is explained by the fact that the law of the Civil Law is intended to ensure the inheritance rights of the fetus rather than to define it as a person, since its priority is not the definition of the fetus' moral state. The position of legal science with regard to the moral aspect of abortion is distinguished by the provisions of the Penal Code (Mitsopoulou, 2013).

Assessment of the legal framework and its impact on the control of abortion

This literature review makes it clear that legal abortion restrictions have not led to significant increases in birth rates, while countries with liberal abortion laws have reported less negative health consequences from unsafe abortions than countries with strict laws (Jewkes et al, 2005). Typical examples are countries in Africa and Latin America where abortion is illegal in most of those countries, the abortion rate is 29 / 1,000 women of reproductive age and 32 / 1,000 women respectively. In contrast, in Western Europe where abortion is allowed, there are 12 / 1,000 women (Sedgh et al, 2012). Finally, in South Africa where the law was liberalized in 1997, the annual number of deaths from abortions decreased by 91% between the eight years 1994-2001 (WHO, 2012, Jewkes et al, 2005).

On the other hand, in countries where abortion is accessible with few restrictions or with liberal laws, low abortion rates are observed. Brazilian abortion legislation is very restrictive, but it has one of the highest rates in the developing world. The Brazilian Ministry of Health calculates that 31% of all pregnancies resulting in abortion are mostly illegal (Kalaitzidis et al., 2014). On the contrary, the lowest rates in the world are presented in Western and Northern Europe, where abortion is accessible with few restrictions. In particular, in the Netherlands the abortion rate is approaching 10% (the country with the most liberal abortion laws in the world) (Shaw, 2010).

Legal restrictions often lead women to seek services in other, neighboring countries, with more liberal laws. These options increase personal spending and, as a result, create social inequalities. It is estimated that in 2007 more than 6,000 women traveled from Ireland to England for abortion (Federation, 2007). At this point, it should be noted that access to abortion in Europe is not dependent on both the law and the prevailing social aspects, which lead to the interpretation of laws. In some parts of Europe, laws permitting abortion during the second trimester of pregnancy due to concerns about women's mental health tend to be interpreted very liberally, while in other conservative areas it is difficult to have a legal abortion, even in early stages of pregnancy due to the policy of conscientious objectors,

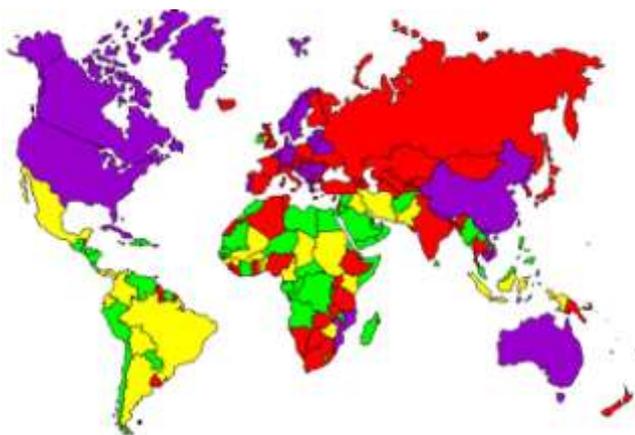
according to which doctors are allowed to refuse to perform an abortion if they are against their moral or religious beliefs (Federation, 2007).

Conclusions

Surely abortion is an undesirable experience and the reduction in the total number of targeted abortions is a social objective in many countries. However, respect for human rights and women's autonomy is self-evident. It would be better and more effective to promote and educate the population on the prevention of unwanted pregnancies and the safe methods of contraception rather than having strictly legal frameworks which prohibit the abortion procedure.

Study constraints

The literature review has been limited to a few countries due to lack of spatial constraints



(World Abortion Law Map, 2007)

	Abortion ever legal, or legal only in case of serious risk to the health or life of the pregnant woman
	Restricted to cases of maternal mental health, rape, fetal defects
	Restricted to cases of maternal mental health and/or socioeconomic factors
	Legal on request any time, any reason

N	legal
O	not legal
1	legal during the first trimester of pregnancy
2	legal during the second trimester of pregnancy

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COUNTRY	LIFE	HEALTH	MENTAL HEALTH	RAPE	FETUS DEFECT	SOCIAL REASONS	O N REQUEST	YEAR
Greece	N	N	N	N	N	N	N	1986
Cyprus	N	N	N	N	N	N	O	2015
England	N	N	N	O	N	N	O	1967
Denmark	N	N	N	N	N	N	1	1973
Spain	2	2	2	O	2	O	1	2010

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