

ABORTION LAWS IN THE COMMONWEALTH

PREFACE

Medical technology in relation to family planning and the medical termination of pregnancy has in recent years outstripped the provisions of the law in many countries. A number of Commonwealth governments are giving consideration to ways in which their legislation and administrative practice need to be brought into line with developments in medical technology.

2. In the discussion of family planning at the Third Commonwealth Medical Conference, in Mauritius in 1971, it was suggested that the Commonwealth Secretariat might assemble and disseminate selected information on the subject, and it was noted that legislation in a number of member countries had recently made abortion more widely available than hitherto. The Fourth Medical Conference, in 1974 in Sri Lanka, accepted that the attitudes of different member countries to family planning were bound to vary, depending on their perception of socio-economic, cultural and other factors unique to their own situation and aspirations, but thought it would be useful to share national experience and identify the range of options within which countries might find some of relevance to their own particular needs and policies.

3. One of the recommendations made by the 1974 Medical Conference in the context of family planning was that the Secretariat should collate information on the experience of Commonwealth countries with the medical termination of pregnancy. It was further suggested that the Secretariat might examine the legal and ethical obligations of medical and para-medical personnel in relation to family planning and advise governments accordingly.

4. Accordingly, the Secretariat sought from governments, by means of a questionnaire and subsequent correspondence, information on the existing state of abortion law in each country, on the current situation in regard to the practice of abortion, and on any proposals for new legislation or administrative measures.

5. The information so obtained has been analysed by Miss. Rebecca Cook, Head of the Law Programme of the International Planned Parenthood Federation (IPPF), and Professor Bernard Dickens, Faculty of Law of the University of Toronto, in consultation with the Medical Adviser and the Legal Division of the Commonwealth Secretariat. Miss. Cook and Professor Dickens have prepared the main paper of the study, describing the historical development and present state of abortion law in Commonwealth countries and the administrative practices governing the performance of abortions.

6. In addition, two supporting studies have been commissioned by the Secretariat. Mr. Mostyn P. Embrey, MD, FRCS, FRCOG, of the Nuffield Department of Obstetrics and Gynaecology, John Radcliffe Hospital, Oxford, in his paper "Developments in Medical Technologies for Fertility Regulation and their Implications for Medical Legislation",

describes the recent technological advances which are likely to make desirable a review, and perhaps the reform, of abortion law in many member countries. Mr. Victor Tunkel, Lecturer in Law at the University of London, in his companion paper "The Law against Family Planning: a Commonwealth Survey", examines the legal implications of these developments in medical technology.

7. As the medical and legal aspects of the problem are so closely interlinked and call for joint consideration by Ministries of Health and by Law Ministries, the three studies have been combined in this report, which will be submitted to the Meeting of Commonwealth Law Ministers in August 1977 as well as to the Fifth Commonwealth Medical Conference in November 1977. The views expressed in the three studies are those of their authors. The object of the Secretariat in presenting the report is to provide governments with information which may be of practical assistance should they wish to review their relevant legislation and consider what changes may be desirable. For this reason the report is predicated on the thesis that change is thought necessary. It is, of course, recognised that some countries are confident that their laws already adequately reflect the values and the needs of their own societies, and that the report has little relevance for them.

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