

INTRODUCTION

Since 1977 the Commonwealth Secretariat has provided the meetings of Commonwealth Health Ministers and Commonwealth Law Ministers with surveys of Commonwealth experience regarding reproductive health law. The 1977 meetings received the Report, Three Studies of Abortion Laws in the Commonwealth and the 1983 meetings received an analysis of Emerging Issues in Commonwealth Abortion Laws, 1982. The latter report expanded upon the initial theme of abortion to address contraception, menstrual therapies, health personnel and relevant issues in constitutional and international human rights law. These reports were also made available to Ministers Responsible for Women's Affairs.

The present Report, designed for the 1986 Meetings of Commonwealth Ministers addresses general issues in Commonwealth reproductive health law. An initial overview of reproductive health services includes consideration of maternal and child mortality and their impact on family life. Succeeding chapters address a variety of legal aspects of contraception, sterilization and abortion. Having considered legal aspects of fertility control, the Report continues by addressing legal aspects of responses to infertility. The concluding chapter discusses some consequences of the Convention on the Elimination of All Forms of Discrimination Against Women.

Prominent issues in contraception include the House of Lords' decision on adolescent access to contraceptive services in the widely discussed English Gillick case, and legal aspects of newer forms of contraception, including "contragestives". Sterilization issues include discussion of the growing Commonwealth case law on legal consequences of sterilization failure, in "wrongful conception" and "wrongful birth" claims. Abortion issues include new legislation in Barbados, Bermuda, Ghana and Montserrat and litigation in, for instance, Canada and Australia.

Infertility is a growing problem in all parts of the Commonwealth. Causes of infertility are discussed, followed by consideration of legislation and proposals for legislation on human artificial reproduction. This concerns the techniques of artificial insemination, in vitro ("test tube") fertilization and employment of these or other procedures in surrogate motherhood transactions. Comparisons and contrasts are drawn between reports of such groups as the Warnock Committee (UK), the Waller Committee (Victoria, Australia), and the Ontario, Law Reform Commission (Canada).

The Convention on the Elimination of All Forms of Discrimination Against Women is considered to warrant special attention by the audiences addressed in this Report. Discussion draws attention to the Commonwealth Secretariat's accession kit developed to facilitate membership in this Convention by Commonwealth

countries which have yet to make a legal commitment to its principles and reporting mechanisms. The legal call for equal access to health including family planning services must be heard by Law Ministers and Health Ministers alike, and its importance to Ministers responsible for Women's Affairs is self-evident.