

*This is a forthright discussion of an important community problem. The author analyzes clearly why she considers illegal abortion a problem for public health workers and states what can be done about it.*

## **ILLEGAL ABORTION AS A PUBLIC HEALTH PROBLEM**

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**B**EFORE I DISCUSS illegal abortion as a disease of society, let us look at the definition of the word "disease." In the 22nd edition of the "American Illustrated Medical Dictionary," disease is defined as "any departure from the state of health, an illness or a sickness; most specifically, a definite morbid process having a characteristic train of symptoms. It may affect the whole body or any of its parts, and its etiology, pathology and prognosis may be known or unknown." As a public health person, I would add a public health concept, epidemiology, to etiology, pathology, and prognosis.

This definition is applicable equally to the individual or to the group. Thus in calling illegal abortion a disease of society, I point to the very existence of illegal abortion as a departure from a state of total health of that society. It is a morbid process in the social structure, having a characteristic train of symptoms. It does indeed affect the whole body of society or any of its parts, namely, individuals. As its etiology, pathology, and epidemiology are only partially known, its prognosis, prevention, and treatment can for the most part, therefore, only be guessed at.

Go back even further in the definition of "disease" to the roots of the word in the French language: The negative "des" and the word "aise," ease mean

literally un-ease; and this is truly an uneasy condition existing in our society; so uneasy that it makes us uneasy even to contemplate it. Therefore, we have in the main preferred not to contemplate it.

However, in 1955 it was exhaustively contemplated by 43 men and women from the various disciplines of obstetrics, psychiatry, public health, sociology, forensic medicine, and law and demography, who were uneasy enough about this dis-ease to sit down for eight, three-hour sessions in an effort to bring it into realistic focus. The proceedings and conclusions of this conference were published in book form in 1958. Here are some of the facts established.<sup>1</sup>

Fact No. 1—In 46 states legal abortion is permitted to preserve the life of the mother; three states allow, in addition, preservation of the health of the mother. Thus in the other states\* such abortions as are being performed legally, that is, therapeutic abortions, are for the most part being done on the word of psychiatrists that the unwilling mother will otherwise commit suicide. This procedure has developed because medically speaking, that is, from the point of view of diseases of the various systems, cardiac, genitourinary, and so on, it is hardly ever necessary today to consider the life of a mother as threat-

\* Alaska and Hawaii were not then states.

ened by a pregnancy.<sup>2</sup> However, and this is a big however, interpretation of the law varies from city to city within a state.

Fact No. 2—Interpretation of the law also varies between hospitals within a city and between services in the same hospital, because the legal therapeutic abortion rate is higher on private services than on ward services. A public health official put this pointed question at the conference: "Why is there such a difference in the incidence of therapeutic abortion by hospitals? Is the woman in a public hospital healthier than a woman on a private service in a voluntary hospital or in one voluntary hospital as against another one?" The second fact to be established, therefore, is that the border zone between legal and illegal abortion is narrow and shifts frequently, depending on personnel and locale. Indeed, as one participant bluntly put it: "I would like to call attention to the artifact of distinction between illegal and therapeutic abortion. Actually, according to my definition, in many circumstances the difference between the one and the other is \$300 and knowing the right person." So much for fact number two.

From the first two facts it becomes clear that the interpretation of legality is probably in the eye of the beholder. What we have to admit is, as was repeatedly emphasized, that most therapeutic abortions are in the strictest sense of the law actually illegal.

Fact No. 3—Abortion is no longer a dangerous procedure. This applies not just to therapeutic abortions as performed in hospitals but also to so-called illegal abortions as done by physicians. In 1957 there were only 260 deaths in the whole country attributed to abortions of any kind. In New York City in 1921 there were 144 abortion deaths, in 1951 there were only 15; and, while the abortion death rate was going down so strikingly in that 30-year period, we know

what happened to the population and the birth rate. Two corollary factors must be mentioned here: first, chemotherapy and antibiotics have come in, benefiting all surgical procedures as well as abortion. Second, and even more important, the conference estimated that 90 per cent of all illegal abortions are presently being done by physicians. Call them what you will, abortionists or anything else, they are still physicians, trained as such; and many of them are in good standing in their communities. They must do a pretty good job if the death rate is as low as it is. Whatever trouble arises usually comes after self-induced abortions, which comprise approximately 8 per cent, or with the very small percentage that go to some kind of non-medical abortionist. Another corollary fact: physicians of impeccable standing are referring their patients for these illegal abortions to the colleagues whom they know are willing to perform them, or they are sending their patients to certain sources outside of this country where abortion is performed under excellent medical conditions. The acceptance of these facts was such that one outstanding gynecologist at the conference declared: "From the ethical standpoint, I see no difference between recommending an abortion and performing it. The moral responsibility is equal." So remember fact number three; abortion, whether therapeutic or illegal, is in the main no longer dangerous, because it is being done well by physicians.

Fact No. 4—Other countries are having significant experiences with illegal abortion. Take France first, a Catholic country, where no abortions and no contraceptive measures are legal. It is a country, however, whose citizens acting independently have lowered the birth rate by three methods. Two are contraceptive, namely, the use of the condom and withdrawal; the third is abortion. I have no figures on the mortality rate from abortions in France, but various

opinions estimate that the ratio of illegal abortions to live births is approximately 1 to 1. Incidentally, France has a law that requires the reporting of all pregnancies to the police!

Next is Japan, a country whose overpopulation and use of land to the saturation point helped to spark the Second World War. Japan has attacked its high birth rate through a very strong governmental contraceptive program, with contraception available at 900 governmental health centers (the government's budget for family planning in 1958 was \$600,000) and also by the legalization of abortion, which can be performed by most physicians at the nominal cost of two or three dollars. It has been estimated that the over-all abortion ratio there is the same as that in France, namely, one abortion for every live birth. In any event, Japan has succeeded in lowering its birth rate by 50 per cent. A young Japanese newspaperman tells me that last year, for the first time in years, there actually were empty seats in the lower grades of schoolrooms in Japan.

Next is Scandinavia: Its three countries have a more or less similar policy on abortion, with boards, carefully set up under governmental auspices, which consider all applications for abortion from the medical, psychiatric, and sociological points of view. In these countries abortion is allowed not only to preserve the life of the mother, but to preserve her health. The legal interpretation of preservation of health is broad, including as it does mental and emotional health and taking into account as it does socioeconomic pressures; eugenic factors, such as hereditary disease; and humanitarian pressures and emotional trauma due to pregnancies resulting from rape, incest, or extreme youth of the mother. Interestingly enough, even with these provisions and with contraception broadly available, Norway, Denmark, and Sweden still ad-

mit to some illegal abortions. So fact number four points up that women who are unwillingly pregnant will obtain an abortion, whether legally or illegally as in Scandinavia, or illegally as in a completely closed system, such as in France.

Fact No. 5—Brings us home to the United States, where it is clear that women, unwillingly pregnant women, are also obtaining abortions. These women are as often married as unmarried, more often white than colored, more often of college level education than of high school education.<sup>3</sup> They are also from all religious groups. Here, as elsewhere, the difficulty lies in determining the incidence, because the groups for which we have available statistical data are very restricted. The best statistical experts we could find would only go so far as to estimate that, on the basis of present studies, the frequency of illegally induced abortion in the United States might be as low as 200,000 and as high as 1,200,000 per year. During the course of the conference, however, it was notable that the figure of 1,000,000 abortions yearly, or one to every four births in the United States, was advanced again and again by the various participants. Fact number five, therefore, is that whether the incidence is as low as 200,000 or as high as 1,200,000, nevertheless, we do have an illegal abortion problem.

Should public health people look upon it as a problem? Can they shrug off even 200,000 invasions of pregnant uteri as of no medico-social importance? But, one can say, only 260 deaths from all types of abortions—that is a low mortality rate. Why should illegal abortion be a public health problem?

The answer is that we have passed the stage where public health concerns itself only with death rates. The World Health Organization's definition of health is that it is "a state of complete physical, mental and social well-being and not merely the absence of disease." Remember the

French roots of the word dis-ease and the definition, "any departure from a state of health that can affect the whole body or any of its parts." As public health people, we are interested in the whole body, that is, in society. We are also interested in the whole body of the individual who is a part of society. Here are some of the symptoms of this disease of society, illegal abortion.

First, medical indecision regarding the interpretation of the law: We do not have that kind of indecision concerning permissible bacteria counts above which milk or drinking water are not considered safe. One can interpret the law in only one way as far as most public health measures are concerned, but the interpretation of the law regarding abortion depends upon who is interpreting it and how far he is willing to go. Indeed, the conference participants recognized that "present laws and mores have not served to control the practice of illegal abortion" and they felt that "to keep on the books unchallenged, laws that do not receive public sanction and observance is of questionable service to our society."<sup>4</sup>

A second symptom, inequity of application of a medical procedure: Remember the woman with \$300 who knows the right person and is successful in getting herself legally aborted on the private service of a voluntary hospital, in contrast to her poorer, less influential sister on the ward service of the same hospital or in a public hospital in the same city, a woman in exactly the same physical and mental state as the first one—whose application is turned down?

A third symptom, inconsistency of application: Even with \$300 a woman applying at one hospital may be turned down and go to another hospital in the same city where, with the right combination of medical opinions, she may obtain a legal abortion. Is this sound medicine, soundly practiced?

Another symptom, and probably the

worst of all, the quasi-legal subterfuges and hypocrisies that must be undertaken by an honest and concerned medical man when he wants to provide his patient with a procedure that in his best medical judgment is indicated.<sup>5</sup>

And last but not least, as a symptom of a disease of our whole social body, the frightening hush-hush, the cold shoulders, the closed doors, the social ostracism and punitive attitude toward those who are greatly in need of concrete help and sympathetic understanding, the unwillingly pregnant women of all ages, both married and unmarried. A former abortionist who testified at the conference stated that in his experience "the difficulty lies with the fact that the average unwillingly pregnant woman does not know what to do or where to turn. There is no place available where she can air her situation comfortably and quietly and confidentially. Her only resource at present is to go to a local physician and under present standards he is afraid even to look at her. He has no place to send her. He has no recommendations to make to her. So consequently she goes to an abortionist." Conference members agreed, and this was backed up by evidence from the Scandinavians, that when a woman seeking an abortion is given the chance of talking over her problem with a properly trained and oriented person, she will in the process very often resolve many of her qualms and will spontaneously decide to see the pregnancy through, particularly if she is assured that supportive help will continue to be available to her.

I ask you not to assume that I am indiscriminately for abortion. Believe me, I am not. Aside from the fact that abortion is the taking of a life, I am also mindful of what was brought out by our psychiatrists — that in almost every case, abortion, whether legal or illegal, is a traumatic experience that may have severe consequences later on.

So I am not for abortion but, trained in public health, I am for preventing any need for abortion, and I also am for facing the problem of illegal abortion which is with us. It is a problem not of the unmarried girl alone, but also of the married woman. It is a problem far broader in scope than just the question of a woman who does not want a particular pregnancy. Indeed, it was recognized by conference participants that "although the effort to obtain an induced abortion may indicate that the woman is physically ill, more often it reflects one or more of a complexity of factors, such as poor social or economic environment, disturbed marital relations, psychiatric or neurotic disturbances in the family or quite simply a need to keep her family at its present size." There was general agreement with the words of one psychiatrist: "When a . . . responsible female seeks an abortion, unless the warrant for it is overwhelming—as say in the case of rape or incest—we are in effect confronted both with a sick person and a sick situation." Can we, as public health people, deny that we have a stake in dealing with either one of these? We should move into this area of concern in several ways.

First, in the prevention of the need for abortions we can do one obvious thing, make sure that means of regulating parenthood are available to every woman in every maternal health service. This will mean the biological method of controlling conception for those whose religion accepts only this method; and all of the accepted medical methods for those whose religious beliefs not only accept family planning, but look upon it as a part of religious obligation. In the May 9, 1959, edition of the *Corpus Christi, Tex.*, "Caller," there was a report of eight women in one day hospitalized "following clumsy, unsanitary abortions." There were no leads as to the identity of the abortionist, if there was one—for these, as

indicated at the conference, may well have been self-induced. But the news report went on to say that the City-County Health Unit director publicly advised persons not wanting more children to consult the Planned Parenthood Center. Making contraceptive advice freely available to all who desire it was one of the recommendations of the conference. The Model Penal Code of the American Law Institute states in its May, 1959, draft that "the restrictions which society places on the distribution of contraceptive . . . information are themselves contributors to the abortion problem."<sup>4</sup>

Another recommendation of the conference: "Encouragement, through early, continued and realistic sex education, of higher standards of sexual conduct and of a greater sense of responsibility toward pregnancy." Surely those of us who in dismay have contemplated the 200,000 out-of-wedlock births yearly, with an increasing number to teenage girls, know how important this recommendation is. Every health officer sincerely concerned with the mental and social health of the people in his jurisdiction should be spearheading efforts in sex education for all age groups and should be joining forces with religious and mental health programs in this area. Sex education and provision of conception control in all maternal health services are two areas where public health must act.

A third area, however, could be of real significance. Remembering that a disease that is concealed can never be cured, I would like to enlist public health in an effort to establish better figures on the incidence of illegal abortion. Actually, of course, we know that the nature of this problem is such that one will never get accurate ex post facto figures. We will never find out how many illegal abortions have been performed, but how about trying to find out how many are being asked for? Suppose requests for

abortion were made reportable? Why not? Suppose that every time a woman comes to a doctor asking for an abortion, he makes a note of it along with some easily obtained information and sends this note to his health officer. Suppose that after a few such efforts, physicians discovered that the sky did not fall in on them in the person of the law and that the privacy of their patients was being respected. At the end of two or three years we might really know something about this disease of society. Let us say that in a certain county this study was undertaken cooperatively by the health department and the county medical society. The probability is strong that almost every illegal abortion is preceded by a visit of the woman to some doctor with a request for a legal abortion, a request which, of course, is almost always turned down. But every doctor visited by such a patient should forward to his health officer a report form containing the following information: No name, no identifying material, but age of woman, her marital status, her race, the number of pregnancies and the number and ages of her living children, some estimate of her socioeconomic status, her stated reasons for asking for the abortion, the doctor's reasons for refusing the abortion or, occasionally, his reasons for granting it. And finally, one most valuable bit of information which in time the doctor would feel quite free to answer: "If the law of this state left you completely free to exercise your medical judgment, would your opinion be that this woman's pregnancy should be terminated?"

Public health has always risen to the challenge of the unknown, the difficult, the seemingly unconquerable. Furthermore, public health has continually enlarged the boundaries of its sphere of action, from dealing with such concrete and related entities as typhoid fever, water and sewage, or diphtheria, scarlet fever, milk control, and immunization;

to dealing with such problems as tuberculosis, with its socioeconomic as well as physical components, venereal disease, with its ethical and moral as well as sociological and physical components, and mental health problems, whose components touch every aspect of life and society. We should not now hesitate to acknowledge our responsibility even in an area so loaded with emotion and moralistic overtones as illegal abortion and sex education. Here at least we should be brave enough and responsible enough to provide whatever preventive measures are immediately available, while at the same time we should be curious enough to do such fact-finding as might give us a basis for possible additional means of control.

More and more public health needs to enlist workers possessing three qualities: honesty, courage, and energy. Honesty means that you face the facts as they really are and not as you hope they are. This is what case finding would help us do. Courage means that you are not afraid of yourself nor of the facts that you face, and that you are not afraid to proceed along the lines of your convictions nor afraid of the criticism and opposition they may incur. Courage is what we need if we are to make progress in this emotion-beclouded field. Energy means that till the day you die you work morning, noon and night to carry out what your honesty and courage have told you must be done. This is the energy that public health workers have always had available in forming the effective arm of medicine for the individual and for society. I would wish this energy, this honesty, this courage to be applied to the control of illegal abortion as a disease of society, a dis-ease in which the mental and physical agony of perhaps a million women every year present themselves as strong candidates for the public health worker's professional and humanitarian concern.

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