

Confounding Issues in Abortion Legalisation (Liberalisation) in Nigeria: Solution Options

SUMMARY

This article reviews the various controversies surrounding abortion legalisation as a solution to the problem of unsafe induced abortion in Nigeria, especially as they affect the success or otherwise of such a policy. The main controversial issues are in the sociocultural, political, economic and public health spheres of National life. Subsequently, other solution Options are given and discussed as possible ways out of the seemingly confounding problem. Earlier a background review of the existing Nigerian Abortion laws have been made and compared with existing international standard.

KEYWORDS: Abortion legalisation; controversies; Solution Options; Nigeria.

INTRODUCTION

Unsafe abortion is a big public health problem world wide, more so in sub-Saharan Africa where it is estimated that about 99% of the 500,000 maternal deaths from unsafe abortion occur annually (11). Indeed 40% of maternal deaths in some centres in Nigeria are said to be due to abortion complications (3,14,18).

However, in spite of the magnitude of the problem of abortion morbidity and mortality and the intense interest among gynaecologists and other medical practitioners to solve the problem in Nigeria (8), a deliberate public health measure to curb the menace has been difficult to put in place. Abortion legalisation has been recommended variously as a means of, or part of the means of solving the problem (3,8,19). Various confounding socio-cultural cum political controversies have made this solution difficult to achieve, prompting this article which is presented in three parts. The first part reviews the classical definitions of abortion laws and what obtains in Nigeria. The second part discusses various issues involved in the controversies surrounding abortion legalisation (liberalisation) especially why it has been difficult to actualise and finally possible solution options are discussed with a view to finding the way forward in the common goal of eradication of abortion morbidity and mortality.

ABORTION LAWS IN NIGERIA

According to population reports, Series E, Number 3 of March, 1976, all abortion laws fall into one of four major categories. Illegal, very restrictive, conditional and liberal. Before discussing the category Nigeria abortion laws fall into, the definitions of the four types will first be given.

Illegal: In this classification abortion is prohibited without exception.

Very Restrictive: Abortion is permitted only to save - the life of the pregnant woman.

Conditional: Here, abortions are permitted on several grounds to preserve the health of the woman, in case of rape or where there is likelihood that the foetus has been impaired. Interpretation of the general term to preserve the health of the woman may differ from one country to the other. In some countries, it refers only to physical health, whereas in others a woman's mental health may also be a determining factor. In yet other countries, abortion is allowed on humanitarian grounds. In countries where this law exists, the written consent of two physicians or an abortion board is usually required before any procedure is carried out.

Liberal: This category has two subdivisions - "on request" with no restrictions and also for "social reasons". This category of liberal abortion law is often synonymously called legal abortion, but in the strict sense, restrictive and conditional laws are also legal laws but in limited scope. For the purpose of this article, however, the words legal and liberal will be used interchangeably as it is commonly practised.

According to the definitions above, it appears that the Southern and the Northern parts of the country do not have a uniform abortion law.

Section 228, 229, 230 and 230 of the criminal code of Southern Nigeria (1) as well as section 232 and 234 of the penal code of Northern Nigeria (7) spelt out the conditions under which abortion is permitted and also the various offences related to abortion and their punishment, which range from various jail terms to life imprisonment if the death of the woman is involved. The higher the gestational age, the greater the prison terms. Indeed, any intention to procure abortion illegally alone is liable to various jail terms for both the person wanting to procure it and her collaborators, irrespective of whether the patient is confirmed to be pregnant or not.

Therefore, from the discussion above, it appears the law is very restrictive in the Northern part of Nigeria, allowing abortions only to save the mother's life whereas the British abortion act of 1967 which legalised abortion to save the mothers' life and for humanitarian and social

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reasons is illustrated as an example of one of the conditions under which abortion is legalised in the criminal code of Southern Nigeria. However, the socio-cultural cum political setting in the entire Nigeria has created gaps between the abortion law and its application such that most people, including Doctors, tend to think that the Southern part of the country also has a restrictive law in place. The resultant effect is that abortions for social reasons are clandestinely done by quacks or semi trained personnel in unhygienic places with an attendant high morbidity and mortality.

CONFOUNDING CONTROVERSIES OF ABORTION LEGALISATION (LIBERALISATION)

The foremost argument in support of abortion legalisation (liberalisation) is that it will make the services of safe abortion accessible, available and affordable(2).

This argument is justified by the fact that since most women with unwanted pregnancy seeking abortion usually go to any length to achieve their goal once their mind is made up about it (9,10,13) it becomes very important to make abortion services available so that such women or girls will be spared the complications of unsafe abortion.

However, counter opinions on liberalisation making abortion accessible, available and affordable maintain that there is presently a lack of adequate medical facilities and personnel in the country with only 56.5% of the population having access to orthodox health care facilities and liberalising abortion now will put too heavy a strain on the existing inadequate facilities and manpower. In the same vein, it is further argued that the government cannot subsidise abortion cost to the detriment of other more common diseases like malaria, malnutrition, diarrhoea and so on which are still greatly ravaging the population.

One other area of controversy is the effect of abortion liberalisation on contraception. Opposition to abortion liberalisation in this respect is based on the assumption that it will lead to a decline in contraceptive use, and that an effective contraceptive programme will negate the need to legalise (liberalise) abortion. Proponents of abortion liberalisation are quick to add that many women in Nigeria are ignorant of their menstrual cycle not to talk of being aware of contraception (13,14) which is even not available to all because of the same sociocultural cum religious reasons for which abortion liberalisation is being opposed.

Opposition to abortion on moral grounds appear to be the strongest. It is argued that induced abortion is tantamount to child killing and those who hold this view blame moral laxity which has resulted from an admixture of poor socio-economic and political problems exposing both the young and the old to sexual infidelity and these group of people are quick to suggest a more religious approach to the problem (6,20).

Abortion liberalisation proponents argue that religious and moral opposition are simply sentimental and emotional and it is often argued that children from religious homes and their parents are sometimes involved in cases of complications from unsafe abortion. Liberalisation of

abortion is said to be more realistic a solution than campaigning for moral uprightness which will be difficult to achieve in the present morally decadent world (20).

Support for liberalisation of abortion based on making the services "safely available" is another strong argument in support of liberalisation. A study comparing risks associated with induced abortions and other surgical procedures showed that safe first trimester abortions carry the lowest risk when compared to most surgical procedures (1). The problem with this argument lies in the fact that many adolescents present themselves for pregnancy termination when the pregnancy is far advanced with higher chances of complications (4).

One other issue that raises controversy is the role of private medical practitioners who according to findings (18,14) are said to be involved in 80% of cases of induced unsafe abortions. It is, therefore, argued that when abortion is liberalised, the contributions of this group of Doctors to abortion morbidity and mortality will be drastically reduced since trained Doctors in government hospitals will be accessible to provide the services. The practicability of this is questionable because of the possible inability of government to provide the necessary training. This is apart from the fact that private medical practitioners derive a lot of monetary gains from unsafe abortion and denying them this practice will also deny them huge profit and make private medical practice less lucrative and subsequently rob the country of their other benefit of providing healthcare to the people.

Another practical problem abortion liberalisation is likely to face is the issue of quacks (4). It is known that laws are very difficult to enforce in Nigeria for various reasons ranging from corruption, lack of information and education, poor economic support for such laws to the large size of the Nigeria State. This is why activities of quacks have been very difficult to check and control and for the same reasons, therefore, the same quacks will likely hijack abortion liberalisation which may then have a boomerang effect.

Lastly on these controversies, the subsequent aim of abortion liberalisation is to eventually achieve a decline in the incidence of induced abortions generally even though there might be an initial upsurge (1) as evident in countries like the United States of America, Great Britain, Canada and most Eastern European Countries. However, based on poor community acceptance of abortion liberalisation in Nigeria, poor supportive comprehensive health care policy, poor socio-economic condition (G.D.P. per capital, of only \$ 256) and the general difficulty of enforcing laws in a country as big and diverse as Nigeria, the reverse might be the case with persistently rising abortion morbidity and mortality (1,4,14,) as were the cases in Zambia and India, countries with similar socio-economic conditions like Nigeria

SOLUTION OPTIONS

Improving the present decadent moral standards and imbibing religious tenets that restrict lust for immoral sex are likely to be effective as measures against unwanted

pregnancy (4,6,20) There is difficulty in sustaining these virtues because our society has been exposed to reckless foreign influence such that we copy many social ills that are not particularly suited to our environment. Some of these practices include night parties, discos, unrestricted mixing of the two opposite sexes, uncensored X-rated video films and movies shown even on government television stations as well as soft sell magazines with similar stories and pictures. There is ample evidence from personal communication between this writer and a fellow gynaecologist in Saudi-Arabia which indicated a very low incidence of unsafe abortions and its complications. This is largely due to the restrictive Islamic laws on abortion and the stringent punishment for culprits of such a law. However, since the diversity of Nigeria in terms of religious and social behaviours does not conform with the Saudi-Arabian situation, moral and religious persuasions appear like a good alternative.

Supportive measures that can promote the attainment of improved moral conduct including Family Life Education (FLE), sex education in schools and homes targeting each family units, will go a long way in solving this problem (12,17). The emphasis here is not to encourage sexual relationships, out making boys and girls understand the dynamics of their sexual growth and most importantly letting them know the dangers associated with unwanted pregnancies with the intention of dissuading them from engaging in premarital sex.

Family Planning is not completely rejected by any religion in Nigeria but the degree to which it is embraced varies. Therefore, subtle promotion of this measure will reduce greatly the risk of unwanted pregnancies especially among married women. Clerics and moralists are likely to accept contraceptive options instead of literal abortion laws when informed adequately about the magnitude of the problem of unsafe abortion (12). Adolescent contraception is less likely to receive such acceptability because it is said to promote sexual infidelity, but it is doubtful if it is not a better protection for a girl who is already sexually exposed and who is not ready to be sexually disciplined than having unwanted pregnancies.

The importance of community participation in the scheme of unsafe abortion prevention cannot be over emphasised (12,17). Workshops and enlightenment campaigns on the dangers of unsafe abortions and means of avoiding unwanted pregnancies can be organised in various neighbourhoods with community leaders who wield great influence in attendance.

Abortion prevention clubs and societies in schools and colleges must be promoted and supported financially, Support of Non Governmental Organisations (N.G.O's) should now be directed at these solution options. Enough has been spent on the documentation of abortion problems in Nigeria. A community survey of public opinions on these solution options and the way out in Ilorin, Nigeria will soon be available for publication.

Educating women especially and the nation as a

whole should help reduce the problems of unsafe abortion. Indeed education has been shown to delay age of first sexual intercourse as well as its frequency (5). It is, however, doubtful if this measure alone will produce similar results in Nigeria, unless other measures are also encouraged concurrently. A studies in Nigeria did show a higher tendency towards pregnancy termination by educated and urban girls (9, 10,13)

Promoting and enforcing the present conditional laws as it exists in the south (1) for the entire country is enough a measure to assist in curbing the menace of unsafe abortions. However, there is a need to set up an abortion board to decide and review cases especially those that are essentially due to social reasons. This is apart from enforcing the requirement of the consent of two Doctors before any abortion is induced. This law unlike the liberal one, does not permit abortion on request and, therefore, has some respect for morality. However, in situations where moral and religious as well as other measures have failed to prevent unwanted pregnancy and it is assessed that the pregnancy will lead to a social problem, then such cases could be offered induced, safe abortion.

There is no doubt that some of the confounding problems of liberalisation are still prevalent in our society and, therefore, likely to affect this option too, but, this option is less likely to generate the same degree of antagonism that liberalisation law is currently facing.

Lastly, improved socio-economic condition as a vehicle for all or rather any of the measures discussed above is far more important and will go a long way in solving the problem of unsafe abortion apart from breaking the country away from the jinx of the vicious circle of ignorance, disease and poverty.

In conclusion, reduction or eradication of unsafe abortion morbidity and mortality is an important task that must be accomplished. However, the complexity of the Nigerian State in terms of the socio-political, economic, religious and cultural diversities and problems have made abortion liberalisation as a solution controversial and presently difficult to institutionalise. Therefore, measures less likely to generate antagonism and less controversial in the present circumstances such as public enlightenment, family life education, family planning and improved moral standards be promoted more vigorously so as to reduce the incidence of unsafe abortion and subsequently reduce the attendant high morbidity and mortality associated with it.

REFERENCES

1. Abortion. The Nigerian Criminal Code Companion (Ed. Fakayode, E.O.). 1977. Ethiope Publishing Company PP 64-65.
2. Abortion law and practice. A status report - Law and Policy: Population reports series E, Number 3, March, 1976.
3. Adetoro, O.O. A 15 year study of illegally induced abor-

- tion mortality at Ilorin, Nigeria. *Int. J. of Gynaecol. Obst.* 1989, 29. 65-72.
4. Anate, M. Awoyemi O; Oyawoye O; Petu O. The continuing Problem of procured abortion - the way out Nigerian Journal of Medicine 1997, Vol. 6 (4): 10-111.
5. Barbar Barnelt: Education protects health, delays sex. *Family Health International*, Vol. 17 No. 2, Spring, 1977, 20-23.
6. Bassey, R. E. Abortion as a social challenge: *Vanguard Newspaper*, Friday, July 19, 1996: Pg 8.
7. Causing Miscarriage. Notes on the penal code law. (Ed. Richardson, S.S.) 1987 Fourth Edition (Cap 89 Laws of Northern Nigeria), 1963. Ahmadu Bello University Press PP 191-193.
8. Friday Okonofua: Preventing unsafe abortion in Nigeria. *African Journal of Reproductive Health* (1977): 25-36.
9. Friday Okonofua and Bisi Aina. Why Nigeria women Abort. *A.M. News*, Friday, November 24, 1995.
10. Ibanga, A.K.J: Medubi G and Udofia, O. Attitudes Towards abortion: Comparative Study of male and female students in Secondary and Tertiary Institutions: *Nigerian Journal of Medicine*, 1996: Vol. 5, No 1 PP. 14-17.
11. IPPF Memorandum. Vision 2,000: Issues from the FPA Perspective, September, 1993.
12. Mauldon J. Luker K., The effects of contraceptive education on method use at first intercourse. *Fam. Plann. Perspective*. 1995 28(1): 19-24, 41.
13. Okonofua F. E., Odimegwu C. Women's experience of unwonted pregnancy and unsafe abortion, abortion in Nigeria. Final Technical Report presented to the population council, New York, December, 1995.
14. Olukoya, A.A. Pregnancy Termination: Results of a community based study in Lagos Nigeria. *Int. J. Gynaec. Obstet.*, 1987. 25 41-46.
15. Oronsaye A.V: Odiase G.I. Attitudes towards abortion and contraception among Nigerian Secondary School Girls. *Int. J. Gynaecol. Obstet.* 21 (5): 423, 1983,
16. Pregnancy Termination. Complications of abortion in developing countries. *Population report series F*, number 7, July, 1980.
17. Sarah Keller: Serving young adults requires creativity. *Family Health International*, Spring 1997, Vol. 17, No. 2, 20-23.
18. Tietze C. Induced Abortion: A world Review. The population council 1983. New York.
19. The Tragedy of unsafe abortion in Nigeria. *National Newsletter of the Nigerian Medical Association* Oct-Nov., 1995.
20. Would you abort for your child. *Lady Love Magazine*, May 6, 1988, Vol. 1, No. 10: P. 13 & 20.

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