

action, judicial interpretation, or simply by choosing not to prosecute blatant evasions of the law.

The harshest restrictions on abortion exist in such countries as Ireland, Portugal, the Philippines and Spain, where no exemption from the absolute prohibition against abortion is permitted, not even for the narrow purpose of saving the mother's life.

Less restrictive nations permit abortion for medical indications. For example, exemptions are allowed when abortion is necessary for health reasons. These are the most common abortion statutes. As exceptions to a penal code prohibiting abortion, these exemptions are widely favoured because they can be interpreted as narrowly or as liberally as the courts and legislatures of the various nations desire. Interpretations range from a literal definition of health, protecting the life of the mother, to an expansive view which includes preserving the physical or mental well-being of the pregnant woman. More liberal laws allow for the termination of pregnancy on evidence that the child will be mentally or physically deformed if the pregnancy goes to term, or that manifestation of an hereditary disease will be prevented by permitting a legal abortion. Ethical or legal indications laws permit abortions for most women whose pregnancies result from rape or incest. Laws setting forth medico-socio or social indications conclude the list of exemptions by permitting legal abortions to be performed for a wide variety of medical and non-medical reasons. Such minimally restrictive abortion laws are found in Japan, the United Kingdom, the Scandinavian nations and the countries of eastern Europe. There, abortions are legally performed for such reasons as difficult domestic situations such as too many other children, financial hardship, unmarried status or ill health of other family members. However, these social reasons are generally disallowed, as they should be, in most countries of western and southern Europe, Latin American, Asia Africa and here in North America. In short, most of the world has approved the rights of the unborn. If Bill C-238 is adopted in the House, the rights of the unborn would not be protected, as the Hon. Member for London East (Mr. Jepson) has so ably pointed out a few minutes ago.

● (1840)

The least restrictive type of abortion law permits abortions "upon demand", although usually within a limited period. These laws allow a woman, after consultation with her physician, to choose to terminate a pregnancy without the need to offer an officially sanctioned justification. The distinction between this type of liberal abortion policy and the medico-social indications policy is that with the latter the woman is still required to convince a doctor, a hospital, or a committee of medical or psychiatric personnel of the validity of the indication.

By January, 1974, only seven countries legally permitted abortion at the unconditional request of the woman: the People's Republic of China, Denmark, the German Democratic Republic, Tunisia, the Soviet Union, the Democratic Republic of Vietnam and the United States. By 1977, France, Austria

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and Sweden joined this group. Even such nations, however, maintained restrictions upon personnel or facilities used for the operation.

Most of the attempted changes in abortion policy have taken place in Western Europe. Italy's—one of the most recent—liberalization of abortion laws in May, 1978 allowed women over 18 years old to opt for termination of their pregnancy during the first three months for physical or mental health reasons, ethical considerations, or socio-medical indications such as economic deprivation or family pressures. France adopted a liberal abortion policy in 1975 by removing penal sanctions from abortions performed in the first ten weeks of pregnancy.

The UK Parliament enacted a liberal abortion statute in 1967, authorizing abortion upon certification by two physicians that the pregnancy would involve greater injury to the physical or mental health of the woman or their existing children than if the pregnancy were terminated. Furthermore, a woman's "total environment" may be considered in this decision as well as eugenic and ethical considerations.

The 1967 statute restated the British position on abortion originally formulated in the Offences Against the Person Act 1861 which made an abortion a felony punishable by life imprisonment. The Infant Life (Preservation) Act 1929 had amended the 1861 Act to provide that the abortion would not be regarded as a felony if the Act were carried out in good faith for the sole purpose of saving the mother's life. This exception was expanded by common law interpretation in the 1938 case of *R. V. Bourne* in which a physician illegally performed an abortion upon a 14-year-old girl who became pregnant after being raped by two of the King's soldiers. The judge in that case, Mr. Justice MacNaghten, loosely interpreted the exception for the life-saving necessity to include preservation of physical and mental health and thus Dr. Bourne was acquitted.

Abortion reform was achieved in the United States through constitutional adjudication in 1973. In *Roe v. Wade* the U.S. Supreme Court struck down state legislation prohibiting abortion under most circumstances and allowing only limited exceptions to these prohibitions. The Supreme Court decided the issue on due process grounds and, in a far-reaching opinion, held that States could not prohibit abortions at all during the first trimester of a pregnancy, could only restrict it to save the life of the mother during the second trimester, and could proscribe it almost entirely during the last trimester.

Many nations of the world have thus created changes in abortion regulations within the last two decades; indeed most have done so within the last few years.

The Hon. Members may wish to compare these developments in other countries with the evolution of the abortion law in Canada. Until 1969 the law in Canada relating to abortion had changed little since 1892, and generally provided that it was an indictable offence, for which one could be sentenced to imprisonment for life, to procure the miscarriage of any woman. In 1969 the Criminal Code was amended to provide an exception to the offence of procuring an abortion. It was