

Population - Vitalistas

1998

Clinic leads in abortions

(237) Soweto 7/11/98

By Sello Seripe

THE Chiawelo clinic in Soweto performed 1 600 successful abortions between March and December last year, by-passing the giant Chris Hani Baragwanath Hospital which carried out 1 230 abortions during the same period

According to Chiawelo clinic matron Nomvula Zwane, the number of abortions performed at the clinic "escalate every month"

The first 36 abortions were performed in March at the clinic after the passing of the Bill which legalised abortion in late 1996

However, statistics show that the number of patients increased each month "It's getting higher and higher every month," Zwane said

In October the clinic performed 216 abortions Besides the Chris Hani Baragwanath Hospital, Chiawelo clinic is the only institution in the Soweto area which can terminate pregnancies

Statistics provided by the hospital's spokesperson Hester Vorster show a fluctuation in the number of abortions carried out from February until the end of November with 429 abortions performed in February

Available contraceptives and their failure rates

ART 28/1/98

(237)

Spermicides: average failure rate 21%

Spermicides prevent pregnancy by killing sperm so that none can reach and fertilise an egg. Scientific studies of spermicides show failure rates ranging from zero to 50% for typical users.

For effective contraception, correct timing and placement are crucial. The spermicide must be used every time intercourse occurs.

All spermicides must be reapplied if intercourse is repeated. Spermicides have been known to cause allergy and irritation in many women.

Some benefits are that they may be purchased without a prescription, cost relatively little, and may guard against some types of infection.

Condoms: average failure rate 12%

Although condoms have been in use since ancient times, Casanova was the first to popularise their use. They were at first made of linen or animal intestines, but with the advent of vulcanised rubber in the 1840s they took on the name "rubbers" and were mass produced.

There are many types of condoms available, most are made of latex rubber, but some are made from polyurethane or even animal tissue ("natural skin").

They may be lubricated, ribbed, or treated with spermicide, and can be bought without a prescription.

Condoms are convenient and easy to use. They can help prevent partners from giving each other sexually-transmitted diseases.

Female Condoms: average failure rate 21%

The female condom is a thin polyurethane sheath with two soft rings at each end. One ring, covered with the polyurethane, fits over the cervix, acting as an anchor.

Because the condom is not made of latex, it is not susceptible to deterioration when used with oil-based lubricants and is less likely to break.

It can be inserted up to eight hours before intercourse, but should be removed immediately afterwards.

Diaphragm: average failure rate 18%

The diaphragm is a soft rubber or latex cup that must be fitted for size by your doctor. Spermicide is applied to the diaphragm, which is inserted to cover the cervix.

If intercourse is repeated, contraceptive cream or jelly should be applied each time. This is inserted with a special applicator while the diaphragm is still in place.

Cervical cap: average failure rate 18-36%

The cervical cap is a smaller version of the diaphragm, made of slightly thicker rubber and fitted by your doctor.

The cap, held in place by suction, is partially filled with contraceptive jelly or cream and then inserted so that it covers the cervix.

Contraceptive sponge: average failure rate 18-36%

The contraceptive sponge is a small, disposable sponge that already contains spermicide.

The sponge should be moistened with water (not saliva) just before inserting, then placed over the cervix. Once in place, it provides protection for 24 hours, no matter how often you have intercourse.

IUD: average failure rate 10%

The intrauterine device, or IUD, is a small plastic or metal device that is placed inside the uterus by your doctor. It can stay there for an extended length of time.

The IUD causes inflammation of the uterus, preventing implantation of an embryo and making it more difficult for sperm to enter. To make the IUD more effective, some contain progestin.

The IUD carries with it a number of

serious health risks which have caused many firms to stop distribution.

These risks include pelvic-inflammatory disease, permanent infertility, ectopic pregnancy and even death. Because of the risks to fertility, doctors do not usually recommend the IUD to women who have not had children.

Oral contraceptives: average failure rate 3-8%

The process of ovulation is directed by hormones. Oestrogen and progesterone are two hormones which direct many of the processes surrounding the menstrual cycle.

Artificial analogues of these have proven an efficient form of birth control. To prevent pregnancy, a woman takes a pill daily which contains both of these hormones.

This is the combination pill, or simply "the Pill". Oral contraceptives also have some rare, but serious, health risks associated with their use, especially among smokers, these include abnormal blood clotting and heart attacks, cancer, and gallbladder disease.

Side-effects include headaches, acne, weight gain, vaginal infections, and depression.

The mini-Pill is a progesterone based pill with no oestrogen. It works by changing the lining of the uterus which prevents the implantation of an embryo. Doctors tend to recommend the mini-Pill to breastfeeding women because it does not cause a drop in the amount of milk produced.

Health risks and side effects include ectopic pregnancy, ovarian cysts, weight gain, and menstrual cycle disturbances.

Norplant: average failure rate 0.1-9%

Norplant is a progesterone implant, consisting of six small plastic rods. These are surgically placed under the skin of the upper arm for up to five years, during which time the rods slowly release progesterone into the body.

Effectiveness varies with the woman's weight and by the length of time Norplant is used. Heavier women can expect more failures as can users who have had the implant for several years. The mechanism for action is the same as that of progestin pills.

Common side effects include menstrual disturbances, headaches, acne, weight gain, nausea, anxiety, hair loss, and ovarian cysts.

The Depo-Provera injection: average failure rate 2-3%

Depo-Provera, also known as DMPA or "the shot," is a highly-effective progestin injection given by a doctor every three months, although infertility may last up to a year.

Common side-effects include headache, weight gain, nervousness, and menstrual irregularities. Other possible adverse effects include dizziness, allergy, depression, and ovarian cysts.

Adolescent users, especially, have been found to experience a significant loss of bone density. Those worried about osteoporosis should avoid DMPA.

Some studies indicate that Depo-Provera increases the chances of cervical cancer and breast cancer and can also cause haemorrhaging. After 30 years of scrutiny Depo-Provera is now approved by the FDA in the US.

Sterilisation: failure rate: 0.4%

Surgical sterilisation is a very effective way to achieve permanent infertility. In women, the process is often referred to as "tying the tubes", but in actuality the fallopian tubes may be tied, cut, clamped, or blocked.

This serves to prevent sperm from joining the unfertilised egg. The drawbacks are that it requires exacting abdominal surgery and anaesthesia, both of which carry health risks.

Surgical complications include infection and uterine perforation.

Contraception confusion reigns

Women still are getting pregnant when they don't want to be'

(237)
ARG 28/1/98

ARGUS CORRESPONDENT

Johannesburg - With the choice of many pills, injections, condoms and even sterilisation, it's easy to be confused about contraception.

Many women still complain about the limited contraceptive choices available. And when a new product comes on to the market, they will too often embrace it enthusiastically before having adverse reactions.

The most recent example is the Norplant device which came on to the market a few years ago worldwide, including in South Africa, but in the United States women who have suffered side effects have filed a lawsuit against the manufacturers.

Women who have tried the surgically implanted birth control device claim the makers failed to warn them about the severity of side-effects ranging from headaches and weight gain to ovarian cysts and depression.

Norplant, used by about 2.5 million women worldwide, is a contraceptive system consisting of six matchstick-sized capsules inserted into the upper arm. The capsules release a synthetic hormone into the bloodstream that prevents pregnancy for up to five years. Now

about 50 000 American women are filing lawsuits against manufacturers.

In South Africa, Norplant is available through doctors only as it requires a minor surgical procedure.

Trends in contraception use in South Africa vary, depending on a variety of factors including age and medical conditions, according to head of the Marie Stopes Clinic in Randburg, Sister Phumi Mafunda.

When she worked at a Soweto clinic, most teenagers used the injection, whereas in the Randburg area most women of all ages prefer the Pill.

"Women worry about what is the right method for them, about the choices they have and whether it will work. So, it is important to inform them of all the side effects of each method," says Sister Mafunda.

The clinic stocks up on the Pill, the loop, the injection, and condoms. They do not give women the diaphragm because that requires measurements of the cervix. The clinic promotes condom usage even when women are on the Pill as it helps to prevent AIDS and other sexually transmitted diseases.

"There is still a lot of ignorance in South Africa about contraception. People are still get-



ting pregnant when they don't want to be. We hear comments such as 'It happened only once, I never thought I would get pregnant, I skipped the Pill for a few days, the side effects of the injection made me stop, then it happened'."

All this, she says, has resulted in too many unwanted pregnancies and "abortion is being abused".

"Abortion is not a contraception, it is a last resort, we try and discourage women from

aborting. But now, it's become too easy to have one. We are performing between 8 to 12 a day.

"The high rate of abortion is not a case of contraception not being 100% foolproof. It is more a case that people are not using it properly, they are careless," says Sister Mafunda.

"A growing trend today is that women of the '90s are career orientated and do not want to lose opportunities at work by having a baby. They feel they cannot take a year off."

"Both black and white women are opting for abortions when they fall pregnant. We are seeing this more and more today."

"We are also seeing many men, especially white men, between the ages of 28 and 45 wanting vasectomies because they can't cope with having too many children. Some of these men have only one child, yet they want vasectomies," says Sister Mafunda.

It's also fashionable today, she adds, for couples to get married and decide they don't want children at all.

Sister Mafunda's advice to women regarding contraception is to enquire about the pitfalls and side-effects of the method they are choosing.

"When you have knowledge you are more likely to use contraception effectively."

Abortion changes many lives

Sowetan 19/2/98 (237)

Choice on Termination of Pregnancy Act benefits urban women most

By Claire Keeton
Feature Writer

FREE, legal access to abortion for women in the first 12 weeks of pregnancy, one of several revolutionary initiatives in women's health in South Africa, has transformed lives across the country over the past year.

But it is clear that the Choice on Termination of Pregnancy Act - which has been implemented since February 1 last year - has had uneven success, benefiting urban women far more than those in rural areas.

From February 1 to September 30 last year 9 124 women had terminations performed in Gauteng, compared to only 329 in the densely populated Northern Province.

Overall 18 346 women had terminations of pregnancy (TOPs) in that period, with the highest number in Gauteng and the lowest of 126 in North West.

Maternal, child and women's health director Dr Eddle Mhlanga says "These figures highlight the deficiencies in implementation. Access for poor, rural women is very limited

"TOPs are not accessible because of poor infrastructure and transport, as well as the attitude of health workers. We are working hard to improve facilities."

Gauteng has 101 designated facilities to perform TOPs compared to only two in Northern Province and two in Eastern Cape. This means women from largely rural provinces flood the hospitals and community health centres in better resourced provinces asking for abortions.

Mhlanga says "It is too early to assess the impact of the Act but current research indicates that fewer women are coming in dangerously sick from backstreet abortions, compared with about 15 percent of deaths prior to legalisation."

Sowetan visited the Coronationville Women's and Children's Hospital in Johannesburg to

find out what is involved in the 30 or so terminations which take place there every week.

The two sisters in charge of Ward 8, where TOPs are organised, said they care for patients from as far afield as Eastern Cape and KwaZulu-Natal, as well as coping with a steady stream of women from Soweto.

The first step in the hospital process is registration, followed by appropriate testing and a doctor's examination. Once it has been established that a woman is under 12 weeks pregnant, she must go for counselling with the social worker to discuss her options.

"We must make certain she knows what she is coming for," said Coronationville social worker Pat Abrahams. A woman can decide on her own whether to have a TOP, without permission from her parents or partner.

Abrahams said factors that influence a woman include her age, how many children she has, whether she is employed, whether she is single or has a supportive partner, and her medical and psychological health.

The doctor responsible for most TOPs at Coronationville, Dr Zandile Mokgatle, feels that "pre-counselling is crucial" and should ideally not take place the same day as the TOP.

Mokgatle said the women she sees have different realities and reasons but many are financially dependent on men and obliged to please them.

"These women are not in control of when they have sex or whether they use condoms. The man rules and he often determines what a new baby is going to eat."

She said that failed contraceptives and trauma also drive women to ask for abortions. "During taxi violence we see women whose husbands have been killed and they cannot cope alone. I also recently treated a Wits student who was raped and as a result is HIV-positive."

If the woman is three to five months pregnant, the termination is



Child and women's health director Dr Eddle Mhlanga (right) and his assistant Alinah Mabote. PIC: CLAIRE KEETON

much more complicated. The doctor will only carry it out if the woman is pregnant from rape or incest, if the health of the woman or foetus is at risk or if having a baby will cause severe social or economic problems for the mother.

At Coronationville Abrahams does a comprehensive assessment of any woman over 12 weeks wanting an abortion, and her report stating the reasons is sent to the gynaecologist on duty.

"If there are convincing reasons, the doctors will decide to book the termination case into theatre," she said. TOPs under 12 weeks are a quick procedure, performed in a private ward next to Ward 8. "I have not seen many medical complications. Those I could count on one hand," said Mokgatle.

But she warned that terminations can be very traumatic for women who find it difficult to live with their choice. However, she is completely supportive of women who wish to go ahead.

"I was scared, nervous and cold. I

cried before I met the doctor. Now I feel better," commented a 40-year-old mother.

"I'm about to be a grandmother. What would I do with this child? The father cannot assist me since he has many problems."

A younger mother (24) said she has two children with her boyfriend and he is opposed to a third baby. She said she was using a contraceptive pill and it failed.

One schoolgirl of 18 said she wanted to finish school and the father does not even know she is pregnant.

Mhlanga's assistant, Alinah Mabote, said the TOPs are closely related to two other priorities in women's and child's health: a national programme on the notification of maternal deaths and programmes to combat child abuse.

Accessible terminations will lower the number of maternal deaths.

Before terminations were legalised, 300 000 women suffered backstreet abortions in South Africa annually, with about 44 000 of them being

admitted to hospital for complications (costing around R8.6 million).

Even worse, over 400 women died every year from abortions.

The notification of maternal deaths is a major advance for South Africa, the only country in Africa to implement this (since last December). They will assist the Health Ministry to identify preventable causes.

The ministry also hopes the choice of abortion will lower the number of unwanted children. "If a mother is forced to bring a child into the world, she often rejects and neglects it," said Mabote.

But abortions are not a contraceptive method and must be accompanied by a high-powered family planning drive.

Mokgatle said TOPs were a last resort for pregnant women and she welcomed the Act for enabling them to make their own choice.

"The TOPs are crisis management. No woman falls pregnant in order to have an abortion and we do not turn away anyone with good reasons."

Cape doctors defy abortion law

DI CAELERS
SPECIAL WRITER

(237)

ARLT 13/3/98

Most doctors at Western Cape state hospitals refuse to do abortions and many are breaking the law by not referring patients to other doctors.

These are the findings of a study conducted by Harvey Ward, senior registrar of obstetrics and gynaecology at Stellenbosch University medical school and Tygerberg Hospital

Dr Ward says the doctors should be aware they could liable for legal action by women they refuse to see as emergencies

The study is the first to determine doctors' attitudes to abortions since the Termination of Pregnancy Act became law in February last year.

Dr Ward found only a quarter of doctors

who responded were willing to comply fully with the law

He said he was concerned that a number of doctors were refusing to refer patients elsewhere "This is illegal Doctors should be informed by official protocols that they are open to medico-legal action by women they refuse to see as medical emergencies"

Dr Ward sent questionnaires to 308 doctors at 31 Western Cape medical institutions designated by the health minister to do abortions Of the 308, 55% responded

The response is considered good by statistical standards

In the first five months after abortion was legalised, an average of 10 abortions a day were performed in the Western Cape and 81 nationally Most women seeking terminations were between 20 and 29

In his Budget speech this week, Finance

Minister Trevor Manuel said 15 545 women had had abortions under the new law so far, compared with 2 599 legal terminations in 1996 under the previous law

Dr Ward said that although 25% of his respondents were prepared to comply fully with the act, another 25% were prepared to do abortions only under certain conditions

"Twenty-five percent indicated selective compliance, stopping at counselling, interviewing and examining only"

A quarter of the doctors who refused to do abortions also admitted they did not refer the patients to doctors who would, and 14% of those refused to see patients at all

If a health worker - a doctor or nurse - refuses for reasons of conscientious objection to help a patient terminate a pregnancy,

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Women turned away as hospital doctors defy abortion law

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he or she is required by law to refer the patient to another health worker who can help.

Few doctors indicated they were prepared to terminate pregnancies after 12 weeks for adverse socio-economic reasons,

"even though this is probably the most common reason for women wanting abortions"

"Only 32% of respondents indicated they would be willing to do an abortion for socio-economic reasons"

He said many of the doctors did not want abortions performed at their hospitals and 11% did not want them done anywhere at all

"At tertiary institutions, 75% of the respondents felt that separate abortion venues and staff would be preferable More than half the medical officers and general practitioners felt the same"

His study also showed a significant lack of training in basic abortion procedures and counselling skills

Deaths at birth due to lack of care

The Ministry of Health aims to reduce mortality by half by 2000

By Charity Bhengu

TODAY'S FAILURES in addressing issues around reproductive healthcare, combined with societal pressures on women, are some of the factors leading to maternal deaths, health experts said this week.

The Ministry of Health said out of an estimated 100 000 deaths in the country a year, about 450 were related to pregnancy.

The figure excludes women who died of unreported abortions, who became ill after giving birth and those who were killed during pregnancy.

Dr Eddie Mhlanga said. "Some of the deaths could be prevented if birth and the status of women were taken seriously."

The ministry recently launched a Maternal Death Notification that aims to eliminate maternal deaths by causes that could be prevented.

The notification aims to create

awareness about the importance of reporting maternal deaths.

Mhlanga said "Our objective is to decrease the number of maternal deaths by the year 2000.

A National Committee of Confidential Inquiries into maternal deaths will help us gather the necessary information to achieve our goals."

The World Health Organisation estimates that about 585 000 women, one every minute, die every year from causes related to pregnancy worldwide.

Some of these maternal deaths were related to teenage pregnancies.

The risk of dying from pregnancy-related causes is twice as high for women between 15 and 19 and five times higher for girls under 15.

Adolescent child bearing has considerable health risks such as infection, malnutrition, delayed or premature labour, ruptures in the birth canal and death for mother and infant.

These risks are even greater if prenatal care is inadequate.

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Sowetan 13/3/98

Unit to probe high infant death rate

Josey Ballenger

(237) (248) 20 20/3/98

THE Medical Research Council (MRC) has established a research unit to investigate why SA's infant mortality rate is four times higher than that of countries with comparable economies — when "easy, cheap" solutions to maternal and infant health problems are available.

"We have found there are many conditions which are readily treatable and preventable, but which are still major causes of severe compli-

cations and deaths, particularly at peripheral clinics and district and regional hospitals," Prof Bob Pattinson said at the unit's launch at Pretoria's Kalafong Hospital yesterday.

"Infant mortality in SA is unacceptably high and requires detailed investigation as well as scientifically based plans to alleviate the situation," said Pretoria University's medical school dean Deon du Plessis.

Pattinson said syphilis claimed the lives of 10% of babies who died

in rural areas in SA, while the disease was easy and cheap to screen for — and easy to treat.

Problems in labour, which can often be identified and prevented, are responsible for 30% of deaths of newborn babies in nonurban areas.

Pattinson, of the university's obstetrics and gynaecology department, will head the unit with the paediatrics department's Prof Ian Hay.

Unit research sites will include Mamelodi, Hammanskraal, Witbank and Middelburg.

Botched back-street abortions kill 80 000 women a year

Geneva - Each year about 20 million women around the world risk their lives by having unsafe abortions, according to a United Nations health agency report. About 80 000 of those women die.

"If a woman is poor and desperate enough she will get a back-street abor-

tion, a botched abortion," said Dr Jerker Liljestrand, a specialist at the World Health Organisation (WHO)

The UN agency said it compiled the study to promote safe motherhood, the theme of this year's World Health Day on April 7, not to advocate abortions. But it said it found evidence that

anti-abortion laws were linked to high rates of unsafe abortions and maternal deaths. "Contrary to common belief, the legalisation of abortion does not necessarily increase abortion rates," the report said.

The Netherlands, for example, has a non-restrictive abortion law, widely

accessible contraceptives and free abortion services but has the lowest abortion rate in the world, it said.

And Barbados, Canada, Tunisia and Turkey all changed their abortion laws to allow for easier access without increasing abortion rates, the report said - Sapa-AP

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ARG

2/13/98

Probe to focus infant deaths

Sowetan 26/3/98 (277)

By Mokgadi Pela

A NEW research unit focusing on maternal and child health has been set up jointly by the University of Pretoria and the Medical Research Council

The unit will investigate why known solutions to health problems affecting pregnant women and infants, particularly in rural areas, are not being implemented

It will also research ways in which effective healthcare strategies can be introduced

The investigation will be headed by Professor Bob Pattinson of the University of Pretoria's Department of

Obstetrics and Gynaecology, who will work in collaboration with Professor Ian Hay from the Department of Paediatrics

Based at Kalafong Hospital in Pretoria, the unit's research sites will include Mamelodi, Hammanskraal, Witbank and Middelburg

"South Africa's infant mortality rate is four times higher than that of countries with comparable economies. How can it be that syphilis claims the lives of 10 percent of babies who die in rural areas in South Africa, when this disease is easy and cheap to screen and easy to treat?"

Similarly, problems in labour, which can often be iden-

tified and prevented, are responsible for 30 percent of deaths of newborn babies in non-urban areas," Pattinson said

"We have found there are many conditions which are readily treatable and preventable, but which are still major causes of severe complications and deaths, particularly at peripheral clinics, and district and regional hospitals

"We will be exploring ways to introduce effective interventions, and hope to formulate proposals for healthcare strategies based on research results, which can be implemented by provincial and national health authorities and health workers," he said

Abortion legal - but still a minefield

Doctors divided over new obligations to women seeking terminations

In February last year, in a storm of controversy, the Termination of Pregnancy Act came into effect and abortion in South Africa became legal. Today, just more than a year later, whether or not the storm is still raging depends on whom you talk to.

In some areas, doctors are clearly still furiously debating their role in abortion law reform and arguing the intricacies of the act.

In others, doctors and nurses are quietly getting on with the job, allowing women the chance to choose for themselves.

Statistics show that since February 1, 1997, 15 545 women have terminated pregnancies in safe environments, compared with 2 599 legal terminations in 1996 under the previous law.

The law allows women state-funded access to safe legal abortions on demand up to 12 weeks of pregnancy and, under specific conditions which include socio-economic reasons, between 13 and 20 weeks.

Much of the controversy that still exists centres on interpretations of a clause in the act, headed Offences and Penalties, which says it is illegal for any person to "prevent the lawful termination of a pregnancy or obstruct access to a facility for the termination of a pregnancy".

Marie Adamo, the Western Cape's

INSIDE STORY

Abortion remains an area where emotions run high
Special Writer
DI CAELERS reports



deputy director of reproductive health, is adamant that doctors, who are anti-abortion and who refuse to refer women wanting to terminate pregnancies to another doctor who will help them, are acting illegally.

A recent survey of doctors at the 31 Western Cape medical institutions designated by the health minister to do abortions, showed that a quarter of respondents, who refused to do abortions, would also not refer the patients to doctors who would.

A further 14% indicated they would not see abortion patients at all - even as medical emergencies, which experts in the field unanimously agreed was against the law.

In June last year, the South African Medical and Dental Council sent out a letter to the medical profes-

sion after considering the issue of doctors refusing to finish incomplete abortions when women arrived at hospitals as medical emergencies.

The SAMDC made it clear it was unacceptable for these patients to be deprived of medical care.

Harvey Ward, senior registrar of obstetrics and gynaecology at Stellenbosch University medical school and Tygerberg Hospital, conducted the survey, the first to determine doctors' attitudes to abortion since the act became law. He got a 55% response, which is considered high by statistical standards.

Dr Ward is of the firm opinion that the only thing the law obliges doctors to do is to treat women who are medical emergencies.

For other women wanting abortions, anti-abortion doctors have only to inform these patients of their rights and have no obligation to refer them to another doctor who will do the abortion.

His view is supported by Doctors for Life's Abu van Eeden, who says his organisation, which has 730 members, sought advice from several advocates who agreed that the constitutional rights of medical practitioners, midwives and health workers allowed them to "refuse to furnish any information concerning the rights of an applicant for abortion or

any aspect of the Termination of Pregnancy Act".

Ms Adamo says abortion is a controversial issue and that someone had to just go ahead and make the law because no matter how many meetings they held, there was never going to be consensus.

"We had to put out a safety net. Backstreet abortion figures were estimated at anything between 300 000 and 400 000 annually. Hundreds of women were dying."

Today, she says, even if there are many doctors and nurses unwilling to do abortions, there are enough who will do them to cope with the demand. Even if only one doctor and one nurse at an institution are doing them, abortions are being done.

Doctors who responded to Dr Ward's survey registered comments like "I initially refused to take part in TOPs (termination of pregnancies), but have been drawn into it when other people are not available. Perhaps this is how the Nazi and apartheid human rights violations also started."

Another said: "Patients are being seen by people who don't believe in or accept the procedure. I would send someone to be seen or be examined and counselled for a heart transplant or sterilisation by a doctor who didn't believe in it as a procedure."

But Ms Adamo says: "We do respect people's moral objections. People must decide for themselves where they stand and if they're not prepared to deal with abortion cases then they must offer the women the opportunity to see a colleague who will."

At Groote Schuur Hospital, Mike Wright, principal specialist in the Department of Obstetrics and Gynaecology, sees each woman who visits the abortion clinic which is open every Friday.

He describes these clinics as "the ultimate in cattle market medicine" where women take a number and wait to be seen, but once a woman has a date for her abortion she is given plenty of time to reflect on her decision.

She is allocated a date which is usually a week later and asked to come in the day before the procedure. On the first day, the patient is counselled by staff and given a medical check-up and has that night in which to reconsider before the procedure the next day.

Between January 10 and December 10 last year, 2 351 women wanting abortions were seen at Groote Schuur, 75% of whom were accepted. Dr Wright says he is extremely aware of the medical staff's inability to cope with a lot of terminations of advanced pregnancies, those past about 16 weeks. They were particularly sensitive to the nursing staff's feelings.

Practical steps introduced included the nurses calling in the doctor when a person with an advanced pregnancy was ready to abort so the doctor could take over.

Patients with pregnancies up to 12 weeks pay R675 for abortions at the clinic. The abortions are done without anaesthetic and after patients have been given non-judgmental, non-directive counselling.

Katja Soeters, medical officer at the clinic, says abortion has been available for a long time to people who could afford to pay. Now, they were offering affordable abortions to everyone.

Dr Wright says the most important thing is that women going through the health system are getting safe abortions and that medical staff, in spite of conflict over the issue, know they are doing more good than harm.

There are two things everyone should remember:

"Firstly, no one on our staff, whether pro-life or pro-choice, gets any satisfaction out of terminations. It is not something people enjoy, everybody has some form of conflict."

"Secondly, women having terminations are not sluts. I have not seen one woman have an abortion with any form of satisfaction. If you look at their circumstances, the majority are forced into it."

"They are totally disempowered. They can't stop falling pregnant - this is the only bit of empowerment they have."

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'We had to put out a safety net - hundreds of women were dying in backstreets'

'procedures'



Campaign for safe pregnancy

(237)
Josey Ballenger

SD 8/4/98
THE World Health Organisation launched a Safe Motherhood yesterday campaign in an attempt to cut the maternal mortality rate in half by 2000.

At a Pretoria function to mark World Health Day yesterday, organisation officials and local health experts said they regretted the fact that pregnant women were most vulnerable to death in developing countries, including SA.

Welile Shasha, the organisation's liaison officer in SA, said that of 200-million pregnancies a year throughout the world, a minimum of 585 000 resulted in death, meaning an average of 1 600 women died daily from complications of pregnancy and childbirth. The majority of these deaths occurred in sub-Saharan Africa and Asia, Shasha said.

The maternal mortality rate per 100 000 live births ranged from 27 in developed nations to 870 in Africa translating into or a one-in-16 risk of dying of pregnancy-related causes.

CAPE TIMES
APRIL 8, 1998

(237)
Abortion

SUCCESSES

welcomed (81)

CT 8/4/98

ANSO THOM

JOHANNESBURG. A total of 27 452 legal abortions have been performed in South Africa since the implementation of the Termination of Pregnancy Act more than a year ago, resulting in a phenomenal decrease in maternal deaths caused by backstreet or illegal abortions.

Gauteng deputy director of maternal health Ms Thandi Chaane said yesterday that in Gauteng alone, where 13 505 legal abortions have been performed since February last year, septic (backstreet) abortions used to be the third highest contributor to maternal deaths.

The vast majority of women who opted for legal abortions were married and over the age of 25.

"We are monitoring the situation and there is evidence that the number of backstreet abortions has reduced dramatically," Chaane said.

Chaane said that, judging by the number of abortions performed, it was clear that "this service was long overdue".

Gauteng has been the forerunner in the implementation of the act, with 22 institutions providing services.

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CAPE TIMES
APRIL 8, 1998

(277)
**Abortion
successes
welcomed**

CT 8/4/98
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Older women opt for abortion

Statistics show social factors play biggest role in decision to terminate pregnancy

By ANSO THOM
Health Reporter

Most women opting for legal abortions are mothers already overburdened by a large family and struggling financially - and not teenagers, as widely accepted.

This emerged this week with the release of country-wide statistics on abortion, dealing with the period since the implementation of the Termination of Pregnancy Act more than a year ago.

Dr Carol Marshall, the Gauteng Department of Health's chief director of health programmes, said the fact that 18 297 of the 27 452 women who opted for abortion were over the age of 18 indicated that contraception was failing.

Most women who opted for legal abortions in Gauteng were found to be over the age of 25 years, and married.

"A large number of abortions are taking place because

of social reasons, for instance a mother who can't cope with more children."

Marshall said it should be borne in mind that pregnancy in a teenage girl was not always a disaster. She admitted that the low number of teenagers opting for abortion could be an indication that they were uneducated and not aware of the facilities and services available to them.

"Some young girls don't know about abortion, but we are marketing prevention of pregnancy among the youth, rather than abortion," she added.

Marion Stevens, policy analyst at the Women's Health Project, said older women knew exactly what was happening to them when they fell pregnant, while teenagers were less in touch with their bodies and sexuality.

"A teenager might not know she was missing her menstrual period due to the fact that she was pregnant."

(237) Star 9/4/98
Stevens said that, in some cases, inaccessible health services and unfriendly health workers contributed to teenagers' reluctance to inquire about an abortion. She believed that the need for abortions lay more with teenagers than with older women.

Doctors for Life president

Out of 27 452 patients, 18 297 were over 18 years old

Dr Albu van Eeden claimed that research in the United States had shown that 96% of women had opted for abortion for the sake of convenience.

He said the legalisation of abortion had not resulted in a decrease in backstreet abortions. Van Eeden said a "girl"

who wanted an abortion would not go to a local hospital.

Thandi Chaane, Gauteng Department of Health deputy director of maternal health, said there had been a "drastic decrease" in backstreet abortions since abortion became legal.

Van Eeden said women opted for backstreet abortions "because they might meet a friend's mother or father working at the hospital"

He said counselling was not up to standard and that counsellors were uninformed.

Paul Cornelissen, managing director of Marie Stopes SA - a family-planning organisation that performs abortions - said they had also found that most women who chose abortion were older. He attributed this to the fact that teenagers were less sexually active than older women.

Socio-economic factors, such as a woman already having several children, contributed to an increased demand for abortion among older women, he said

Appointment of key judicial official



Registration of drug urged

Josey Ballenger

THE registration of a stomach ulcer drug for the purpose of "ripening the cervix" — which induces labour or abortion — was advisable to encourage more ethical use, the health department's director of maternal, child and women's health, Dr Eddie Mhlanga, said yesterday.

However, Mhlanga said it appeared unlikely that the owner of the drug would want to take the political risk of registering a drug for the express use of inducing abortions.

Medicines Control Council chairman Peter Folb confirmed the company did not want this, and that the council could not overrule the firm's wishes.

The drug is not recommended for

use by pregnant women as it contracts the uterus and could expel a foetus at any stage of development.

Mhlanga said public and private hospitals had for years used the drug — and other "ripening agents" — to assist in delivery and in termination of pregnancies, but warned that negligent or unsupervised use could lead to severe, even fatal, complications.

Health experts said it was common practice in SA, as elsewhere in the world, for doctors to prescribe or administer a drug "off label" (for purposes other than that which it is registered for) as long as they took responsibility for its effects.

Speaking in his capacity as a gynaecologist, Mhlanga said the drug should be used in supervised combination

with other drugs or procedures as it was "not effective alone". A woman could suffer or die from excessive bleeding, infection or other complications and, if the foetus was not terminated, it could cause congenital malformations.

Folb said that the council had during the past year authorised the use of the drug in the cervix under strictly controlled conditions.

The Saturday Star reported at the weekend that many women were prescribed or illegally obtaining the drug and performing "do-it-yourself" abortions at home, without supervision or after care.

BD 9/4/98

(237)

Over 26 000 legal abortions last year

BY CLIVE SAWYER

Legal abortions in South Africa last year totalled 26 401. Health Minister Nkosazana Zuma has told the National Assembly

Monthly abortion figures ranged from fewer than 2 000 to more than 3 000.

Health institutions authorised by the department to

perform abortions now number 349 countrywide.

There are 122 such clinics in Gauteng and 55 in Western Cape

Sixty such clinics operate in KwaZulu Natal, 42 in Northern Province, 24 in North West, 21 in the Free State, 15 in Mpumalanga, seven in Eastern Cape and three in Northern Cape

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Right to abortion to face first challenge in court

Josey Ballenger

BD 19/5/98

THE right to abortion will face its first legal challenge next week as the Reproductive Rights Alliance and the Commission on Gender Equality join state parties in defending the Termination of Pregnancy Act

The 1997 act is being contested by the Christian Lawyers' Association, Christians for Truth, the United Christian Action Group and Pro-Life

The alliance and the commis-

sion's applications to be co-defendants were successfully granted last week, Loretta Ferris, the alliance's legal spokesman, said yesterday. The original defendants are the national and Gauteng health departments and the Gauteng premier's office.

The Pretoria High Court will hear both sides' arguments next Monday and Tuesday to determine whether the case should go to trial in the Supreme Court of Appeal or the Constitutional Court.

The plaintiffs launched a trial action saying the act infringed on a foetus' right to life.

"Government took exception to the summons on the basis that a foetus is not a constitutional right-bearer," a legal expert said.

The defendants' other arguments would be that the constitution did not prohibit termination of pregnancy and that about 10 rights, such as freedom, security and reproductive choice, "require the state to protect a woman's right to choose", the expert said.

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Abortion Act to be challenged in court

Lizeka Mda

The challenge to South Africa's abortion legislation being heard next week in the Pretoria High Court

pays little attention to the needs and desires of South Africa's women

On Monday, three groupings — the Christian Lawyers Association of Southern Africa, Christians for Truth in South Africa and United Christian Action — challenge the Choice on Termination of Pregnancy Act

They have brought the action against the minister of health, the MEC for health in

Gauteng and the Gauteng premier

Their argument goes like this "The life of a human being starts at conception. Abortion terminates the life of a human being."

"In terms of Section 11 of Act 108 of 1996, everyone has the right to life. Section 11 applies to an unborn child. Section 11 applies to an unborn child from the moment of conception.

"The Act is in conflict with Section 11 of the Constitution, in

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that it allows the termination of human life at any stage after conception and at any stage prior to the child's birth. The Act is consequently unconstitutional and must be struck down."

To this, the Reproductive Rights Alliance of more than 30 pro-choice organisations and the commission on gender equality, which joined the case last week as defendants, ask where women feature in this equation

"The right to decide when and

whether to have children is a fundamental right of all women. Women bear the social and economic consequences of having children," the alliance said

"They have the constitutional right to choose whether or not to terminate their pregnancies

"Denying women the right to make choices about when and whether to have children denies women the respect and autonomy

that they deserve as full and equal citizens."

Women's rights groups believe the court case is timed so that abortion will be an election issue because the case could carry on for months

"It does not seem feasible that they can succeed," says the Alliance's Cheryl Damon, "because they are not challenging sections of Act, but the Act in its entirety. They cannot expect to win the case."

"What they will be hoping for is a lot of media exposure, particularly because their tactic is to use graphic images of the foetus, and use terminology like 'unborn babies', 'instead of embryos' or 'foetuses'."

Challenge to abortion law

Christian groups' plea to High Court next week could mean termination is again declared illegal,

Star 29/5/98 (237)

The Termination of Pregnancy Act is facing its most serious challenge from three Christian groups in the Pretoria High Court on Monday, on the basis that a fetus also has the right to life.

The *Saturday Star* spoke to three women who this week chose to terminate their pregnancies and asked them what they thought of the possibility that abortion might be made illegal again.

"That's dreadful," said 30-year-old Kelly Hunter. "It's selfish to want to make the act null and void. If you can't provide for your child, what kind of life is he or she going to have?"

"I've decided to terminate my pregnancy because financially and emotionally I can't afford a child right now. I'm no longer with the father and I just can't raise this child on my own."

As a Christian, Samantha

Smith (20) believes that groups should be preaching abstinence rather than taking away a woman's right to choose.

"It's cruel to make abortion illegal. If I couldn't have an abortion legally I would have found another way. My boyfriend and I made a mistake. We shouldn't have slept together and I have accepted the blame, but we're both too young to have a baby now."

Living with parents

Marcel Stephens is a 23-year-old bank clerk with a 1-year-old baby. Even though she was on contraceptives, she fell pregnant again.

"I still live at home with my parents because it's the only way I can support my child. I couldn't disappoint them again by having another child. Also, I'm in a new relationship; it wouldn't be fair."

Too scared to tell her parents, she took the day off work and got

friends to take her to a state clinic. She added: "These groups should not be arguing about abortion, they should be focusing on how they can support and educate women."

All these women said that even if abortion were illegal, they would have made another plan to terminate.

This raises a serious concern. If the law were scrapped, would it not force women, especially those in rural areas and the poor, to revert to backstreet abortions and the threat of many complications, even death?

A 1994 study conducted by the Medical Research Council showed that an estimated 45 000 women in South Africa received treatment at hospitals for complications caused by illegal abortions every



Claudia Venter

year. Of these women, more than 400 died.

The Christian organisations challenging the act are basing their hopes on section 9 of the Bill of Rights, which states that everyone is equal before the law and has the right to equal protection and benefit of the law.

"Women can't make claims on gender equality if they aren't afforded these rights to unborn fetuses," says Reg Joubert, a representative for the Christian groups.

"We believe that life starts at conception and that everyone, no matter what age, should be treated equally. We want to take the focus away from solutions like abortion as a contraceptive method. We want to help women to carry their children with dignity."

The Reproductive Rights Alli-

Obstacles

"Giving a fetus rights in opposition to a woman's right to choose sets up obstacles which make it difficult for women to realise their potential. The act does give consideration to the interests of the fetus."

"In the past it was only white women who were able to have safe abortions. Everyone has the right to make such profound

decisions with dignity and security." Studies have shown that most women who have abortions are between 20 and 30 years old, present themselves for treatment within the prescribed first trimester, and almost always cite socio-economic grounds as the reason for their decision. According to Na'eem Jeehan, Islam recognises the right of women to terminate for morally justifiable reasons. "It's not simply the right of a woman to control her reproductive organs, it's much broader," he said. "We need to differentiate between life and beings. "The Koran recognises a fetus as a being once God's spirit has been blown into him or her. Any termination of a fetus after that point of 'ensoulment' - which is estimated to be 14 weeks - is regarded as murder."

Christian groups want ruling on pregnancy act

(237)

Taryn Lamberti

THE Christian Lawyers' Association, Christians for Truth and the United Christian Action Group will today ask the Pretoria High Court to set aside the Choice on Termination of Pregnancy Act — a 1996 law which gives women the right to choose to have an abortion

The Christian groups will argue the act violates the constitutionally enshrined right to life

Reg Joubert, who represented the lawyers' body at a gender debate hosted by the gender equality commission in Johannesburg on Friday, said the right to life was

the "most important right" protected by the constitution

The Christian groups' application is opposed by Health Minister Nkosazana Zuma, Gauteng's health department and premier's office, the Reproductive Rights Alliance and the gender equality commission

The act being contested, which came into effect in February last year, provides for termination of pregnancy on request in the first 12 weeks, on specific grounds between 12 and 30 weeks, and in exceptional medical cases beyond 20 weeks

Debating on behalf of the Reproductive Rights Alliance, Cathi Albertyn said in the first year of the new law 26 406 termina-

tions took place, nearly 50% in Gauteng

"The majority of women requesting terminations were single and over 18. Two thirds were first trimester abortions, before 12 weeks," she said. Reproductive Health Unit research showed many of the women were between 20 to 30, unemployed and using contraceptives at the time of conception

"Even at this early stage of the new law, the profile of a woman seeking a termination suggests that she is doing so for socio-economic reasons and at an early state of her pregnancy," Albertyn said

The Pretoria High Court must decide if the case should go to the Appeal Court or the Constitutional Court

DD 25/5/98

'Women the victims if abortion is illegal'

Rightwing groups' court challenge 'a step backward'

ARGUS CORRESPONDENT

While South Africa redefines itself as a society based on equality and mutual respect, the conservative element appears determined to take what many see as a dangerously backward step for women.

This week, three Christian groupings will be challenging the legality of abortion on the basis of the right-to-life clause in the Constitution.

The groups argue abortion should be declared unconstitutional if the court rules in favour of the conservative element. South African women will once again become victims, often fatal victims, of backstreet abortions, say specialists. According to the World Health Organisation, about 20 million unsafe abortions take place in developing countries every year.

The Medical Research Council (MRC) notes that women find an alternative route to abort when the legal route is closed off. A recent MRC study shows that at least 425 women die of backstreet abortions every year while 44 686 women are admitted to hospitals for incomplete abortions. The total costs of treating incomplete abortion cases in one year is estimated to be more than R18.5 million, according to MRC data.

More than 27 000 abortions have been carried out since the abortion bill was passed on February 1, 1997, according to the Department of Health.

The Christian lobby is challenging the human rights paradigm on which the Constitution is based, says Marion Stevens, policy analyst of the Women's Health Project.

The group is questioning a woman's right to make reproductive choices, she says. "This would be going backwards. My view is that the rightwing Christian lobby is wasting its time in challenging the Constitution on the basis that there is a right to life.

However, women wishing to have their pregnancies terminated need to get it done as soon as they become aware of their pregnancies.

In South Africa, there is not enough sex education. Many women do not know how to read the early signs of pregnancy. Many more women do not have access to contraception and still more women find it hard to access abortion facilities, says Ms Stevens.

There are large problems with implementation, large numbers of women are turned away from hospitals. They do not know how to access the system.

Other problems, she says, include doctors' versus patients' rights, with doctors not being obliged to perform terminations.

There are not enough facilities for abortions, and the old judgmental attitudes in hospitals must be changed towards an accepting environment, Ms Stevens says.

For nursing sister Glenda Bateman of Reproductive Choices, termination of pregnancies in this country is not functioning as well as it should. Women are battling with inadequate facilities, she says.

She feels the solution is to have separate clinics because hospitals are overcrowded, understaffed, lacking in funding and are turning women away.

Doctors should not be forced to perform abortions. "They also have a choice," she says.

She feels South Africa should emulate the Netherlands, which has the lowest number of abortions in the world - five per 1 000 pregnancies. This is attributed to an excellent reproductive education system.

"We need better reproductive education, a bigger budget from Government for abortions and a more empathetic environment for abortions to take place in.

"Working with terminations is traumatic and difficult. It requires



A woman's choice: the battle over abortion is heading to court as Christian groups challenge the legal termination of pregnancies

emotional support and empathy. At present there are too many abortions, so we are still not winning the battle," she says.

Eddue Mhanga, the Health Department's director for maternal, children's and women's health, agrees that the country needs a better contraceptive system. He believes implementation of abortion rights is long overdue.

Mr Mhanga says the proposal for separate clinics for abortion is not a workable solution and will "fall

directly into the hands of the rightwing." Clinics would then become easy targets for bombings and other attacks, the same way they have in the United States, he says.

It also separates the issue from the reproductive rights arena, he added. Instead, Mr Mhanga advocates a more accepting environment, which puts an end to societies' prejudices against a women's right to choose.

Yes, terminations are not working as well as they should. There is a lot of room for improvement. We come from a long history of repression, where women's rights did not really exist. To change attitudes does not happen overnight, but we are winning," he says.

Mr Mhanga says the proposal for separate clinics for abortion is not a workable solution and will "fall directly into the hands of the rightwing." Clinics would then become easy targets for bombings and other attacks, the same way they have in the United States, he says.

NO PITNEY

Kathryn is 24 years old, a marketing executive and single. Last year, shortly before she was due to go to the United States for a four-month study course, Kathryn found she was pregnant.

"I had been taking the Pill for some time and as far as I and my boyfriend were concerned, I was fully protected. But I'd had a urinary infection and I'd been put on antibiotics and that had apparently interfered with the protection. I was eight weeks pregnant when I found out and having a baby at that stage was completely out of the question. The overseas course was arranged and paid for by my company - cancelling at that stage, as well as going on maternity leave later would have been a professional disaster for me."

Kathryn and her boyfriend discussed the idea of abortion and both

agreed it was the only course open to them. "We have talked about getting married in a few years time, but neither of us wanted to be forced into starting a family. Termination was the only practical solution and I had absolutely no qualms about it."

Kathryn went first to her doctor, who said he didn't do terminations, but gave her - reluctantly, she says - the name of a clinic that did. "I understood that he has the right to refuse, but I felt he was unnecessarily judgemental about my wishes, particularly since he had omitted to tell me that antibiotics could interfere with the pill. I made an appointment with the clinic, went in and within hours it was all over."

A year later, she has no regrets. "I'm glad I was able to make the decision and do it legally. An unwanted pregnancy can run your life, but a backstreet abortion can end it. No one has the right to decide for you."

Pro-life: 'I believe I would have regretted it for years'

NO PITNEY

Helen, 33, is married with three children. The youngest, two-month-old Bridget, was unplanned - and, says Helen, "almost lost to an abortion".

"Derek and I only wanted two children and planned it that way when we were married ten years ago. Our two sons are in primary school and the plan was that I would go back to work when they were a little older.

"When I found out I was pregnant, I was really upset. I don't enjoy pregnancy at all and I had given all my maternity clothes and baby things to friends because I'd finished with babies and had absolutely no desire to have any more. My first thought was to have an abortion and Derek said the decision was entirely mine.

"I got the name of a clinic from an advert in the paper and went along

for an appointment. The first thing they do is counsel you and I began to think seriously about what I was doing. I realised I was making a selfish decision, based on what I wanted for myself.

"After a few days, I told Derek I had changed my mind - and for the first time I realised he wanted another baby. The boys were also delighted when we told them.

"I'm glad I decided to have the baby. We can manage financially if we have to. I believe if I had had a termination, I would have regretted it for years. Bridget's an absolute treasure and has made the family complete - it's as though she filled a gap I didn't know was there.

"I can understand women wanting an abortion if in their hearts they know a baby is wrong for them, but I think you have to be very sure about what you are doing."

Reject anti-abortion case, court urged

ARG 26/5/98 (237)

ARGUS CORRESPONDENT

Pretoria - The defenders of legal abortion have asked the High Court here to dismiss an application by pro-life groups who say the constitution protects the right to life of a foetus

Three Christian groups - the Christian Lawyers Association, Christians for Truth and United Christian Action - have brought an application challenging the abortion law

The Minister of Health, Nkosazana Zuma, the Gauteng MEC for health and the Gauteng premier have been joined as defendants by two pro-choice groups - the Reproductive Rights Alliance and the Commission for General Equality

The Christian organisations, represented by Eberhard Bertélsmann, claim the Choice on Termination of Pregnancy Act is unconstitutional as it violates the foetus's right to life

They said in court papers the foetus qualified for protection as the life of a human being started at conception and that all human beings were protected, from conception, under section 11 of the constitution

This states that everyone has the right to life and that includes foetuses

In a preliminary application brought by the defendants, Wim Trengrove SC yesterday asked the court to dismiss the case as there were no legal grounds for the application

Mr Trengrove said section 11 of the constitution did not protect the life of a foetus, as an unborn child bore no rights under the constitution

Alternatively, he submitted the constitution protected a pregnant woman's right to terminate her pregnancy

"The plaintiffs' claim that the foetus is a bearer of constitutional rights flies in the face of a firmly entrenched principle of our common law that a foetus is not a person in law and does not have the capacity to acquire rights prior to birth," Mr Trengrove said.

The limited protection afforded to the foetus under the old abortion law did not imply any recognition of the foetus as a person in law

If that had been the case, killing a foetus would have constituted murder

If section 11 were interpreted to afford constitutional protection to a foetus's life, abortion would be prohibited even when the pregnancy constituted a threat to the mother's life

The case continues

Foetus not a rights-bearer, court told

Stephané Bothma (237)

ED 26/5/98

PRETORIA — The controversial issue of abortion came under the spotlight again yesterday as lawyers representing Health Minister Nkosazana Zuma argued in the Pretoria High Court that a foetus was not a rights-bearer in terms of the constitution.

Three religious groups, the Christian Lawyers' Association of SA, Christians for Truth in SA and the United Christian Action, have taken Zuma and the Gauteng provincial government to court claiming that the Choice on Termination of Pregnancy Act 92 of 1996 was unconstitutional and invalid. They claim the act violates section 11 of the constitution which reads:

"Everyone has the right to life." Should they succeed, the matter will be referred to the Constitutional Court.

Wim Trengove SC, representing Zuma, argued that the application should be rejected. "On proper interpretation of section 11, 'everyone' means 'every person' whose protection commences at birth and not before. A foetus, therefore, is not a rights-bearer..." However, he said that even if section 11 protected the life of a foetus, its protection was not absolute. "The constitution and particularly section 12... protects the right of every woman to choose whether to have her pregnancy terminated or run the full term."

Trengove emphasised that a balance had to be struck between the pro-

tection of a foetus and a woman's freedom to choose.

Should section 11 be interpreted to afford constitutional protection to the life of a foetus, Trengove said, it would give rise to far-reaching and anomalous consequences that could never have been intended. "Abortion would be constitutionally prohibited even when the pregnancy constitutes a threat to the health or even the life of the mother, or even if the pregnancy resulted from rape or incest."

Trengove said other democracies such as the UK, the US and Canada agreed that a foetus was not a "person". Germany was the only exception.

Picture: Page 2

Key Market Movements

might force and

TUESDAY MAY 26, 1998

Foetus 'no right to life', argues state

ROBERT BRAND

CT 26/5/98

JOHANNESBURG: The "right to life" clause in the Constitution does not prohibit abortion because it does not apply to a foetus, it was argued in the Pretoria High Court yesterday

Three Christian groups have asked the court to strike down the abortion legislation that came into effect last year, which allows abortion on request in the early stages of pregnancy

The application was brought against Health Minister Nkosazana Zuma, Gauteng Premier Mathole Motshekga and Gauteng Health MEC Amos Masondo

The Reproductive Rights Alliance, which represents about 30 pro-abortion groups, and the Commission on Gender Equality are also opposing the application

In papers before the court, the applicants argue that section 11 of the Constitution, which states that "everyone has the right to life", applies to an unborn child because life starts at conception. The Choice on Termination of Pregnancy Act, they argue, is therefore unconstitutional because it infringes the foetus' "right to life".

But Wim Trengove, SC, on behalf of some of the defendants, argued that South Africa's common law does not regard an unborn foetus as a person with legal rights and that the Constitution should be interpreted on this basis

Even if the Constitution did protect foetal life, abortion in certain cases would still be legitimate because a balance would have to be struck between the protection of the foetus and a woman's right to choose whether she wants a baby or not, Trengove said

"The plaintiffs' claim that the foetus is a bearer of constitutional rights is novel. It flies in the face of a firmly entrenched principle of our common law that a foetus is not a person in law and does not have the capacity to acquire rights or duties prior to birth."

Although it is a biological fact that human life starts at conception, the legal question was not when life started, but when a human being acquired legal rights and obligations, Trengove said. "The common law is quite clear and unambiguous. A foetus is not a person in law and is not subject to rights and obligations."

If, however, the court ruled that a foetus did have a right to life, that would not render the abortion legislation unconstitutional because this right would not be absolute.

The Constitution also guaranteed women the right to "bodily and physical integrity", including the right "to make decisions concerning reproduction", Trengove said

The state had the right to regulate abortion, but not to prohibit it. "If the state were to prohibit abortion, its prohibition would force pregnant women to bear, give birth to and nurture unwanted children with the associated impairment of their physical and psychological well-being"

The applicants will present their argument today

Foetus not a person in SA law, court told

Star 26/5/98 (237)

Abortion probe told of guarantees in the constitution that protect women's rights, including their 'bodily integrity'

By ROBERT BRAND

The "right to life" clause in the constitution does not prohibit abortion because it does not apply to an unborn foetus, it was argued in the Pretoria High Court yesterday.

Three Christian groups have asked the court to strike down South Africa's abortion legislation, which came into effect last year and allows abortion on request in the early stages of pregnancy.

The application was brought against Health Minister Nkosazana Zuma, Gauteng Premier Mathole Motshekga and Gauteng Health MEC Amos Masondo.

The Reproductive Rights Alliance, representing about 30 pro-abortion groups, and the Commission on Gender Equality are also opposing the application.

The applicants argue that section 11 of the constitution, which states that "everyone has the right to life", applies to an unborn child because life starts

at conception. The Choice on Termination of Pregnancy Act, they argue, is therefore unconstitutional because it infringes the foetus's "right to life".

But advocate Wim Trengove SC, appearing for some of the defendants, argued that South Africa's common law does not regard an unborn foetus as a person with legal rights, and that the constitution should be interpreted on this basis.

Even if the constitution did protect foetal life, abortion in certain cases would still be legitimate because a balance would have to be struck between the protection of the foetus and a woman's right to choose whether she wants a baby or not, Trengove said.

"The plaintiffs' claim that the foetus is a bearer of constitutional rights is novel. It flies in the face of a firmly entrenched principle of our common law that a foetus is not a person in law and does not have the capacity to acquire rights or duties prior to birth."

"The common law is quite clear a foetus is not a person in law and is not subject to rights and obligations," he said.

If, however, the court ruled that a foetus had a right to life, that would not render abortion legislation unconstitutional, as this right would not be absolute.

The constitution also guaranteed women's right to "bodily and physical integrity", including the right "to make decisions concerning reproduction", Trengove added.

"These guarantees must incorporate the right afforded to every woman to determine the fate of her own pregnancy."

The state had the right to regulate abortion, Trengove said, but not to prohibit it. "If the state were to prohibit abortion, its prohibition would force pregnant women to bear, give birth to and nurture unwanted children... with the associated impairment of their physical and psychological well-being."

The applicants will present their argument today.

30 000 local women have had legal abortions

By ANSO THOM
Health Reporter

At least 30 000 women have opted for abortions in SA since the implementation of the Choice on Termination of Pregnancy Act on February 1 last year.

In Gauteng, 13 505 abortions were performed between February and December. Most patients were older than 18.

Figures released by the Health Department revealed that at least 27 452 women and teenagers had used abortion facilities during the same period. Coupled with the introduc-

tion of the act, the Department of Health and reproductive health groups have trained health workers in post-abortion counselling, which involves the promotion of contraception.

The Government, together with the Planned Parenthood Association, also ran workshops which provided health-care workers with the space to reflect on their feelings and thoughts about abortion.

Many doctors and health workers are still refusing to perform or deal with the termination of pregnancies, although 50 midwives are being

trained to perform abortions.

It is estimated that about 40% of the world's population live in countries where abortion is permitted on request, while 25% live where it is permitted only if the woman's life was in danger.

Internationally, legal abortion rates range from 112 terminations per 1 000 women in the former Soviet Union to five per 1 000 in the Netherlands in 1990.

In the US, abortion rates are declining, with the latest figure being 21 per 1 000 women.

In the UK, five out of every 20 pregnancies result in abortion.

Human life starts at conception, court told

(237) Star 27/5/98

Argument over when existence begins, as opponents begin battle to overturn SA women's right to abortion

BY ROBERT BRAND

South Africa's abortion legislation is the most permissive in the Western world and should be struck down because it is in conflict with the right to life, anti-abortion groups argued in the Pretoria High Court yesterday.

The Choice on Termination of Pregnancy Act allowed abortion on demand not only in the early stage of pregnancy, but right up to the moment of birth, advocate Eberhard Bertelsmann SC argued on behalf of three Christian groups that are challenging the constitutionality of the law.

The three groups - the Christian Lawyers Association, Christians for Truth and United Christian Action - have brought the action against Health Minister Nkosazana Zuma, Gauteng Health MEC Amos Masondo and Gauteng Premier Mathole Motshekga. The Reproductive Rights Alliance and the Commission on Gender Equality are also opposing the application.

On Monday, Wim Trengove SC argued for the Government that South African common law does not recognise a foetus as a person with legal rights, and that the right

to life in the constitution therefore did not apply to a foetus.

Advocate Lauren Silberg, representing the Reproductive Rights Alliance and the Commission on Gender Equality, yesterday also argued in favour of the abortion law, saying it gave expression to the constitution's protection of women's reproductive rights and the right to equality.

The defendants have raised an exception to the application, asking the court to dismiss it without hearing evi-

Are rights enshrined in constitution absolute?

dence as it had no chance of succeeding.

Arguing against the exception, Bertelsmann said the applicants could lead medical evidence showing that life starts at conception. He also argued that SA common law had developed to where it recognised that foetal life should be protected.

The "right to life" clause in the constitution should therefore apply to a foetus

"Life is the full totality of human existence. Conception is that full totality, not just a biological process ... The full gamut of a human being is there at conception. The capacity to love, to breathe, to write poetry ... those are all latent at conception

"The defendants say that the fullness of life is not protected by the constitution. That cannot be so."

Bertelsmann added that even if the court did not accept that foetal life is protected by the constitution, the abortion law could still be challenged because it was "overboard".

Although it allowed abortion on demand only during the first 12 weeks of pregnancy, the conditions during the second and third trimesters were so easy that the law in effect allowed abortion on demand during those stages too.

The reproductive rights enshrined in the constitution are not absolute and could not override the protection of the foetus, Bertelsmann said.

If the law were struck down, it would not make abortion totally unlawful

SA common law allowed abortion for medical necessity, where the pregnancy was the result of rape or incest, and possibly in cases where

Foetus is legal person, High Court told

27/5/98 (277)

Stephané Bothma

PRETORIA — The foetus was a legal person in terms of SA common law and it was logical that it had a right to protection, the High Court was told yesterday

This argument was raised in a provisional application by three religious groups who seek to have the controversial issue of abortion referred back to the Constitutional Court on the grounds that The Choice on Termination of Pregnancy Act 92 of 1996 was unconstitutional and invalid

The application is opposed by Health Minister Nkosazana Zuma, the Gauteng provincial government, the Reproductive Rights Alliance and the Commission for Gender Equality.

Eberhard Bertelsmann SC, representing the Christian Lawyers Association of SA, Christians for Truth in SA and United Chris-

tian Action, argued that should the statute be set aside by the Constitutional Court, it would not mean that all abortions would be regarded as unlawful

"The common law position will revive in terms of which abortion was lawful if it was necessary to save the life of the mother and under circumstances where the mental or physical health of the mother was threatened or the possibility existed that an abnormal child would be born, he argued

"It is also virtually certain that the termination of pregnancies resulting from rape and incest would be allowed"

Stressing that SA's common law had developed over the years to grant a foetus legal status, he said that a variety of rights existed to which a foetus could lay claim, including the right to dignity, not to be tortured, a healthy environment and the right to

health care

"Once it is clear that the unborn child has a right to life, all other rights follow naturally"

Contending that life started with conception, Bertelsmann said "birth is not the beginning of life, its just a drastic change of lifestyle"

He said lawyers representing Zuma and the other defendants had adopted an absolutist approach — that the mother's right to exercise a choice in terms of the constitution, which included the right to abortion, must be regarded as overriding the unborn child's right to life

Bertelsmann said that if Zuma and the other defendants wanted to prevent the abortion issue from going to trial before the constitutional court, they would have to prove that there was no basis at all for the argument that a foetus had life and a legal persona

SA abortion law (237) 'too permissive'

ROBERT BRAND

CT 27/5/98

JOHANNESBURG: South Africa's abortion legislation is the most permissive in the Western world and should be struck down because it is in conflict with the right to life, to which a foetus is entitled, anti-abortion groups argued in the Pretoria High Court yesterday

The Choice on Termination of Pregnancy Act allowed abortion on demand, not only in the early stage of pregnancy, but in effect right up to the moment of birth, Eberhard Bertelsmann, SC, argued on behalf of three Christian groups that are challenging the constitutionality of the law.

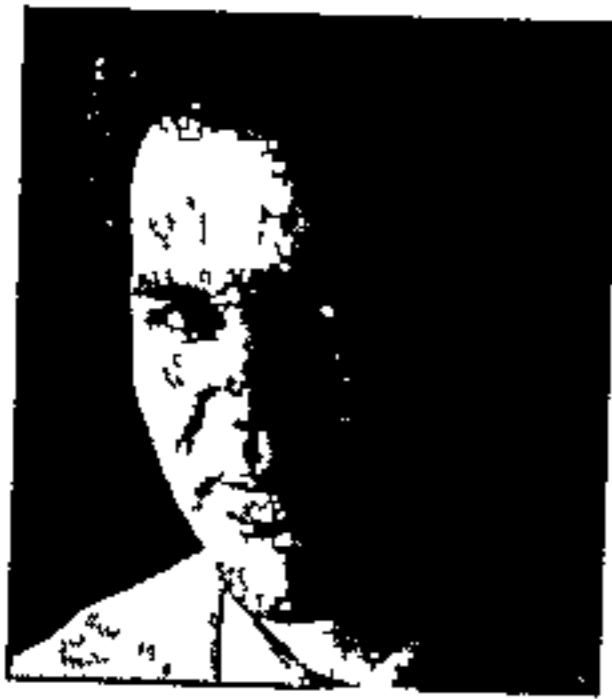
The three groups have brought the action against Health Minister Nkosazana Zuma, Gauteng Health MEC Amos Masondo and Gauteng Premier Matole Motshekgwa. The Reproductive Rights Alliance and the Commission on Gender Equality are also opposing their application

Bertelsmann said even if the court did not accept that foetal life was protected by the Constitution, the abortion law could still be challenged because it was "overbroad"

The case continues

**CAPE
COMMUNITY**





In a Pretoria court the rights of the two are pitted against each other, writes Robert Brand

Foetus versus mother

May 28/5/98 (237)

JODI BIBER

The first salvos were fired this week in what could become a drawn-out legal battle over South Africa's abortion legislation, which some see as overly permissive, and others as an enlightened step towards equality for women.

It is the classic "pro-choice" against "pro-life" debate, one which has occupied the highest courts and legislative bodies of many Western countries for decades, and remains steeped in controversy.

The issue does a foetus have legal rights, and, if so, how should these be balanced against the rights of women make decisions about their bodies and about reproduction?

On the one side were three Christian groups, who brought an application before Mr Justice SW McCreath in the Pretoria High Court for the Choice on Termination of Pregnancy Act to be struck down because, they contend, it infringes the right to life accorded an unborn foetus by the constitution.

On the other, the Government, the pro-choice Reproductive Health Alliance and the Commission on Gender Equality, who contend that a foetus in South African law is not regarded as a legal persona protected by the constitution and that, in any event, a woman's right to choose should carry more weight.

It was, in a way, a battle of the sexes. The applicants - the Christian Lawyers' Association, United Christian Action and Christians for Truth - represented in the front benches of the public gallery by a row of middle-aged men in grey suits, the defendants by doughty warriors from the feminist lobby.

The Choice on Termination of Pregnancy Act permits an abortion on request during the first twelve weeks of pregnancy.

Thereafter, and up to the 20th week, abortion is permitted if the pregnancy would pose a risk to the mother's health or the health of the foetus, or if the pregnancy was from rape or incest.

The applicants' summons set out their objection in simple terms: the life of a human being starts at conception. Abortion terminates the life of a human being. In terms of section 11 of the constitution, everyone has the right to life. Section 11 applies to an unborn child from the moment of conception. The abortion law is in conflict with section 11 because it allows termination of human life at any stage after conception and up to the moment of birth. The law is therefore unconstitutional and must be struck down.

The defendants brought an exception against this summons, which, in layman's terms, claims that, even if the factual basis of the application is undisputed, it should not be allowed to proceed because the applicants have no legal ground to argue their case.

The exception was argued before Mr Justice McCreath for three days. If the judge upholds it, the case will not go to trial. If he dismisses it, the case goes to trial in the High Court. Ultimately, however, the Constitutional Court will have to decide whether the legislation is to be



Legal wrangle - a woman's right to have an abortion, legalised just last year, is being challenged in the Pretoria High Court by three Christian organisations

That life starts at conception is an undisputed biological fact, Trengove said. But, he argued, our common law and courts have never regarded a foetus as a human being with legal rights. If a foetus does not acquire rights until birth, then it cannot be protected by the "right to life" clause in the constitution and the legal challenge must fail.

The constitution permits the state to protect pre-natal life and to regulate and limit a woman's right to choose to terminate her pregnancy - which is what the abortion law does - but it does not require the state to do so, contrary to the applicants' claim

is latently there at conception. Life in its fullness as protected by (the constitution) includes the potentiality of being the bearer of every right enshrined in the constitution. The capacity to love, the capacity to breathe are all latent at conception."

The potentiality to become a human being exists from the moment the ovum is fertilised, and that made the fertilised ovum a human being, Bertelsmann said, to which the judge responded "An egg has the potential to develop into a chicken, but you wouldn't call an egg a chicken. We all know that we are dealing with potential human life

as the *nasciturus* fiction. Simply stated, this holds that an unborn child is deemed to have all the rights of a born child if it is subsequently born alive. It allows a child to claim damages for injuries sustained while in the womb, or for loss of support if the father dies before it is born, or to inherit if the person leaving the estate dies before it is born.

A number of legal academics suggest that the *nasciturus* fiction confers rights on the foetus - that the "fiction" is a smoke screen - and that this doctrine could be used to defend the "rights" of a foetus against abor-

tion. Our courts have always interpreted the fiction in that way and have held that it cannot be used to protect a foetus against abortion.

"Whatever rights might be conferred on the foetus by operation of the *nasciturus* fiction, it can never serve to protect against abortion. Those rights are dependent and conditional upon the foetus being born alive. If the foetus is aborted, the condition fails and it is deemed never to have existed at all," he said.

The criminal law provides a further indication that our law does not regard a foetus as a person, Trengove said. If it did, illegal abortion would be punishable as murder, not as a separate category of crime.

If Mr Justice McCreath rules in favour of the defendants on this point, that is the end of the matter. If not, there is a secondary argument to consider: even if a foetus has a right to protection, section 12 of the constitution gives women the right to make choices regarding reproduction. This right, it was argued on behalf of the Reproductive Rights Alliance and the Commission on Gender Equality by Advocate Lauren Silberg, includes the right to choose to have an abortion, subject to certain limitations.

"The constitution commits itself to according women dignity as autonomous human beings and the freedom to determine their own destiny. Central to those values is respect for and recognition of women's reproductive autonomy. This means that women should have the freedom to choose when and whether to have children."

Furthermore, Silberg argued, the right to gender equality enshrined in the constitution could never be fulfilled, unless women were allowed to make their own choices regarding reproduction.

"Reproductive autonomy is secured by a range of rights collectively referred to as reproductive rights. These rights are fundamental to a woman's full participation in society. It is only if they are armed with such rights that women can effectively exercise the rights enshrined in the constitution and become full and equal members of society."

No right enshrined in the constitution is absolute, the right to life of a foetus, if it has any, cannot be held to be more important than a woman's right to equality and reproductive choice, Silberg argued. The application that the abortion act should be struck down, leaving no room for choice, could not succeed.

Bertelsmann, however, argued that the right to life is in fact paramount, because without it all other rights would be worthless. In some cases, for instance where the pregnancy may endanger the life of the mother, the right of the foetus would have to yield to the right of the mother. But in other cases, the foetus' right to life should be upheld.

Furthermore, Bertelsmann said, the constitution does not expressly include the right to abortion under reproductive rights, if the framers of the constitution had wanted to do

...planned against the rights of women make decisions about their bodies and about reproduction?

On the one side were three Christian groups, who brought an application before Mr Justice SW McCreath in the Pretoria High Court for the Choice on Termination of Pregnancy Act to be struck down because, they contend, it infringes the right to life accorded an unborn foetus by the constitution.

On the other, the Government, the pro-choice Reproductive Health Alliance and the Commission on Gender Equality, who contend that a foetus in South African law is not regarded as a legal person protected by the constitution and that, in any event, a woman's right to choose should carry more weight.

It was, in a way, a battle of the sexes the applicants - the Christian Lawyers' Association, United Christian Action and Christians for Truth - represented in the front benches of the public gallery by a row of middle-aged men in grey suits, the defendants, by doughty warriors from the feminist lobby.

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The defendants brought an exception against this summons, which, in layman's terms, claims that, even if the factual basis of the application is undisputed, it should not be allowed to proceed because the applicants have no legal ground to argue their case.

The exception was argued before Mr Justice McCreath for three days. If the judge upholds it, the case will not go to trial. If he dismisses it, the case goes to trial in the High Court. Ultimately, however, the Constitutional Court will have to decide whether the legislation is in line with the constitution or not.

The primary question to be decided by the judge is whether a foetus is a legal person with rights, not, as Wim Trengove SC stated on behalf of the defendants, whether life starts at conception.



Legal wrangle - a woman's right to have an abortion, legalised just last year, is being challenged in the Pretoria High Court by three Christian organisations.

That life starts at conception is an undisputed biological fact, Trengove said. But, he argued, our common law and courts have never regarded a foetus as a human being with legal rights. If a foetus does not acquire rights until birth, then it cannot be protected by the "right to life" clause in the constitution and the legal challenge must fail.

The constitution permits the state to protect pre-natal life and to regulate and limit a woman's right to choose to terminate her pregnancy - which is what the abortion law does - but it does not require the state to do so, contrary to the applicants' claim that the constitution compels the state to outlaw abortion.

Against this, Eberhard Bertelsmann SC, for the applicants, argued that conception is not merely "a biological process of cells dividing", but the start of "life in its fullness". "The full gamut of a human being

is latent there at conception. Life in its fullness as protected by (the constitution) includes the potentiality of being the bearer of every right enshrined in the constitution. The capacity to love, the capacity to breathe are all latent at conception."

The potentiality to become a human being exists from the moment the ovum is fertilised, and that made the fertilised ovum a human being, Bertelsmann said, to which the judge responded, "An egg has the potential to develop into a chicken, but you wouldn't call an egg a chicken. We all know that we are dealing with potential human life. The problem is whether that potential of human life makes the fertilised ovum a person."

Before the advent of the constitution, our common law did not regard a foetus as a bearer of rights. To protect the interests of an unborn child, the law developed a "fiction" known

as the *nasciturus* fiction. Simply stated, this holds that an unborn child is deemed to have all the rights of a born child if it is subsequently born alive. It allows a child to claim damages for injuries sustained while in the womb, or for loss of support if the father dies before it is born, or to inherit if the person leaving the estate dies before it is born.

A number of legal academics suggest that the *nasciturus* fiction confers rights on the foetus - that the "fiction" is a smoke screen - and that this doctrine could be used to defend the "rights" of a foetus against abortion. This, Bertelsmann argued, indicated that our common law had developed to the point where it was ready to regard the foetus as a bearer of rights.

Not so, said Trengove. The fiction only comes into play once the child is born alive, put differently a foetus acquires no rights unless and until it is

regard a foetus as a person, Trengove said. If it did, illegal abortion would be punishable as murder, not as a separate category of crime.

If Mr Justice McCreath rules in favour of the defendants on this point, that is the end of the matter. If not, there is a secondary argument to consider - even if a foetus has a right to protection, section 12 of the constitution gives women the right to make choices regarding reproduction. This right, it was argued on behalf of the Reproductive Rights Alliance and the Commission on Gender Equality by Advocate Lauren Silberg, includes the right to choose to have an abortion, subject to certain limitations.

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Bertelsmann, however, argued that the right to life is in fact paramount, because without it all other rights would be worthless. In some cases, for instance where the pregnancy may endanger the life of the mother, the right of the foetus would have to yield to the right of the mother. But in other cases, the foetus' right to life should be upheld.

Furthermore, Bertelsmann said, the constitution does not expressly include the right to abortion under reproductive rights, if the framers of the constitution had wanted to do that, they would have.

If the abortion law is struck down in its entirety, the situation would revert to the common law position, which allows abortion in cases of medical necessity or where the pregnancy is the result of rape or incest, Bertelsmann said.

Judgment was reserved.

Abortions to go on while jurists argue

JUDITH SOAL
HEALTH WRITER

ABORTIONS will still be available to all South African women, even if three Christian groups win the first round of their challenge to the Choice on Termination of Pregnancy Act in the Pretoria High Court

ET 28/5/98
The organisations, which argue that allowing a woman to terminate her pregnancy runs contrary to the Constitution, will not know for several weeks whether the court believes they have any grounds for action.

After hearing closing arguments yesterday, Justice S W McCreath said it would take some time to decide on the matter.

If the anti-abortionists win this hearing, the case will go to trial in the Pretoria High Court. It could take several months before a court date is available.

If the High Court rules abortion unconstitutional, the decision could be taken to the Supreme Court of Appeal. Even if the appeal failed, the law would not be changed until the decision was confirmed by the Constitutional Court — which could also take several months.

If the Constitutional Court agrees that the legislation is

unconstitutional, it will probably not be overturned immediately. Parliament might be given time to remedy problems with the law.

Legal sources say the case is unlikely to succeed, and if it did it could take well over a year. Abortions will be available in this time.

The Reproductive Rights Alliance, one of the groups opposing the court bid, says it is confident that abortions will remain available.

"At last we have sane legislation. In the past, 425 South African women died every year after back street abortions," said national co-ordinator Cheryl Damon.

"More than 44 600 women needed emergency treatment yearly because of incomplete abortions. Women inserted knitting needles into their uteruses, took herbal remedies, oral quinine, castor oil, Dettol and washing blue, and injected soap water into their uteruses," she said.

"Taking away safe, legal abortions will not stop terminations happening, it will just mean that more women will suffer and die."

"The Constitution guarantees that women have equal status in society, so we believe that our right to abortion will not be removed."

Anti-abortion lobby must wait for ruling on pregnancy act

Stephané Bothma

MD 28/5/98 (277)

PRETORIA — The Christian anti-abortion lobby will have to wait for an unspecified period before it finds out whether the High Court believes that a case exists for referring the controversial issue to the Constitutional Court

Judge SW McCreath yesterday reserved judgment in the challenge by the Christian Lawyers Association of SA, Christians for Truth in SA and United Christian Action against the Choice on Termination of Pregnancy Act on the grounds that the act was invalid and unconstitutional

The lobby's application to take the abortion issue to trial in the highest court in the land is being opposed by Health Minister Nkosazana Zuma, the Gauteng government, the Reproductive Rights Alliance and the Commission for Gender Equality

The anti-abortion group argued that life started at conception and thus termination of a pregnancy violated section 11 of the constitution which read "everyone has the right to life".

Lawyers representing Zuma and other defendants argued that a foetus enjoyed no rights in terms of the constitution or common law while the constitution guaranteed a woman the right to exercise a choice, which included the right to abortion

Meanwhile, the health department said yesterday that since abortion was legalised in SA in 1996, more than 33 000 women terminated their pregnancies.

"Rural women, however, do not yet enjoy fair access to the services. The training of registered nurses, which will start shortly with assistance from the UK, will help improve the plight of rural and poor women," the department said.

According to the department, at least 1 600 women die from pregnancy and childbirth related complications everyday world wide

Abortion bar 'would hit the rights of women'

ARGUS CORRESPONDENT

ART 28/5/98

Pretoria – Outlawing abortion would be a “profound” form of state interference in the reproductive rights of women, the High Court has heard here.

Three Christian groups – the Christian Lawyers Association, Christians for Truth and United Christian Action – have asked the court to strike down the abortion legislation because, they claim, it infringes a foetus’s right to life.

The defendants – Health Minister Nkosazana Zuma, the Gauteng provincial government, the Commission on Gender Equality and the Reproductive Rights Alliance – have opposed the application, filing an exception on the grounds that it has no chance of succeeding.

Mr Justice W H McCreath reserved judgment on the exception after three days of argument. He is not expected to announce his ruling for several weeks.

If the exception is dismissed, the case will go to trial in the High Court.

Wim Trengove, SC, appearing for the Government, said in his closing argument yesterday that a woman’s freedom of reproductive choice, guaranteed in the constitution, included the option of abortion.

Outlawing abortion would be a “profound” interference in that right, he argued.

Lauren Silberg, appearing on behalf of the Reproductive Rights Alliance and the Commission on Gender Equality, said that reproductive choice implied a range of options, which included abortion.

Women urged to protect their right to abortion

Court row casts shadow on health day (237)
ARG 28/5/98

JENNY VIAL
HEALTH REPORTER

The most important step taken in South Africa towards women's health - their choice to have an abortion - is under threat today, international women's health day.

Marj Dyer, of the Abortion Rights Action Group, says individual women and organisations must come out in support of the new abortion law, and let political parties know their position

"The law is the Department of Health's great success, it's about women's rights and it's a women's health issue," says Dr Dyer

The Christian Lawyers' Association, Christians for Truth and United Christian Action this week applied to the Pretoria

High Court to have the abortion law declared unconstitutional, arguing that life began at conception

The challenge is being defended by the Minister of Health, Nkosazana Zuma, the Reproductive Rights Alliance (which represents more than 30 organisations) and the Commission on Gender Equality

About 30 000 women in South Africa have had abortions since the law was passed in February last year

"That's 30 000 women who have had safe, early terminations, which in the end protect their health," says Dr Dyer. For about 70% of the world's women, abortion is reasonably accessible, and about 40% have access to abortion on request

Dr Dyer says the Choice on Termination of Pregnancy Act gives all South African

women, not just the rich and literate, access to abortion. And in its short life, the act, which makes abortion legal, has already changed attitudes

"People who were set against it are now thinking about it

"In every country where abortion has been legalised, you have to change the attitudes around it through education. This is now happening in South Africa"

The law allows abortion on request for women up to 12 weeks pregnant and allows for abortion for a further eight weeks in certain conditions

Until the new laws were introduced, only about 1 000 women a year qualified for legal abortions allowed in special circumstances such as incest, rape or when it was a danger to the mother's life

Abortion seen as basic right

Star 28/5/98

(237)

Ban would be denial of a woman's freedom of reproductive choice, court told

BY ROBERT BRAND

Outlawing abortion would be a "profound" form of state interference in the reproductive rights of women, the Pretoria High Court heard yesterday.

Three Christian groups – the Christian Lawyers Association, Christians for Truth and United Christian Action – have asked the court to strike down South Africa's abortion legislation because, they claim, it

infringes on a foetus's right to life.

The defendants – Health Minister Nkosazana Zuma, the Gauteng provincial government, the Commission on Gender Equality and the Reproductive Rights Alliance – have filed an exception against the application on the grounds that it has no chance of succeeding.

Mr Justice WH McCreath reserved judgment on the exception after three days of argument. He is not expected to

announce his ruling for several weeks.

If the exception is dismissed, the case will go to trial in the Pretoria High Court.

Wim Trengove SC, appearing for the Government, said in his closing argument that a woman's freedom of reproductive choice, which was guaranteed in the constitution, included the option of abortion. Outlawing abortion would be a "profound" interference in that right.

"If the state prescribes to a woman how to exercise control over her body, it would be an infringement upon her freedom," Trengove said.

Lauren Silberg, appearing on behalf of the Reproductive Rights Alliance and the Commission on Gender Equality, said reproductive choice implied a range of options, which included abortion.

► **Foetus versus mother**

Page 21

Anti-abortionists' strategy avoids bloody conflict

Even if the challenge to the abortion laws fails, the opponents of abortion should have their day in court, writes CARMEL RICKARD

(237)
ST 31/5/98

ANYONE wanting to attend this week's court challenge to South Africa's abortion laws would have battled to find the venue. Just 20 minutes before argument was due to start, word came that another courtroom had been allocated for the hearing because the forum initially set aside was too small.

The first room would indeed have been cramped for the three-day hearing, but few ordinary people on either side of this contentious issue came to hear the debate. It was the teams of legal counsel, representatives of the parties involved and the media who filled the seats.

Despite the low-key atmosphere, the case began with a moment of potential drama. Judge Sydney McCreath told the assembled legal teams that he was a practising member of the Methodist church and he asked whether any of their clients would object to his hearing the matter. But no one asked that he stand down, and the case went ahead as planned.

Had the judge declared he was a practising Catholic, however, there might well have been requests that he recuse himself because of that church's well-known opposition to abortion. Given this opposition, some questions have been asked about why the High Court challenge was not brought by the Catholic church,

which tends to be more outspoken than any others about the issue. The answer is not that the bishops have changed their views on the question or that the new law has passed them by. They have, in fact, given considerable attention to the legislation, but have decided on a different strategy to oppose it.

So what lies behind this apparent lack of interest in the case? Probably the strategy chosen by the three organisations which brought the application. The abortion debate is at its most emotive when the two sides produce their respective gruesome "exhibits" — foetal limbs or women who bled to death. But neither has had a chance to do so in this case.

The three conservative Christian organisations which brought the challenge — the Christian Lawyers Association, Christians for Truth and United Christian Action — voiced their opposition to the abortion law as an all or nothing venture of principle. Abortion was unconstitutional because the foetus had a constitutional right to life. This permitted the other side to object on technical grounds: the right to life guarantees of the Constitution do not extend to the foetus.

The resulting debate dealt largely with legal technicalities and constitutional interpretation rather than with the sensational issues which might well have aroused more public

interest and presence at court.

In an international context, the position of the three organisations is a radical one. They could, for example, have attacked aspects of the law and argued that it drew the line at the wrong point, that abortion in the first trimester ought to be available only on certain conditions rather than on demand, or that it should never be allowed apart from in cases of rape or incest or where the mother's life was gravely at risk. Instead, they opted to canvass the principle that abortion is unconstitutional because a foetus has a right to life.

This is not the issue being debated in other countries which, like South Africa, have a constitution with a general right to life. There, instead of centring on the constitutional protection of a foetal right to life, the debate focuses rather on when during pregnancy and under what circumstances, abortion may be permitted.

The judge has reserved his judgment, which means it could be months before it is handed down. What should we hope for from his decision? The parties and their supporters have the answer clear in their minds. Others might be less sure. The squeamish may hope that the matter is settled at this level, and that Judge McCreath rules the foetal right to life challenge should not proceed because there are no constitutional grounds for it to do so. Their

hope might be that this would ensure the matter quietly disappears, with neither side having to display their bloody trophies, and that the conflict and acrimony associated with a full court trial on the abortion issue will thus be avoided.

But they should not be too optimistic. Judge McCreath might rule that the case should go ahead. But even if the judge decides there are no grounds to proceed, he will merely be ruling on the case brought before him this week. There would be nothing to stop the launch of another challenge, based on different grounds, which might in turn go to a full trial.

Perhaps the question of what to hope for from the judge's ruling is even more complex. In a country where everyone has the right to freedom of conscience, religion, thought, belief and opinion, there must be a strong case for arguing that so difficult a question should at some stage be fully canvassed.

The issue of the death penalty was given a full hearing at the Constitutional Court, and however much some members of the public might disagree with the outcome they can never say the matter was not thoroughly ventilated. Similarly, those against abortion want an opportunity to convince the public — and the court — that abortion is wicked and immoral. They may yet have their chance to try. The rest of us should not begrudge it to them.

Anti-abortion groups fail to outlaw Act

'Foetus not a legal persona'

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ARG 11/7/98

OWN CORRESPONDENT

The Abortion Act is to remain on the statute books after the Pretoria High Court ruled against a request from three Christian groups to declare the law unconstitutional.

Judge S W McCreath ruled yesterday that the Constitution did not regard the foetus as a legal persona.

The Christian Lawyers' Association, Christians for Truth and the United Christian Action argued that the act was unconstitutional because life starts at conception.

They applied to have the act struck off in terms of Section 11 of the Constitution, which states that everyone has the right to life. They argued the section also applied to unborn children.

Judge McCreath, however, upheld an exception by the national minister of health, the Gauteng provincial minister of health and the Gauteng premier, in which they argued that the Christian groups had no grounds

for their application.

He said the groups had based their application solely on the grounds of Section 11.

Judge McCreath said the question was whether the "everyone" referred to in the Constitution applied to the unborn child from the moment of conception. He said the answer depended on the proper legal interpretation of Section 11.

Judge McCreath said it was not necessary for him to make any firm decision whether an unborn child was a legal persona under common law. He said the status of the foetus under common law was somewhat uncertain.

But, he said, he had found no express provision in the Constitution to protect the foetus. He said it was unlikely that the drafters of the Constitution would not have made provision for the foetus had it intended to protect the unborn child in the bill of rights.

He said a requirement of the Nasciturus protection rule was that the foetus be born alive.

Judge McCreath said if the Con-

stitution protected the life of the foetus, the foetus would enjoy the same protection as the mother. This would result in abortion being constitutionally prohibited even if the pregnancy constituted a threat to the mother's life.

He said if the Christian groups were correct, the termination of pregnancy would constitute the crime of murder. He said drafters of the Constitution could not have contemplated such far-reaching results without expressing themselves in no uncertain terms.

Judge McCreath concluded that the Christian groups had framed their cause of action in absolute terms - that the foetus was a person and that the act must, therefore, be struck down.

He said the groups had not suggested that there were competing rights and that a balance must be struck between the rights of a woman and that of a foetus.

The Christian groups can either approach the court for leave to appeal or bring a further application before court on different grounds, said legal counsel.

BY PETIA KROST

Jubilation greets court ruling on abortion

Thousands of South African women celebrated a victory following a High Court judgment in which women's rights to make their own reproductive choices were upheld.

Pretoria High Court Judge J McCreath's decision to reiterate, rather than destroy, the two-year-old Choice on Termination of Pregnancy Act was lauded by many.

A group of three Christian anti-abortion organisations had challenged the law, the minister of health, Gauteng's health MEC and premier, the Reproductive Rights Alliance and the Commission for

Gender Equality on the abortion issue. The anti-abortion lobby argued that a foetus had a right to life.

Health Minister Nkosazana Zuma, on behalf of the Government, welcomed the ruling as "a victory for South African women".

The Reproductive Rights Alliance's Cathy Albertyn referred to the judgment "as the fundamental recognition of women as full and equal human beings".

In his ruling, Judge McCreath disagreed with the anti-abortionists' stance that a

foetus is a legal person and that the term "everyone" in "everyone has the right to life" would therefore include foetuses.

If it did, he argued, the foetus's life would have the same protection as its mother and she would never be entitled to an abortion, even if her pregnancy was a threat to her life or as a result of rape or incest. If the foetus had these rights, he said, then an abortion, even under those circumstances, would constitute murder. He said the removal of a woman's rights

over her body, her right to reproduction and her future went directly against what SA was striving for in its transformation.

Removing a woman's right to an abortion was taking away her fundamental rights to be protected from unfair discrimination on the grounds of sex, reproductive decisions and control over her body, privacy and human dignity. Zuma said the ruling "will remove all uncertainties around the legalities of termination of pregnancy, help assert wo-

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men's right to choose and take decisions affecting their lives". Albertyn said the judgment took cognisance of the social and economic realities of women's lives.

The Commission on Gender Equality's lawyer Liesl Gertholtz was pleased that the judge did not just argue the legalities of terminology.

Lisa Vetten, gender co-ordinator at the Centre for the Study of Violence and Reconciliation, said the plaintiffs' idea that a foetus should enjoy the same rights as others "was absurd".

Reg Joubert, spokesman for the three anti-abortion organisations, was not available for comment.

For full SA citizenship, illegals need connections and R700 cash

By PHOMELLO MOWEDI

The Department of Home Affairs is to investigate allegations that illegal immigrants can buy citizenship papers through corrupt officials. The probe follows a two-week investigation by the *Saturday Star*.

Nationals from Mozambique, Zimbabwe, Lesotho, Botswana and Swaziland can acquire South African citizenship if they have the right connections and the cash. All they need is two identity photos

and the money demanded

A source known to the *Saturday Star* has confessed that he, together with other immigrants from Zimbabwe, have bought IDs from Home Affairs "connections" in Krugersdorp

Department of Home Affairs officials in Krugersdorp and Strijdompark are said to be among those selling documents to foreigners. Illegal immigrants pay as little as R700 for the priceless booklets. It is said that corrupt officials

within the department are operating a booming business. And this week several foreigners who have received SA citizenship through bribery and corruption spoke out about the methods they used.

"We come up with new names when we make the applications. The officials will check the given surnames against the similar ones in South Africa. Then the particulars of the person with the same surname will be entered as your parent. This is not at all easy to

detect when the applications are processed in Pretoria.

"On the first day you pay half the fee and get issued with a duplicate, and the balance is due on receipt of the ID. Normally the officials will phone you when the ID has arrived," said one source.

Some officials have contacts in schools who issue bogus stamped letters confirming that a foreigner has attended school in South Africa. After acquiring the IDs, foreigners

go on to apply for passports. When they go back to visit their families in their home countries, they go as South Africans.

Once in possession of valid IDs, foreigners can get jobs and even qualify for housing subsidies.

A spokesman for the department said the matter would be referred to the anti-corruption unit.

Anyone with information regarding corruption by officials is invited to contact the toll-free complaints line, 0800-601190.

Poor, black women score a victory — CGE

Star 13/7/98 (27)

But pro-life lobby groups slam High Court ruling on the Abortion Act

By CATHY POWERS

A Pretoria High Court ruling that the Abortion Act remain on the statute books was a victory for poor black women, pro-choice groups said at the weekend.

The Commission for Gender Equality said the judgment was a victory for all women, but particularly for poor, black women who had been victimised by past legislation.

But the pro-life lobby group, Doctors for Life, slammed the ruling.

"When the state reserves for itself the right to decide which human being has the right to protection and respect, it ceases to be a democratic state.

"It negates the fundamental reason for which it was instituted, the defence of every human being's right to life," said a statement.

Mr Justice SW McCreath last week ruled against the first attack on the Choice on Pregnancy Act — a request from three Christian groups to have the law overruled on the grounds that it was unconstitutional.

The Christian Lawyers' Association, Christians for Truth and United Christian Action in May argued that the act was unconstitutional because life began at conception.

They brought their application to have the act struck off in terms of section 11 of the constitution, which states that everyone has the right to life.

But Judge McCreath ruled that a foetus was not a legal person under the constitution.

If the Christian groups were correct in their contentions,

the termination of a pregnancy would constitute murder.

He said the drafters of the constitution could not have contemplated such far-reaching results without expressing themselves in no uncertain terms.

The Commission for Gender Equality's Cathy Albertyn said Judge McCreath's interpretation of the constitution served to "protect the reproductive autonomy of the majority of women in South Africa".

She said the court's recognition of our constitution showed it was committed to the eradication of gender discrimination.

Doctors for Life argued that the question of when human life began was a scientific question, and therefore legislation must be based on sound science.

"If the court ignores science, it is apt to err," the statement said, adding that: "It is important for the court to realise that the case of the humanity of the unborn child cannot be settled unless the most recent medical evidence on the unborn child has been presented."

Christians For Truth warned that the "revulsion against the killing of babies will simply not go away, no matter how the pro-abortionist supporters try to sanitise it with arguments which dehumanise unborn babies".

The Christian groups can now appeal against the finding or bring a further application before court on different grounds.

Doctors 'reluctant to handle abortions'

Josey Ballenger

AS MANY as 40% of public hospitals in some provinces did not offer abortion services except under "unusual" circumstances because doctors refused to perform them, a senior official in the health department said yesterday.

Dr Eddie Mhlanga, the department's director of women's health and human genetics, said many doctors in the public service who were in theory trained during their internships to perform abortions, either did not feel confident about the procedure or refused to perform them on moral grounds.

Mhlanga said the Eastern Cape, the Northern Province, the Northern Cape and KwaZulu-Natal were the provinces experiencing the greatest difficulties, while Gauteng, the Western

Cape and Mpumalanga seemed to have the most willing staff.

Part of the problem was of a temporary nature, as provinces such as the Free State and the Northern Cape were slowly rolling out the service at more public facilities as more health professionals were trained.

However, he said, the latest figures showed that illegal abortions were still a significant cause of maternal death. The department could not force medical staff to conduct terminations of pregnancies, as the constitution protected them from "forced labour".

However, the Termination of Pregnancy Act required doctors to provide referral information, and provincial health departments provided for patients' transport to the nearest facility.

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In addition, Mhlanga said, even reluctant health professionals would conduct terminations where the woman's pregnancy endangered her life or was the result of incest or rape.

The department planned to step up the training of midwives and nurses as they were "more accessible and sympathetic". About 60 registered nurses and midwives are set to start a course approved by the Nursing Council in October, for which the UK government has donated funds for two years.

Department statistics showed 37 017 legal abortions were performed in public and private facilities between February last year — when abortion was legalised — and the end of April this year. Gauteng performed the most at 19 457, the Western Cape second at 5 368, followed by the Free State, East-

ern Cape and Mpumalanga. The Northern Province, the Northern Cape and North West reported fewer than 1 000 each, while KwaZulu-Natal was not compiling figures adequately in part because it did not have a formal reproductive health unit.

Official figures did not provide a full picture, as the department suspected some doctors in private practice gave women drugs to induce bleeding in cases where the local hospital was unwilling to do a normal abortion, or where waiting lists were so long that women were inpatient.

The woman would then admit herself to hospital with an "incomplete abortion," and the procedure would not be reported. More than 70% of all women terminated in the first 12 weeks of their pregnancy.

Judge McCreath's ruling on abortion sets new parameters for women's rights and for freedom of choice. It also showed the judge's impartiality in his application of the law, writes Robert Brand



Legal system rises to the occasion

Such has been said recently about the independence of the South African judiciary or rather the perceived lack of it. But Mr Justice William McCreath's ruling on the abortion law should serve as a small lesson to those who routinely imply that white, male judges from the previous dispensation are by nature incapable of applying the law free of prejudice and in accordance with the values enshrined in the constitution.

But it was a milestone nonetheless, because it set new parameters for women's rights and for freedom of choice, and it reaffirmed one's trust in the ability of a much-maligned legal system to rise to the occasion.

More, he is an active member of the Methodist Church, which strongly opposes abortion. Yet he did not allow his own background to influence his application of the law.

It is not the function of the court, he wrote in a 26-page judgment, to decide the issue on moral or religious grounds. The issue is a legal one to be decided on the proper legal interpretation to be given to Section 11 (of the constitution, which confers on 'everyone' the right to life).

In an oblique way this statement by McCreath makes an important point about our constitution and the nature of the society it is intended to create.

Individual choices on issues such as abortion are, of course, always made on moral or religious grounds - but the state cannot dictate to an individual which moral or religious standard he or she has to apply.

Not function of court to decide issue on moral grounds

It is a curious fact that the most vociferous opponents of abortion not only in South Africa, but world wide, tend to be white men of middle age or upwards.

McCreath is a white man upwards of middle age, and what's the occasion.

The abortion act provides a choice, no more. Those who have moral or religious objections to abortion are allowed the freedom of those objections.

The act permits abortion on request during the first 12 weeks of pregnancy, up to the 21st week of pregnancy on medical grounds or if the pregnancy was the result of rape or incest, and in certain circumstances right up to the final stages of pregnancy.

The Christian Lawyers' Association, Christians for Truth and United Christian Action challenged the constitutional validity of this law in the following simple terms: the life of a human being starts at conception. Abortion terminates the life of a human being. Section 11 of the constitution guarantees everyone the right to life. The act is therefore unconstitutional and should be struck down.

To prove their point, the plaintiffs came armed with scientific and medical evidence to show that human life starts at conception.

They were prevented from leading this evidence because McCreath upheld the argument by the defendants - Health Minister Nkosazana Zuma, the Gauteng government, the

pro-choice Reproductive Rights Alliance and the Commission for Gender Equality - that the plaintiffs had no cause of action because a foetus is not a bearer of legal rights.

This ruling should not be misunderstood. It is difficult to deny in the face of modern science that human life starts at conception, and McCreath did not. But the question is not when human life starts, but when legal personhood begins. Subjecting the court to scientific evidence of foetal development would have served no purpose.

In our common law, a child acquires legal rights only if and when it is born alive, and that is also the case in the legal systems of England, America, Canada and virtually every other Western democracy, the only exception being Germany.

The word "everyone" in the constitution could therefore not apply to a foetus.

Had the drafters of the constitution intended to protect foetal life, they would have done so expressly and probably in Section 29, which

specifically protects the rights of children.

They did not. A child is defined in the constitution as "a person under the age of 18 years", and age com-

about consequences" The life of a foetus would then merit the same protection as that of a mother, and abortion would be constitutionally prohibited even in a case where continued pregnancy would endanger the life of the mother or where the pregnancy was the result of rape or incest. And abortion would not be a separate category of crime, it would be murder.

Lastly, the judge held, our constitution is fundamentally an egalitarian statute, designed to eradicate systematic forms of discrimination based on race, gender or other grounds. This includes the right to gender equality, the right to make decisions concerning reproduction, the right to security and control over your body, and the right to human dignity, privacy, religion, belief and opinion.

"To afford the foetus the status of a legal person may impinge, to a greater or lesser extent, on these rights," McCreath wrote. And in so doing, he wrote his name into South African legal history

SA women lead the way in reducing fertility rate

And Zim faces zero population growth

JENNY VALL
HEALTH REPORTER

South African women are having half the number the children they were 30 years ago, says a recent population report.

Figures are down from between 6,5 and 6,9 children a woman in the 1960s to 3,2 in 1997, says the report in the Washington-based Population Bulletin

Author Thomas Golber says South Africa has experienced the most significant fertility decline in sub-Saharan Africa

The total fertility rate for the white population fell to replacement level (2,1 children per woman) as early as the mid 1970s.
For Indian and coloured popula-

tions the fertility rate reached just above replacement rate in the 1990s.

But the country could not have undergone a fertility decline without a substantial drop in the fertility rate of the black population, says Dr Golber, author of the report *Population and Reproductive Health in Sub-Saharan Africa*

This started declining in the 1960s and by the late 1980s had fallen to around 4,6 children per woman. In 1997 the fertility rate for South Africa was estimated at 3,2 children per woman, a level more common in Asia or Latin America than in Africa

This fertility transition came about through strong government support for family planning in the 1960s, says Dr Golber.
This support was driven in part by

fear that rapid population growth would undermine South Africa's prosperity and economic development, but also by concern among white political leaders and administrators that the fast-growing black population would overwhelm the smaller number of whites

As early as 1963 the government provided substantial funding for private and public family planning services and provided free contraceptives

In 1974 the government launched the well-funded National Family Planning Programme, the results of which were impressive and unprecedented in sub-Saharan Africa

In 1984 the country adopted the Population Development Programme to intensify the family planning

programme and to encourage social and economic changes that increased contraceptive demand.

By the end of the 1980s about 58% of women aged 15 to 49 were using some form of contraception

Dr Golber says population rates are expected to slow in sub-Saharan Africa, either through lower birth rates or higher death rates caused by the HIV/AIDS pandemic.

■ Zimbabwe faces zero population growth by the year 2002 if the AIDS/HIV pandemic continues at its current rate, according to the United Nations Development Programme. Zimbabwe is listed by the World Health Organisation as the country with the highest HIV infection rate, with 1,5-million infected people out of a population of 12,5-million

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Some doctors and nurses reaffirm anti-abortion stance

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Some are imposing their beliefs on clients seeking termination

By ANSO THOM
Health Reporter

Anti-abortion groups representing some doctors and nurses have repeated their intention to refuse to take part in any abortions or refer pregnant women to abortion clinics.

The latest statements by Nurses for Life (NFL) and Doctors for Life (DFL) followed a warning by the Marie Stopes Clinic, an abortion facility, that some nurses were insisting on imposing their beliefs on their clients seeking to terminate their pregnancies and were opening themselves to possible legal proceedings.

Thami Mngoma, marketing manager for Marie Stopes, said the refusal to refer a patient to

a clinic where a pregnancy could be terminated was in contravention of the law and the constitution.

Mngoma said a nurse in Bloemfontein prayed for women seeking abortions before sending them to an adoption agency. "All that is needed to open legal proceedings against nurses in this regard is to have one highly publicised case," Mngoma said.

Dr Murishe Ledwaba of DFL said that according to legal advice obtained by DFL, health workers had the right to refuse to participate in any abortion and to refuse to furnish any information concerning the rights of the applicant for abortion.

"For a person to break the law they would have to physi-

cally prevent a person from seeking an abortion and try and make it impossible for them to obtain it from another," Ledwaba added.

He said the clause that health workers needed to refer patients for abortions, if they themselves were not willing to perform the abortions, had been scrapped from the draft bill.

Ledwaba questioned why the clinics were "suddenly so concerned about these issues. Can it be that lack of demand is having a financial impact on their clinics?" he asked.

NFL said its members would continue to resist the "slaughtering of innocent unborn babies" and would exercise their constitutional right to refuse to take part in

any abortion.

The body, which claims to represent "pro-life nurses", said preserving and protecting life was what nurses stood for, and not "taking the life of another human being".

The Democratic Nursing Organisation of SA said all nurses had a professional and ethical obligation, according to the Nursing Act, to nurse the patient before and after the procedure in spite of conscientious objections. "If the nurse does not have the necessary skills to counsel the patient, they should refer the person to the relevant facility," the organisation said.

Anti-abortion groups recently failed to have the Choice on Termination of Pregnancy Act overturned in court.

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Life after abortion

(237) M+G 31/7-6/8/98

Swapna Prabhakaran

A year after legislation on termination of pregnancy was passed, abortion remains a difficult and emotionally fraught procedure for health care workers and clients alike

In the past few months, various NGOs have taken on the responsibility of monitoring the new abortion law's success, while remaining alert to any problems associated with it.

The Commission for Gender Equality has heard from several women who have undergone unpleasant and at times horrific treatment during a legal procedure that should be routine. Bessie Bulunga, the complaints officer for the commission, said she has received reports that "women in rural areas who go to abortion clinics are sometimes forced into signing consent forms for sterilisation"

These women are apparently talked into undergoing sterilisation — a major and permanent life decision — at a time when they are vulnerable, and perhaps not in the best position to think it through

"We have also heard that sometimes nurses do not perform abortions on pregnant women who are HIV positive, and then they also do not refer these women to other clinics where they could go to have the procedure," Bulunga said.

Some HIV-positive women who wish to terminate their pregnancies by the fourth or fifth week, end up waiting months before they find a clinic that will accept them, and by then they may be in their second trimester, increasing the procedure's risk

Nonhlanla Makhanya is head of reproductive health research at the Health Systems Trust in KwaZulu-Natal, an NGO that works closely with the Department of Health to analyse and solve the problems of health care delivery. Makhanya's research

has exposed her to some deeply distressing problems — and there are areas in which the law does not provide answers

When the legislation was passed, much of the resulting controversy was based on emotional responses. Many doctors and nurses refused to perform the procedure as it went against their personal ethics, leaving those who were willing to perform abortions with an extra workload.

"The legislation was timely but it did not allow for the limitations of human resources," Makhanya said.

She says the emotional toll is heavy on nurses who perform abortions and provide counselling daily

"The few nurses who are willing to perform the termination of pregnancy don't have their own support systems," Makhanya said. "After performing 15 abortions a day, these nurses need their own counselling. Their jobs are very emotionally taxing."

The Reproductive Rights Alliance is a large network of NGOs who work to provide information and services

on contraception, parenting and abortion. The alliance has 30 member bodies who provide a variety of services, including advocacy, challenging legislation, media communications and community education.

One alliance member, the National Progressive Primary Health Care Network (NPPHCN), devotes much time to reproductive health care education. Khathatso Mokoetle, the NPPHCN's

general manager, says the focus is on empowering women and youth, so that they can take responsibility for their own reproductive health.

"We hold workshops regularly in all the provinces on termination of pregnancy," Mokoetle said. "For the youth we hold workshops to teach life skills, encouraging them to prevent abuse, prevent the spread of sexually transmitted diseases, including Aids

"Sexually active women attend workshops on gender empowerment and are given information about the various contraceptive options, along with a list of nearby or easily accessible service providers.

"We also unpack the concept of termination of pregnancy, we talk about why it is legalised and about the hundreds of women who had died during illegal operations, and we explain that while abortion is not to be seen as a method of contraception, it is an available and legal procedure."

Women who are pregnant are also provided valuable information on poor nutritional habits and how these habits affect their child.

You are murderers, abortion counsellor tells her patients

ARG 1/8/98

(237)

FEMIDA CASSIM

Nurses at Natalspruit Hospital in Katlehong are taking the law into their own hands by doing their best to discourage women from having abortions

Sister Thembi Buthelezi, a nurse in the antenatal ward at Natalspruit Hospital, said she despised her job as counsellor to women who planned to terminate their pregnancies and those who terminated. She despises it so much that instead of counselling, she scares patients

"In our culture it is a sin to have an abortion. We tell the women who terminate their pregnancies that they are murderers. We tell the young girls that they will never be married because their boyfriend will send messages that they aborted and then she will be the talk of the town," she said. "Some nurses even show the foetus to scare the person and this haunts the patient for the rest of her life," she added.

Stepping out of her office and into

the foyer of the ward, Ms Buthelezi screams: "This is your chance to say your views on abortion" to almost 10 nurses walking around, some of whom had just returned from terminating pregnancies. "It's a sin," says one. "We could be killing the next president or the next nurse," says another.

This infringes on the Choice on Termination of Pregnancy Act, which states that each individual has the right to be informed and have access to safe, effective, affordable and acceptable methods to fertility regulation of their choice. The State has the responsibility to provide safe conditions under which the right of choice can be exercised without fear or harm. The Act also states that the provision of non-directive counselling before and after termination must be adhered to.

A medical practitioner who does not perform his or her duty can be found guilty of an offence and liable on conviction to a fine or imprisonment for a period of up to 10 years.

Counsellors hold aborted foetuses in front of patients

Star 11/8/98 (277)

Some nurses at Natalspruit Hospital in Kaitleng on the East Rand are discouraging women from having abortions.

Sister Thembi Buthelezi, a nurse at Natalspruit Hospital's ante-natal ward, says she despises her job as counsellor to women who have terminated or plan to terminate their pregnancies.

She hates it so much that, instead of counselling, she openly says her intention is to scare patients into feeling guilty about choosing an abortion.

"In our culture it is a sin to have an abortion. We tell the women who terminate their pregnancies that they are murderers. We tell the young girls that they will never be married because their boyfriend will send messages that they aborted and then she will be the talk of the town," she explains.

Buthelezi refuses to assist nurses who take part in termination procedures, and adds "We are upset that the Government has made abortion legal. But some of us have no choice but to do the job. Some nurses even show the foetus to the patient and thus haunts her for the rest of her life."

Stepping out of her office and into the foyer of the ward, Buthelezi screams: "This is your chance to say your views on abortion" to about 10 nurses in the vicinity, some of whom have just returned from terminating pregnancies. Immediately the ward is a hubbub of

shouts from angry nurses

And some make no bones about their views "It's a sin" . . . "These children are cheeky they do not want to listen" . . . "We hate doing it but we have to" . . . "We could be killing the next president or the next nurse."

Still wearing gloves from the surgery, a nurse puts her hand in the air and shouts: "Amandlal!",

Observers say the attitude of the nurses infringes on the Choice on Termination of Pregnancy Act, which states that each individual has the right to be informed and to have access to safe, effective, affordable and acceptable methods for the fertility regulation of their choice.

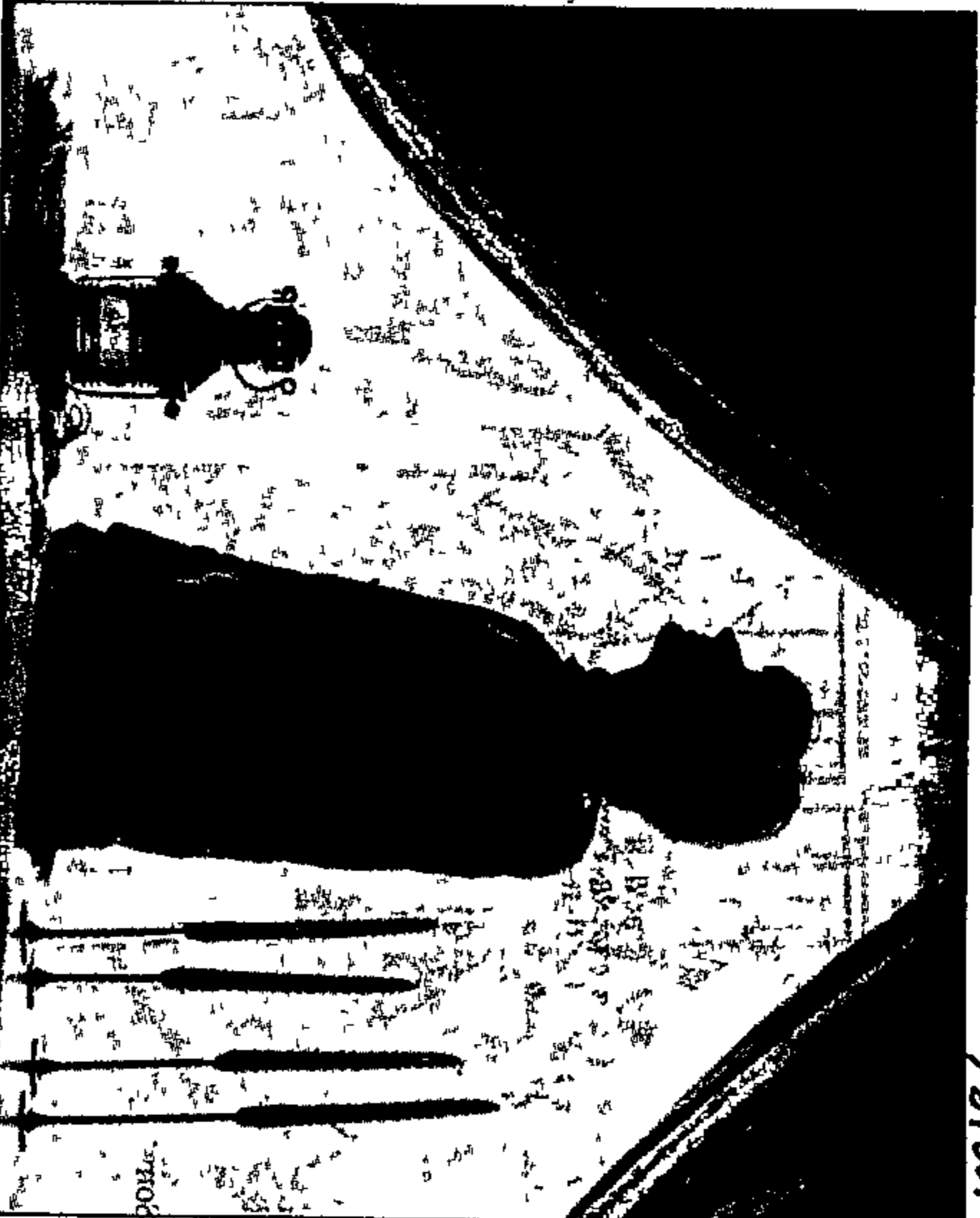
The state has the responsibility to provide reproductive health and safe conditions under which the right of choice can be exercised without fear or harm. The act also states that counselling before and after the termination of pregnancy has to be provided in a non-prescriptive manner.

A medical practitioner or nurse who does not perform their duties can be found guilty of an offence and may be liable on conviction to a fine or to imprisonment for a period of up to 10 years.

In a further indication that all is not well at facilities that provide legal abortions, several groups of anti-abortion doctors and nurses have reiterated their intention to refuse to perform



femida ASSOCIATION



TRAUMATISED: Nikita Abrams suffered emotionally after her abortion. Photograph: CATHY PINNOCK

abortion or refer women to abortion clinics.

The latest statements by Nurses for Life and Doctors for Life followed a warning by the Marie Stopes Clinic, an abortion facility, that some nurses are insisting on imposing their beliefs on clients seeking to terminate their pregnancies

and are opening themselves to possible legal proceedings.

Recently, the *Saturday Star* spoke to a woman about her trauma after an abortion. Her said she was not counselled about the psychological repercussions she would suffer after the procedure.

Seven years have passed since she had her 12-week-old foetus aborted by Pretoria doctors who felt it would not be born normal. After the termination of her pregnancy, she tried to fall pregnant again but could not.

Nikita Abrams (not her real name) was 35 years old and had no idea why she could not conceive. That was until she went back to doctors who confirmed that her uterus had been ruptured and that she had to have another operation to rectify the problem.

"I had no idea that having the abortion would be so dangerous," said Abrams. Her ordeal involved a lot of pain: "I felt like contractions and I kept on bleeding quite a lot. That was when my uterus got ruptured," she explained.

As a result, her emotional life has become very difficult.

"Let nobody tell you it is easy. You don't bargain on what happens afterwards," she said in a shaky voice.

"Although having the abortion was my decision, I was still pressured into having it. And the doctors do not even tell me about the after-effects," said Abrams.

After an operation to rectify the situation, she finally became pregnant. But the uterus could not take the weight of the baby.

"It felt like I would have a miscarriage, so I had to be down more often," she recalled.

Abrams was bedridden in the last month of her pregnancy. Fortunately, the birth was successful and she became the proud mother of a baby boy.

POPULATION - VITAL STATISTICS
1999

Abortions cost W Cape R1,3-m in first year after legalisation

Province has country's second-highest total of pregnancy terminations

DI CAELERS
SPECIAL WRITER

State hospitals in the Western Cape are performing the second-highest number of abortions in South Africa.

A total of 2 432 abortions were done here between February and July last year, according to Barometer, a publication of the Reproductive Rights Alliance, which is monitoring the implementation of the Choice on Termination of Pregnancy Act of 1996.

But the Western Cape is lagging a long way behind Gauteng, where a total of 9 169 abortions were performed in the same period.

In the Western Cape in the first year of legal abortion, state hospitals did 2 731 abortions at a cost of nearly R1 300 000.

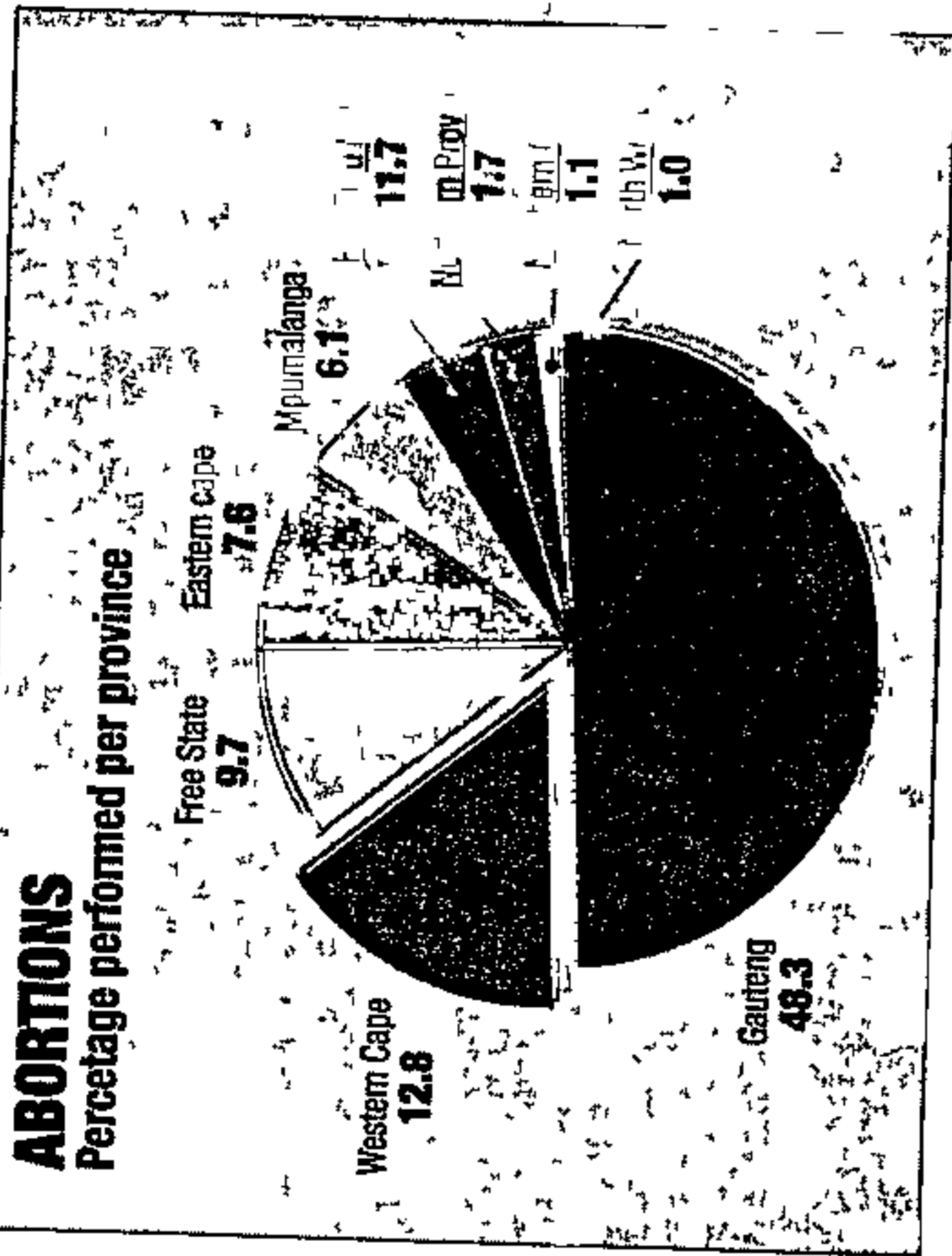
But if these had been done at primary-care level, about R282 000 could have been saved.

In an effort to save money and to make abortion more accessible, South Africa's first group of midwives has been successfully trained to perform early abortions at clinics.

The midwives are trained to use the manual vacuum aspiration technique and are only the second group in Africa to be trained this way. The other group is in Ghana.

The training is part of the National Abortion Care Programme, set up in response to the need to expand and decentralise abortion services throughout South Africa, according to the latest issue of Barometer.

The midwives, trained last November, are expected to return to their home provinces to give other midwives theoretical training



Provincial breakdown: the graphic shows the Western Cape comes second only to Gauteng in the number of abortions, accounting for 12,8% of the national total

Physicians will do the practical year with two physician trainers, at least two midwives who will train others in post-abortion family counselling, and two midwives who can train others in the suction techniques.

The training curriculum has been approved by the SA Nursing Council, and Barometer says it is expected to be included as an essential part of the general midwifery curriculum and basic medical curriculum in the next three years.

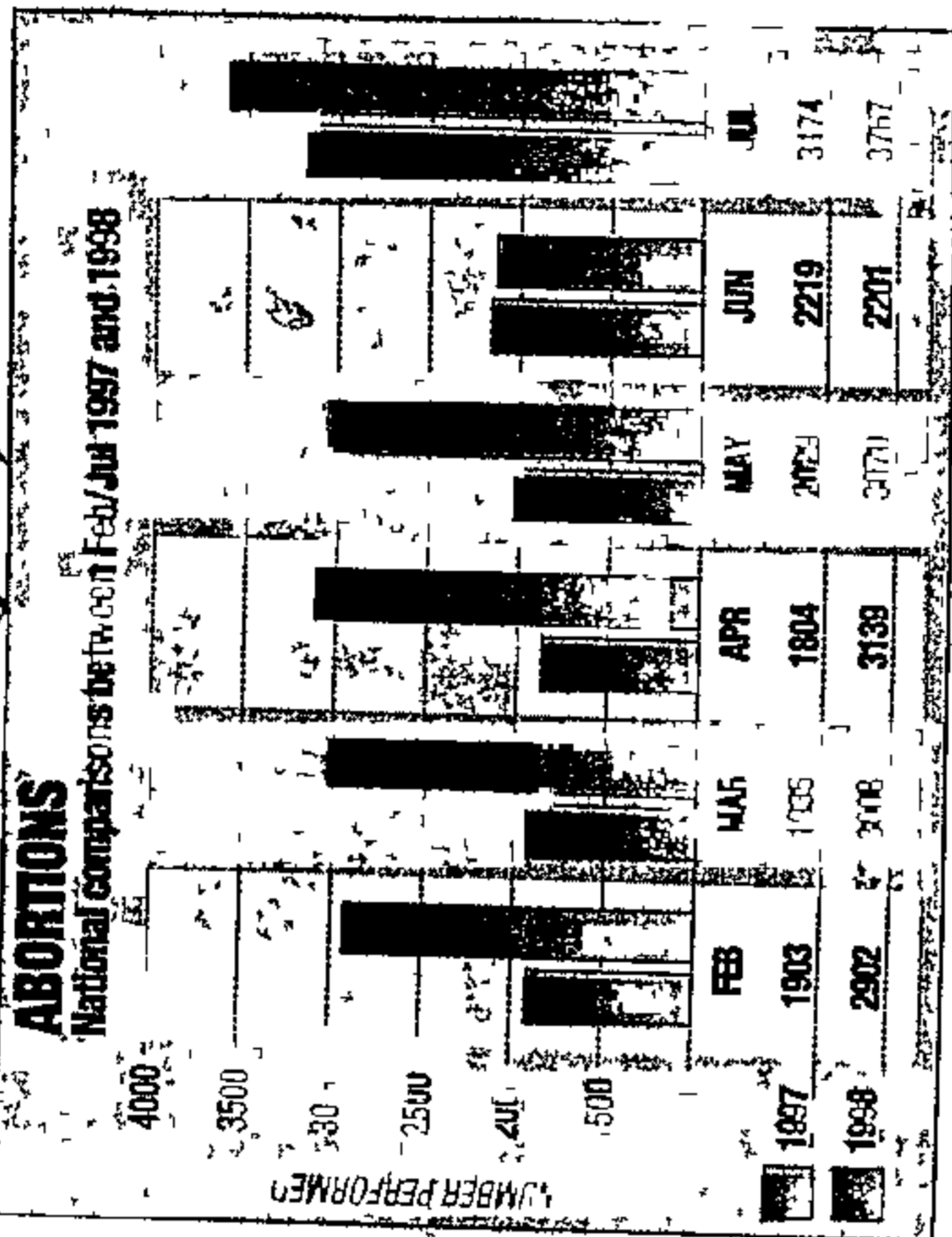
In its editorial, the publication hailed the training of midwives as "a

key challenge in making the (abortion) law meaningful and services accessible for all women."

National statistics show that in the first 18 months of legal abortion, 66,8% were done in the first trimester of pregnancy and 33,2% in the second trimester.

The age breakdown - excluding Gauteng figures - indicates that 16,5% of women asking for abortions were younger than 18.

In an assessment of access to abortion services in greater Cape Town, Helen de Pinho and Chelsea Morrioni of the women's health research unit at the University of Cape Town said communication between women and medical staff



National comparisons: the number of abortions performed nationally between February and July 1997, and during the same months last year

needed to be improved.

Researchers collected data at 18 primary care clinics, 11 community health centres, four secondary hospitals and one tertiary hospital, all in the Cape metro region.

Dr De Pinho and Ms Morrioni found that while most women going through the correct channels had their abortions done in good time, most got no counselling or information about the abortion procedure at the first facility they visited, had no knowledge of the conditions for legal abortion, and did not get counselling after the operation.

A recent three-month pilot project at F Jonste Hospital in Manenberg found that staff often

viewed women wanting abortions as negligent.

There was also division among staff who chose to be involved in abortions and those who refused, as well as concern among staff that young girls could have abortions without parental consent.

The study found that overall acceptance of abortion at the hospital had improved, with more staff volunteering to get involved.

Management also described a change in attitude towards abortion patients.

One staff member said the group sessions had helped her to "accept termination of pregnancy even though she did not agree with it"

A helping hand for pregnant schoolgirls

By STEVE DLAMINI

PREGNANT teenagers who have been rejected by their schools and communities have found a place of their own at the Pretoria Hospital School which caters mainly for young expectant mothers.

This multi-racial school, which is the first of its kind in South Africa, was founded in 1987 after a pupil who fell pregnant was expelled by her school.

They also ensure that pupils who give birth write their examinations at home or in hospitals.

Earlier this year, an 18-year-old grade 12 pupil at Reasoma High School in Soweto, caused a major row after she fell pregnant. Opinion at the school was split on whether she should attend classes in her condition. The row led to a strike by those opposed to her attending classes in her condition.

Penelope Molefe was forced to leave the school premises by her fellow pupils, teachers and principal, but a directive from the Gauteng Education Department demanded her re-admission. The pupils revolted against Penelope saying that the school was not a "maternity ward" for young girls.

The Pretoria Hospital School is offering sanctuary to pregnant pupils who are attending classes without any prejudice.

However, it is not just an ordinary school, warned the principal, Rina van Niekerk.

"It is more like a bridging school for pregnant teenagers, meant to stay away from their schools for a 12-month maternity period before their return. There is no reason why these children should be absent from school for the whole year," Van Niekerk said.

"They should come here. This

school is meant for them. It is a necessity for young pregnant girls who feel discriminated against by their fellow pupils at their respective schools."

The rules and procedures at the school are the same as at other schools.

The only difference is that all the girls are pregnant and they are not in school uniforms and that the enrolment of these children is indefinite.

During enrolment, a fee of R130 a month is required and an additional fee of R50 for pupils registered for typing, computer and other commercial subjects.

Van Niekerk said that although the school's main focus was on pregnant school children, it also catered for rape victims (scholars), pupils with mental disabilities and scholars who are out of school due to serious injury owing to ac-

cidents or sports injuries.

She said pupils with psychological problems were situated at the premises of Pretoria's Weskoppies Hospital.

"Last year we had one pupil who was injured in a rugby match. If any of our pupils give birth during the time of the exams, special arrangements are made in order for them to write the paper at a later stage. They can write a supplementary paper if they want to."

The school offers 14 subjects including maths, science, biology, history, languages, economics, home economics and typing.

Although the school falls under the Gauteng department of education, it caters for pupils from all provinces.

There are currently 45 pupils and 12 classrooms. The staff consists of one permanent teacher and 13 temporary teachers.

"We have requested the department to provide us with at least one teacher who can assist us with African languages. So far, these requests have had no success," Van Niekerk said.

An 18-year-old teenager who is three months pregnant told City Press that she came to the school after she was discriminated against by some pupils at her school.

"The school is brilliant. We receive more attention from teachers than we did at our own schools. We like it here," she says with a smile on her face.

Shelly Mabusela, deputy chairperson of the Human Rights Commission, welcomed the school with open arms.

"This school is another way of dealing with pregnancy at schools, as long as the school policy is not discriminatory," Mabusela said.

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Disagreement over new sterilisation laws

JUDITH SOAL
HEALTH WRITER

THE new Sterilisation Act makes it more difficult for doctors to sterilise mentally handicapped people — but there are those who say the operation shouldn't be done at all.

Some private homes for mentally handicapped people won't accept women patients unless they have had a complete hysterectomy — this way staff don't have to "manage the menses". One home even used to have a small theatre on the premises so that women and girls could be routinely sterilised, although this is now illegal.

"There are so many stories of abuse of the old laws governing the sterilisation of people who aren't able to give their consent," said Valkenberg psychiatry professor Tuvia Zabow. "They had become completely incompatible with our bill of rights."

A meeting was held at Valkenberg Psychiatric Hospital yesterday to discuss the new legislation, which came into effect in February. Since then the number of legal involuntary sterilisations has ground to a halt.

In 1997, 202 involuntary sterilisations were performed; in 1998, 201. Since February only two cases have met the criteria for consideration under the new laws and neither has been approved yet.

Marie Adamo of the Department of Health said: "One of the biggest differences is that the law will not allow teenagers under 18 to be sterilised unless their health is in danger. This doesn't always go down well with the people who look after them, but we believe it is crucial to protect their rights."

Under the new laws, sterilisation can only be performed without the person's consent if a panel of three mental health workers

agrees that:

- There is no other safe and effective method of contraception for the person.

- The person is unable to make decisions or judgments about contraception and sterilisation.

- The person will be unable to fulfil their parental responsibility to a child.

Anyone who works at the institution where the person lives or who stands to gain financially from the operation may not sit on the panel.

The law aims to guard against a repeat of what happened in Sweden when more than 60 000 people were forcibly sterilised between 1936 and 1976.

"It is a very strict bill, the criteria are tightened significantly," said Zabow, "but there are problems with it."

Those who attended yesterday's meeting — mostly psychi-

atric workers — didn't agree on what those problems were.

Veteran health worker Eleanor Nash felt the criteria were too strict. "What about the youngsters who are completely distressed by menstruation and think they are dying when they bleed?"

Valkenberg's Sean Kaliski asked whether forced sterilisation could ever be ethical. "The thought of taking someone into theatre, anaesthetising them and then sterilising them when they don't even know what is happening is not a comfortable one," he said. "After all, how can you prove that there isn't another effective method of contraception in a time of (contraceptive injection) Depo Provera?"

Psychiatric consultant Nick Shortall, who sits on the panel which decides on sterilisation, said that the contraceptive injection wasn't always the answer.

"It just doesn't work for every-

one. You need someone to make sure that the person gets their injection every three months."

Kaliski "So should we legislate because people don't have proper supervision?"

Shortall "But that is the reality."

Kaliski "Perhaps it is an infringement of rights."

Shortall "Then we would have thousands of unwanted children who were not properly cared for."

But Shortall agreed that the process was flawed.

"Sometimes the patient says she wants to have children, but you have to decide whether she will be able to. At the end of the day it is the grandparents who will have to look after the child and they should have a say."

"But it isn't an easy situation: It's like playing God — there is no acid test to show whether you are right or not."

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