



Response

February 1st, 2017

The First Thousand Days and the Abortion Law

Today, 1st February 2017, is the 20th anniversary of the enactment of the Choice on Termination of Pregnancy Act 92 of 1996.¹ The new Act replaced the rigorous restrictions of the Abortion and Sterilisation Act of 1975.² In 2008, the Act was amended so as “to increase accessibility to abortion services by allowing registered nurses and midwives to perform first trimester abortions, and local governments and executive councils to approve new facilities and the maintenance standards of abortion facilities”.³ The 1996 Act, especially with its 2008 amendment, is widely regarded as among the most permissive in the world.

It allows for the termination of the pregnancy of any female person at her request and with her consent. Consent from any other person, including the father of the child, is not required. In terms of the Children’s Act 38 of 2005, girls who are 12 years and older and who wish to have an abortion, are urged to seek the guidance of their parents or primary caregivers, but this is not required in order for the procedure to take place. Teenage pregnancy, rape, incest and sexual abuse which may result in crisis pregnancies, all characterize contemporary South Africa. But while these are major challenges, recourse to abortion does nothing to address the causes of these problems in the long term.

Furthermore, the Act provides for the termination of a pregnancy should it “significantly affect the social or economic circumstances of the woman concerned.”⁴ While the termination of a pregnancy may be perceived by some to be ‘one less mouth to feed’, it cannot be seen as a poverty alleviation measure.

It is deeply concerning that the termination of pregnancy is often perceived as the only option available to young girls and women in crisis pregnancy. The termination of pregnancy services provided by the Department of Health may aim to be quick, effective and confidential, and the legalization of abortion may have the intention of reducing the number of maternal fatalities as a consequence of ‘backstreet’ abortions. However, it has done little to address the reasons which lead girls and women seek out these services. There is no aftercare plan or follow-up. The legislation focuses almost solely on the woman and on it being her ‘choice’ to make. The role that men play in the abortion process varies. Some take little responsibility and may encourage the mother to seek an abortion, and even finance the procedure; others may be ignorant of the pregnancy. If a couple disagrees regarding the termination, and should the termination take place, the man may experience a loss of fatherhood.⁵

Internationally, researchers have identified the **first 1000 days** of a child's life, that is, from the moment of conception to the age of two, as critical for the future well-being and development of every child. “This is a critical window of time that sets the stage for a person's intellectual development and lifelong health. It is a period of enormous potential, but also of enormous

vulnerability.”⁶ The Departments of Health and Social Development have taken this into account and have prioritized these first thousand days in departmental policies. They stress that proper nutrition during pregnancy is vital; they promote breast feeding as the nutritionally best choice; and they implement free health care at state hospitals for new-borns and young children. Indeed, one important purpose of the Children’s Act is to provide all children with a continuum of care which allows for their maximum development. These interventions nurture and promote life.

The contradiction between the Choice on Termination of Pregnancy Act and the policy which emphasises the importance of the first 1000 days is strikingly anomalous. The former deals with a “foetus” as if it were somehow sub- or non-human, and something to be disposed of with hardly a second thought. The latter sees the unborn child as worthy of care, and entitled to benefit from public resources.

Clinics where abortion takes place tend to be cold and clinical. They are variously places of desperation, abandonment, panic, despair, loneliness, and sadness; and for some it might even be perceived as a place of relief. There is frequently no aftercare plan. Many women attending clinics are unaccompanied. Abortion is the last stop for many women in crisis pregnancy and, just as it is our collective responsibility to provide the best possible ‘first 1 000 days’ for all our children, so also is it our collective responsibility to ensure that expectant mothers do not feel compelled to make this choice.

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¹ The Act was amended in 2008 but the amendments did not change the substance of the Act

² Institute of Race Relations Survey 2016, p594-595

³ <https://www.heard.org.za/wp-content/uploads/2016/06/south-africa-country-factsheet-abortion-20161.pdf>

⁴ Section 2 (b) (iv) of the Act

⁵ <http://www.menandabortion.info/10-aftermath.html>

⁶ www.hmhb.org/2014/03/1000-days-matter