



Learning Works

Some related background reading and points for discussion

Discussion Starter 4: Abortion

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These research notes are of a general nature, and are provided only as background and as discussion starters. Readers should check the relevant laws in their own state or territory.

Background:

Abortion is not uncommon for young women in Australia; about 30% of women become pregnant in their teenage years (usually their late teenage years), and about 50% of those have abortions.¹ Despite this, many young women may not know their rights and options regarding abortion, therefore may be reluctant to seek the help they need.

Unlawful abortion is an offence in South Australia under the *Criminal Law Consolidation Act 1935* (SA). The Act outlines the situations under which abortion is lawful and unlawful. Pregnancy may be terminated up to 28 weeks, if carried out by a doctor, where either the mother or the child is at risk. There has been no judicial interpretation of abortion laws in SA, so it is unclear what level of risk is required for abortion to be lawful. However, the Act provides that where continuation of the pregnancy involves a greater risk to the life, physical or mental health of a woman than if the pregnancy were terminated, then abortion is lawful. This could be interpreted broadly; many young women would be at risk of mental harm if they continue with an unwanted pregnancy, given the impact it will have on their lives.

In South Australia, a person is considered capable of consenting to medical procedures at the age of 16,² or when he or she is considered sufficiently mature to understand the nature of the procedure and the risks involved.³ Therefore, if a woman is aged 16 or older, or is considered sufficiently mature, she will not need parental consent to have an abortion. A girl who is under the age of 16 and not considered sufficiently mature needs consent from a parent to have an abortion. This will not apply where the girl's health is at risk, or will be at risk, if the pregnancy is not terminated.⁴

While the laws on abortions are strict about consent and availability, in practice it is not difficult for young women to have abortions, with or without parental consent. Abortion is provided at no cost by the Pregnancy Advisory Centre in South Australia for up to 22 weeks into the pregnancy. The Centre also provides confidential treatment for girls under 16, and has counselors available to discuss options with patients, and any fears or issues they may have.

Issues:

- The girl may be pressured by her parents to do what they think is right⁵
- Given the short amount of time a girl has to make the decision to terminate a pregnancy, she may not be able to access all of the information she needs to make a fully informed choice

¹ <http://www.arha.org.au/factSheets/pregnancyandabortionamongyoungpeoplenew.pdf>

² *Consent to Medical Treatment and Palliative Care Act 1995* (SA) s6.

³ *Ibid* s12(b)

⁴ <http://www.cyh.com/HealthTopics/HealthTopicDetails.aspx?p=114&np=122&id=1617>

⁵ *Ibid*.

- The father may not want to be a part of the child's life, or may not want the girl to have an abortion – this might influence the girl's decision to terminate the pregnancy
- Pregnancy also affects young men – while he has no right to stop the young girl from terminating the pregnancy, he may also require counseling and support
 - This is not generally considered important, therefore young men may not know where they can turn for help
- Counseling is not compulsory for abortions – young girls may not take the option and will not have the opportunity to discuss their issues and concerns
- Negative social attitudes towards abortion may influence the girl's decision, or make her reluctant to seek help

Questions:

- Does the father have a right to know if the pregnancy is terminated?
- Can a minor be sure that her parents won't find out if she has an abortion?
- What rights do the parents of a minor have in relation to termination of pregnancy?
- If a parent suspects their daughter is having/has had an abortion, is there any way they can find out?
- What can a parent do to help their daughter through this difficult time?
- What if the parents refuse to consent to an abortion?
- What if parents are encouraging an abortion but the girl wants to keep the baby?
- What are the physical and emotional risks of abortion?
- Who can a young woman talk to if she needs help making a decision?
- Who can a young man talk to if he has issues concerning the abortion or pregnancy?

Further Information:

Consent to Medical Treatment and Palliative Care Act 1995 (SA)

Criminal Law Consolidation Act 1935 (SA)

Children, Youth and Women's Health Service – Teenage Pregnancy, at

<http://www.cyh.com/HealthTopics/HealthTopicDetails.aspx?p=114&np=122&id=1617>

Pregnancy Advisory Centre – Abortion Services, at:

http://www.pregnancyadvisorycentre.com.au/abortion_services.html