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South Korea to legalize abortion after 66-year ban

By Yoonjung Seo

CNN (11.04.2019) - <https://cnn.it/2UtD0OR> - South Korea's 66-year abortion ban must be lifted by end of 2020 the country's Constitutional Court ruled Thursday, in a major win for pro-choice advocates.

Seven out of nine judges ruled that outlawing abortion was unconstitutional -- votes from six judges were needed to overturn the ban.

Lawmakers now have until December 31, 2020 to revise the law. Termination of pregnancy after 20-weeks will remain illegal.

Previously, women who had abortions in South Korea could face up to a year in prison and can be fined up to two million won (\$1,780), while doctors or healthcare workers who helped terminate a pregnancy could be jailed for up to two years.

While prosecutions were rare, they were not unheard of.

Three-quarters of women aged 15 to 44 regarded the law as unfair, according to results of a survey released this year by the Korea Institute for Health and Social Affairs. Around 20% of respondents said they had had an abortion despite it being illegal.

Recent pressure to decriminalize the practice, however, had seen pushback from conservative and religious groups, some of which have links to US anti-abortion campaigns.

Crime and stigma

When she was 40 years old, Kim Kyung-hee realized she was pregnant. The after-school teacher and her husband already had two daughters and so decided to have an abortion.

In many countries, this would be a simple medical procedure, undertaken with the support of the healthcare system. But in South Korea, Kim was left only with the option of an illegal operation.

While Kim's abortion took place 12 years ago, she said she is still haunted by the knowledge that she committed a crime.

"I felt guilty for getting rid of a life to begin with, but the fact that it was a crime made it emotionally much more difficult," Kim said.

Kim said finding a clinic to perform the operation wasn't particularly difficult. She simply went to a large obstetrician-gynecologist hospital. "After I had confirmation that I was

pregnant ... I told the doctor I wanted an abortion so we scheduled the date and time," she said.

Kim said she left the hospital as soon as the operation was over.

"I wasn't very healthy, so I should have stayed longer to fully recover but I felt that I had to get out," Kim said. She didn't tell her mother or siblings about it at the time.

Kim is not alone. According to the Health Ministry, 50,000 women had an abortion in South Korea last year.

That's down from 168,000 in 2011, according to the official data -- but many doctors disputed these figures saying the criminalization of the practice had distorted reporting of it.

They estimated the actual figure could be 10 times higher than that recorded by the government.

Kim believed the law had put an unjust burden on women.

"Pregnancy doesn't come about by women alone -- but to hold only women responsible makes the law very unfair," she said.

Changing attitudes

In 1953, South Korea criminalized abortion in most circumstances, with exceptions granted to cases involving rape, incest and genetic disability.

But in the following years, the law appeared to contradict other government policies, social norms and technological advances.

In the early 1960s, for example, the government launched a campaign to reduce the number of children per household, in a bid to get the population size under control.

Traditionally, South Korean couples had preferred sons over daughters, as they could carry on the family name, and so would keep having children until they had a boy. The new policy combined with the abortion ban left them with fewer legal options.

Around the same time, however, access to ultrasound technology allowed more people to know the sex of their unborn child. Some parents began aborting female fetuses -- illegally. The severe social stigma against unmarried mothers was another factor that led women to seek abortions.

Even recently, women who had a child outside of marriage were often ostracized and cutoff from family support. Many chose to stay at shelters run by the government, religious groups and adoption centers.

Times changing

The Constitutional Court almost legalized abortion in 2012, said Cho Hee-kyoung, a law professor at Seoul's Hongik University. "The court was actually split. It was four to four and there was no deciding vote because, at the time, one seat was vacant."

Pressure to reform the law has been growing since then, both domestically and internationally. Pro-choice were emboldened by Ireland's landslide vote to legalize

abortion, in a country where the stringently anti-choice Catholic Church has far more influence.

Current South Korean President Moon Jae-in, who is a Catholic, appointed six of the current nine Judges on the Constitutional Court. Though Moon has not spoken publicly about this issue, he has been supportive of gender equality and in favor of protecting rights for minorities.

In 2017, more than 235,000 people signed a petition to legalize abortion. In response, the government promised better sex education, more support for single mothers, and to research the issue.

Even some of the churches that oppose the legalization in principle disagree on imposing punishment solely on women.

Protests

The case before the Constitutional Court this week began after a doctor filed a petition against the law after he was indicted for carrying out an abortion of a less than three-month-old fetus in 2014.

The doctor claimed that the abortion ban violated his right to pursue happiness, to equality and freedom of occupation.

As ruling for the case approached, both anti- and pro-choice groups took to the streets of Seoul to make their case.

On April 6, about 1,000 anti-abortion protesters gathered in Seoul for a "March for Life," modeled on the US campaign of the same name. They bore placards with slogans such as "abortion is murder" and "both women and fetuses must be protected." Last week, Archbishop of Seoul, Andrew Yeom Soo-jung, said in a statement that "the pain for women derives from the situation that pushes them towards an abortion not from the criminal laws."

Yeom urged society "to focus on saving both women and fetuses rather than only focusing on the legalization of abortion."

Meanwhile, activist Hong Yeon-ji, who attended a pro-choice rally along with hundreds of women a week before, said the current law was "abused by male partners as it penalizes the women who have the operation and the doctors who perform the operation."

She said that many doctors who performed illegal abortions were not properly trained and the surgery methods they used had not been updated in years because the act itself was illegal.

At the Korea Womenlink center, one of the largest women's activist groups in South Korea, where she works, Hong said she had encountered cases of men threatening their partners with being reported to the police for having an abortion, either to hurt them when a relationship broke down or to blackmail them for money.

Last month, South Korea's own human rights watchdog, the National Human Rights Commission of Korea (NHRCK), said that the current law was unconstitutional.

"In a democratic nation, people are not coerced to get pregnant and therefore the rights to terminate pregnancy should be safeguarded too," the NHRCK said in a statement.

"All couples and individuals should be able to freely decide on the number of children they have and when to have them."

Women, doctors protest new South Korea abortion restrictions

Debate intensifies over anti-abortion law and women's reproductive autonomy.

By Wooyoung Lee

UPI (30.08.2018) - <https://bit.ly/2N5cfNc> - SEOUL - Women's rights groups and doctors have expressed fury over the government's decision to classify surgical abortions as "unethical," fueling debate on women's reproductive freedom in a conservative country with one of the world's lowest fertility rates.

Seoul's Ministry of Health and Welfare announced Aug. 17 a revised Medical Act, which lists surgical abortions as an unethical medical practice, along with sexual abuse, using unauthorized medicine, reusing single-use devices and ghost surgery (in which one doctor substitutes for another, without the patient's knowledge), among others.

Doctors would be suspended for one month in violation of the revised law as it takes effect this month.

Obstetricians have condemned the revisions, saying it portrays them as potential "criminals." Many are refusing to conduct any surgical abortion unless the ministry withdraws the new law.

"We refuse to be punished under the revised law, which fails to recognize the reality, in which surgical abortions are unavoidably carried out for so many reasons," a group of obstetricians and gynecologists said in a statement Tuesday.

In response to the immediate backlash, the health ministry decided Thursday to postpone implementing the one-month suspension.

A Seoul-based women's rights group, BWAVE, has criticized the government and doctors.

"The government has made it more difficult for women to have an abortion to raise the nation's fertility rate," the group said. "Doctors have taken women's health and life as a hostage for their own benefits."

The group staged a protest in Seoul on Saturday, calling for the termination of the current anti-abortion law and demanding women's reproductive freedom.

Doctors and women's rights groups have pointed out that the government's move to toughen punishment for abortion would limit women's access to safe abortion services.

"This could encourage unsafe, illegal surgical abortions underground," Lee Chung-hoon, head of the Korean Association of Obstetricians and Gynecologists told UPI.

Lee said the current law is too outdated to recognize circumstances women face in choosing abortion and therefore fails to respect women's reproductive autonomy.

"The law allows abortion in very limited cases that only cover a very slim percentage of surgical abortions being carried out today," Lee said.

South Korea allows selective abortion only in cases such as those involving rape and incest and fetal abnormalities.

"It's too selective to recognize various cases that need surgical abortions. If a fetus has a genetic disorder, the current law doesn't allow surgical abortions, but only for cases where parents hold the same genetic disorder," Lee said.

South Korea's fertility rate dropped to a record low of 1.05 last year, with a total of 357,800 babies born, a 12 percent drop from 2016. The total fertility rate in the second quarter of this year was 0.97, according to Statistics Korea.

In April, a Seoul-based think tank on women's issues conducted an online survey of women who had abortions or considered having one.

More than 30 percent said they decided to have an abortion as they were not financially ready to raise a child and 20 percent said they needed to continue study or work. Some 12 percent of respondents said they didn't want to marry because of pregnancy.

The survey, conducted by the Korean Women's Development Institute, also found that 77 percent of women supported legalizing abortion while 23 percent were against it.

Another survey by the health ministry and the graduate school of public health at Yonsei University in 2010 found that 77 percent of women surveyed decided to have an abortion because of unwanted pregnancy and concerns of being single and pregnant. Those who had an abortion due to fetal abnormalities consisted of 20 percent.

The ministry's latest survey to date found there were more than 168,000 cases of surgical abortions in 2010, down from some 350,000 cases in 2005.

The debate between pro-choice and anti-abortion advocates has been ongoing since the Constitutional Court sided with abortion restrictions in its 2012 ruling.

The court is expected to rule on the law once again later in the year in a case filed by a doctor who was criminally charged for carrying out abortions upon patients' requests.

Earlier this month, a group of some 400 women's rights activists and scholars submitted a petition to scrap the law.

"Keeping the anti-abortion law threatens women's health and life and breaches women's reproductive freedom," the group said in its statement.

South Korea: Decriminalize abortion

Court case could end risk of prison, recognize women's rights

Human Rights Watch (23.05.2018) - <https://bit.ly/2s1HzzM> - Criminalization of abortion is incompatible with South Korea's human rights obligations, Human Rights Watch said today in an amicus brief to the Constitutional Court of Korea. The court will hear a case on May 24, 2018, involving the country's laws on abortion. The court should

decriminalize abortion, and authorities should ensure that safe and legal abortion is accessible.

South Korea's laws provide that procuring or providing an abortion in most circumstances is a crime. A woman who undergoes an abortion risks a prison sentence of up to a year or a fine of up to 2 million won (US\$1,850). Healthcare workers who provide abortions can face up to two years in prison, though there are exceptions in cases of rape or incest if the pregnancy is between blood relatives who cannot marry legally, if continuing the pregnancy is likely to jeopardize the woman's health, or if the woman or her spouse has certain hereditary or communicable diseases. Married women must have their spouse's permission for an abortion.

"South Korean women are being denied reproductive choices that should be their right," said Liesl Gerntholtz, women's rights director. "South Korea should remove all penalties for women who seek an abortion and their medical providers, and ensure access to safe, legal abortion."

International human rights treaties require governments to respect women's reproductive and other human rights. Authoritative interpretations of these treaties by United Nations experts have said that governments should eliminate criminal penalties for abortion and take steps to ensure that legal abortion is accessible. The experts also have said that other barriers to abortion should be removed, including requirements for spousal consent.

The criminalization of abortion in South Korea negatively affects many human rights, Human Rights Watch said. The amicus brief to the Constitutional Court analyzes its impact on women's rights to life, health, nondiscrimination and equality, privacy, information, and freedom from cruel, inhuman, or degrading treatment, as well as the right to decide the number and spacing of their children.

UN human rights bodies and experts have criticized South Korea's punitive restrictions on abortion and have urged the government to modify these laws. In December 2017, a report by the UN working group on the Universal Periodic Review (UPR) of human rights conditions for South Korea said that it should "[r]espect reproductive rights of women, which include decriminalization of abortions" and "[r]emove all penalties for women who seek abortion, and for doctors and other medical personnel involved in providing these services."

In March 2018, the UN Committee on the Elimination of Discrimination against Women urged South Korea to "legalize abortion in cases of rape, incest, threats to the life and/or health of the pregnant woman, or severe fetal impairment, and to decriminalize it in all other cases, remove punitive measures for women who undergo abortion, and provide women with access to quality post-abortion care, especially in cases of complications resulting from unsafe abortions." The UN Committee on Economic, Social and Cultural Rights (CESCR) made similar recommendations in 2017, as did the Committee on the Rights of the Child (CRC) in 2012.

Unsafe abortions pose a grave threat to the health of women and girls. According to a 2017 report by the World Health Organization (WHO) and the Guttmacher Institute, 25 million unsafe abortions occurred every year between 2010 and 2014. The WHO has noted that the removal of restrictions on abortion results in reduction of maternal mortality.

"South Korea's Constitutional Court should protect women's health and safety by ruling in accordance with international law," Gerntholtz said. "Decisions about abortion belong to a pregnant woman, without penalty or interference by the government or anyone else."

