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Knowledge and Opinion of Thai Lawyers Towards Abortion Laws

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บทคัดย่อ

Background: Unwanted pregnancy is a major social and public health problem which most often ends in termination of pregnancy and unsafe abortion which is causing the deaths and disabilities. There is still argument among Thai lawyers about suitability of abortion laws in Thai Criminal code.

Objectives: To study knowledge and opinion of the lawyers towards abortion laws.

Methods: This cross-sectional survey research. The sample group comprised of 265 Thai lawyers attended intensive course classes in law, in the Institute of Legal Education of the Thai Bar. Data were collected by using self-administered questionnaires. Statistics for data analysis were frequency, percentage, mean and standard deviation. Chi-square and Fisher's exact test were used to test the association between variables. $P < 0.05$ was considered statistical level of significance.

Results: Mean age of lawyers was 28.3 ± 8.6 years. 51.3% were male. 94.0% were Buddhists. 90.6% were single. 86.0% had a bachelor's degree. 81.5% had no experience involving abortion. 54.7% had fair knowledge about termination of pregnancy and 51.3% had fair knowledge about abortion laws. Most of them disagreed with present abortion laws (82.6%) and agreed with amendment of abortion laws (77.4%). Religion was significantly associated with the opinion on present abortion laws. Occupation and the number of children had significant association with opinion on amendment of abortion laws ($P < 0.05$).

Conclusions: Most Thai lawyers had fair knowledge about termination of pregnancy and abortion laws. Most of the lawyers disagreed with present abortion laws and agreed with amendment of abortion laws to suit the current situation.

Keywords: Termination of pregnancy, Abortion laws, Knowledge, Opinion, Lawyers

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Introduction

Unwanted pregnancy is a major social and public health problem which most often ends with termination of pregnancy.¹ It is estimated that of the 210 million pregnancies that occur worldwide each year, about 80 million are unwanted. In 2008, there were estimated 21.6 million case of abortion, which increased from 19.7 million in 2003. Unsafe abortion caused deaths of 47,000 women and disabilities for an additional 5 million women.^{1,2} Unsafe abortion was most often found in developing countries and countries with restrictive abortion laws which allow induced abortions only when necessary to save life.²⁻⁴

The estimated annual number of terminate a pregnancy in Asia fell slightly between 1995 and 2003, from 26.8 million to 25.9 million.⁵ But in 2008 it increased to 27.3 million.³ In Asia, termination of pregnancy rates across subregions held steady between 2003 and 2008, ranging from 26 per 1,000 in South Central Asia and Western Asia to 36 per 1,000 in Southeastern Asia.⁵

In Thailand, rate of termination of pregnancy was estimated to be 300,000-400,000 cases each year and almost all of these were unsafe abortion.⁶ The morbidity rate was 40% of total termination of pregnancy, and mortality rate was about 300:100,000 termination of pregnancy.⁶ The actual number of underground termination of pregnancy could be enormous but remains unknown. The current Thai abortion law became effective in 1956. Section 301 - 304 of the Criminal Code of Thailand stated that abortion is illegal. Section 305 stated the exceptional condition that termination of pregnancy is legal if performed by a physician for the health of the woman or in a pregnancy resulting from sexual crimes. In 2005, the Thai Medical Council enacted a regulation to complement the

Criminal Code. However, the legal status of this regulation was still in dispute.⁶

The role of lawyers and judges in the society involved interpretation of the statement and objective of laws in the legal process of accusation, defending, acquitting and imposing punishment on people who violated those laws and regulations. Their knowledge and opinion about the abortion laws and regulations is very important for the justice and peaceful environment of the society. Although the abortion laws clearly state about abortion, there are still argument and different opinions about it among lawyers and judges. This research aimed to study knowledge and opinion of the new lawyers towards abortion laws and the new enacted regulation of Thai Medical Council. This study will help to understand the present situation on opinion and interpretation of abortion laws among lawyers and judges. It will also point out directions to improve the situation of criminal abortion in Thailand.

Material and Method

This research was approved by Ethics Committee on Human Related to Research Involving Human Subjects, Faculty of Medicine Ramathibodi Hospital, Mahidol University on 8th January 2015. A total of 510 Thai lawyers, who attended intensive course classes in law at the Institute of Legal Education of the Thai Bar were eligible. Data was collected from self-administered questionnaires during 1st February 2015 to 28th February 2015 of 510 lawyers, 215 lawyers (42.2%) declined to participate. Another 30 lawyers (0.6%) who incompletely answered the questionnaires were also excluded. Totally there were 265 lawyers (52.2%) who returned completed answered questionnaires.



The questionnaires consisted of 3 parts. Part 1 was information on the general characteristics of the lawyers. Part 2 were questions on knowledge of pregnancy, termination of pregnancy and abortion laws. Part 3 were questions about opinion on amendment of abortion laws. The level of opinion were divided into 5 levels as strongly agreed, agreed, uncertain, disagreed and strongly disagreed. Validity of questionnaires was verified by 3 experts. Overall Cronbach alpha coefficient for reliability of opinion toward amendment of abortion laws was 0.85.

The data were analyzed using the SPSS program version 18 (PASW Statistics for Window, Version 18.0. Chicago: SPSS Inc; 2009). Data analysis included descriptive statistics of frequency, percentage, mean (\bar{X}), and standard deviation (SD). Chi-square and

Fisher's exact tests were used to test the association between variables. Level of statistical significance was set at $P < 0.05$.

Results

Among 265 lawyers, more than half (51.3%) were male with mean age of lawyers was 28.30 ± 8.56 years old. Ninety percent were single and 92.8% had no child. Almost all (94.0%) were Buddhists. Sixty two percent were studying. Continuing Education in prison with 48.7% had income less than 10,000 Baht/month. Eighty six percent had a bachelor's degree and 14.0% had master or doctor as degree in Law. Eighty one percent had no experience involving abortion or termination of pregnancy. (Table 1)

Table 1 Frequency and Percentage of Simples Distributed by General Characteristics

General Characteristics	Number (N = 265)	Percentage (%)
Gender		
Male	136	51.3
Female	129	48.7
Age		
24	126	47.5
25 - 26	70	26.4
30	69	26.1
Marital status		
Married	22	8.3
Single	240	90.6
Divorced/Separated	3	1.1
Number children		
0	246	92.8
1	6	2.3
≥ 2	13	4.9

Table 1 Frequency and Percentage of Simples Distributed by General Characteristics (Continued)

General Characteristics	Number (N = 265)	Percentage (%)
Religion		
Buddhism	249	94.0
Christian	9	3.4
Muslim	6	2.3
Other	1	0.4
Occupation		
Continuing education	165	62.3
Lawyer/Counselor	42	15.8
Employee	14	5.3
Civil servant	24	9.1
Personal business	10	3.8
Housewife	10	3.8
Income (Baht/month)		
0 - 10,000	129	48.7
10,001 - 20,000	89	33.6
20,001 - 30,000	22	8.3
30,001 - 40,000	14	5.3
≥ 40,001	11	4.1
Education level		
Bachelor degree	228	86.0
Master or Doctoral degree	37	14.0
Experience involving abortion		
No	216	81.5
Yes	49	18.5

More than half (54.7%) of the lawyers had fair knowledge about pregnancy and abortion. Fifty-one percent of the lawyers had fair knowledge about abortion laws. (Table 2)

Most of lawyers (82.6%) disagreed with present

abortion laws and 77.3% agreed with amendment of abortion laws. In combination, 60.7% disagreed with present abortion laws and agreed with the amendment. Only 0.8% agreed with present abortion laws but agreed with the amendment. (Table 3)

Table 2 Level of Knowledge about Pregnancy, Abortion and Abortion Laws

Level of Knowledge	Number	Percentage
	N = 265	(%)
Knowledge about pregnancy and abortion		
Poor (≤ 5)	37	14.0
Fair (6 - 7)	145	54.7
Good (< 7)	83	31.3
Knowledge about abortion laws		
Poor (≤ 6)	50	18.9
Fair (7 - 8)	136	51.3
Good (≥ 9)	79	29.8

Table 3 Opinion on the Present Abortion Law and the Amendment of Abortion Laws

Present Abortion Laws	Amendment of Abortion Laws		
	Agree	Disagree	Total
	N (%)	N (%)	N (%)
Agree	44 (16.6)	2 (0.8)	46 (17.4)
Disagree	161 (60.7)	58 (21.9)	219 (82.6)
Total	205 (77.3)	60 (22.7)	265 (100)

Most of lawyers (83.0%) agreed that the present abortion law (section 305 of the Thai Criminal Law) cannot prevent illegal abortion and 62.3% agreed that the present law was not appropriate with the current situation in the society. Half of the lawyers (55.5%) had the opinion that the Thai Medical Council's regulations on termination of pregnancy had no legal implication. Only 27.2% agreed that the present abortion laws section 301-304 is too strict and limits women's rights. (Table 4)

Most of lawyers (82.6%) agreed that the law should be amended to impose punishment on male who force their partners to have induced abortion. About 80% agreed that indications for induced abortion should be clarified more in the new laws. Most of them (60.4%) agreed that amendments of abortion law should have the objective to decrease number of illegal abortion. Only 50.6% of lawyers agreed that amendment should open more opportunity for women to seek induced abortion. (Table 5)

Table 4 Opinion on Present Abortion Laws

Items of Opinion	Agree N (%)
1. The present abortion law cannot prevent illegal abortion.	220 (83.0)
2. The abortion law (Section 305 of Criminal law) is not appropriate for the current conditions.	165 (62.3)
3. Thai Medical Council's regulations on termination of pregnancy cannot be used as legal implication.	147 (55.5)
4. The abortion laws section 301-304 is too strict and limits women's rights.	72 (27.2)

Table 5 Items of Opinion on Amendment of Abortion Laws

Items of Opinion	Agree N (%)
1. Punish male who forced their partners to have induced abortion.	219 (82.6)
2. Clarify indication for induced abortion.	211 (79.6)
3. Objective of law amendments to decrease number of illegal abortion.	160 (60.4)
4. More opportunity for women to have termination of pregnancy services.	134 (50.6)
5. Indication of terminate a pregnancy should include;	
5.1 Fetal impairment.	213 (80.4)
5.2 Pregnancy from incest.	145 (54.7)
5.3 Failure of contraception.	88 (33.2)
5.4 Unwanted pregnancy of teenage.	70 (26.4)
5.5 Pregnancy with poverty or economic problem.	70 (26.4)
5.6 Women's request.	65 (24.5)
5.7 Divorced couple.	39 (14.7)
5.8 Out of wedlock pregnancy.	33 (12.5)

Considering the indication for termination of pregnancy, most of the lawyers (80.4%) agreed to add indication of “fetal impairment” and 54.7% agreed to add the indication of pregnancy from incest into the new laws. Only 20-30% agreed with the indication of socioeconomic necessity and contraception failure. (Table 5)

Regarding factors associated with agreement on the present abortion law and amendment of the law,

religion and occupation showed statistical significance. Only 16.1% of lawyers who were Buddhism agreed with the present abortion law compared with 37.5% of lawyers who were of other religions. The difference was statistically significant ($P < 0.05$). Lawyers who were studying Continuing Education in prison and had no children agreed more with the amendment than lawyer who had children and worked ($P < 0.05$). (Table 6)

Table 6 Association between General Characteristics and Opinion on Abortion Laws and Amendment of the Abortion Laws

General Characteristics	Total N (%)	Present Abortion Laws		Amendment of Abortion Laws	
		Agree N (%)	P value	Agree N (%)	P value
Gender			0.27		0.60
Male	136 (51.3)	27 (19.9)		107 (78.7)	
Female	129 (48.7)	19 (14.7)		98 (76.0)	
Age			0.94		0.20
≤ 24	126 (47.5)	27 (17.8)		122 (80.3)	
25 - 29	70 (26.4)	8 (18.2)		35 (79.5)	
≥ 30	69 (26.1)	11 (15.9)		48 (69.6)	
Marital status			0.27 ^a		0.20
Married/Divorced/Separated	25 (9.4)	2 (8.0)		15 (60.0)	
Single	240 (90.6)	44 (18.3)		190 (79.2)	
Number of children			1.00 ^a		0.04 ^a
0	246 (92.8)	43 (17.5)		194 (78.9)	
≥ 1	19 (7.2)	3 (15.8)		11 (57.9)	
Religion			0.04 ^a		1.00 ^a
Buddhism	249 (94.0)	40 (16.1)		192 (77.1)	
Other	16 (6.0)	6 (37.5)		13 (81.3)	
Occupation			0.31		<0.01
Continuing education	165 (62.2)	29 (17.6)		136 (82.4)	
Lawyer/Counselor	42 (15.8)	10 (23.8)		33 (78.6)	
Other	58 (22.0)	7 (12.1)		36 (62.1)	
Income (Baht/month)			0.5		0.05
0 - 10,000	129 (48.7)	25 (19.4)		108 (83.7)	
10,001 - 20,000	89 (33.6)	12 (13.5)		63 (70.8)	
≥ 20,001	47 (17.7)	9 (19.2)		34 (72.3)	
Education level			0.84		0.49
Bachelor degree	228 (86)	40 (17.5)		178 (78.1)	
Master or higher degree	37 (14)	6 (16.2)		27 (73.0)	
Experience involving abortion			0.84		0.06
No	216 (81.5)	37 (17.1)		162 (75.0)	
Yes	49 (18.5)	9 (18.4)		43 (87.8)	

a = Fisher's exact test.

Discussion

This descriptive survey on the knowledge and opinion of new lawyers on abortion and abortion laws has the strength that this issue rarely has been explored. It is because the issue is very sensitive and depends on their moral experience. Limitation of the study was the using of questionnaire. It explored knowledge and opinion but could not predict their practice when they would have legal case of abortion. In addition, their knowledge and opinion may change in the future when they learned more and had more experience.

Most of lawyers had fair level of knowledge about termination of pregnancy and knowledge about abortion law respectively. This result was accordance with studies of Intarakumhaeng A,⁷ Sitthai P⁸ and Bunnag A et al.⁹ These results can be explained that termination of pregnancy is not a common event which usually occurred in life. Thus most of people in other occupations not involving abortion are not interested to study about it in detail. Although abortion laws are documented in Criminal code, most lawyers were not interested in it because most of them had no experience or involvement with abortion.

Less than half of the lawyers (44.5%) approved that the Thai Medical Council's regulations on termination of pregnancy can be used as legal. Some lawyers thought that it cannot be used as legal because different context exists between medical and legal implications. Most lawyers disapproved content of present abortion laws and approved the amendment of abortion laws. This is in concordance with the study of Sakkamjorn K in 1996¹⁰ which showed that only 23% of medical doctors and lawyers accepted abortion laws and 35% accepted the conditions for termination of pregnancy. In 2006, Bunnag A et al⁹ found that most of

medical doctors (72.1%) had moderate level of attitudes towards Thai abortion laws and approved amendment of Thai abortion laws.

Most of the lawyers had the idea that the present abortion law was inappropriate with the current situation in Thailand and hoped to amend the abortion laws. Only 21.9% of the lawyers disagreed the present abortion law but neither agreed with the amendment. Only 16.6% lawyers agreed the present abortion law but also agreed the amendment which probably for minor changes. Very few lawyers (0.8%) agreed with present abortion laws and disagreed with the amendment. Some lawyers probably thought that it was too difficult to amend the abortion laws which are part of the Criminal Codes.

Regarding opinion in conditions to terminate a pregnancy in laws amendment, most lawyers approved the condition of fetal impairment as well pregnancy from incest. However, only 20 - 30% approved the condition of failure of contraception, teenage pregnancy, economic problem and women's request for termination of pregnancy. Only about 10% of lawyers approved the condition of divorced couple and out of wedlock pregnancy. It may indicate that most of lawyers had pro-life attitude which recognized fetal rights but did not recognize women's rights.

Conclusions

Thai lawyers who attended classes of intensive course in law by in the Institute of Legal Education of the Thai Bar, had a fair knowledge about termination of pregnancy and abortion laws. Most of the lawyers approved amendment of abortion laws to suit the current situation.



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ความรู้และความคิดเห็นของนักกฎหมายไทยต่อกฎหมายการทำแท้ง

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Abstract

บทนำ: การตั้งครรภ์ที่ไม่พึงประสงค์เป็นปัญหาทางสังคมและสาธารณสุขที่สำคัญ ซึ่งทางออกของปัญหาส่วนใหญ่ ต้องขับเคลื่อนด้วยการยุติการตั้งครรภ์และเป็นการทำแท้งที่ไม่ปลอดภัย อันเป็นสาเหตุของการตายและพิการ กฎหมายอาญาของไทยมีบทบัญญัติยกเว้นการลงโทษในกรณีการทำแท้งไว้แล้ว แต่ยังมีข้อถกเถียงกันในหมู่นักกฎหมายไทย ถึงความเหมาะสมของกฎหมายการทำแท้งในปัจจุบัน

วัตถุประสงค์: เพื่อศึกษาความรู้และความคิดเห็นต่อกฎหมายเกี่ยวกับการยุติการตั้งครรภ์ของนักกฎหมาย ซึ่งเป็นผู้เข้ารับการอบรมที่สำนักอบรมกฎหมายแห่งเนติบัณฑิตยสภา

วิธีการศึกษา: การศึกษานี้เป็นการวิจัยเชิงสำรวจภาคด้วยทาง จำนวนตัวอย่าง 265 คน เก็บข้อมูลโดยใช้แบบสอบถาม และให้กลุ่มตัวอย่างตอบแบบสอบถามด้วยตนเอง จากนั้นวิเคราะห์ข้อมูลโดยใช้สถิติเชิงพรรณนา ได้แก่ ความถี่ ร้อยละ ค่าเฉลี่ย และส่วนเบี่ยงเบนมาตรฐาน การวิเคราะห์ความสัมพันธ์ของตัวแปรใช้การทดสอบโคฟีสแควร์และการทดสอบฟิชเชอร์ที่ระดับนัยสำคัญทางสถิติที่ 0.05

ผลการศึกษา: อายุเฉลี่ยของกลุ่มตัวอย่างเท่ากับ 28.3 ± 8.6 ปี กลุ่มตัวอย่างมากกว่าครึ่ง (ร้อยละ 51.3) เป็นผู้ชาย เกือบทั้งหมด ร้อยละ 94.0 นับถือศาสนาพุทธ ร้อยละ 90.6 มีสถานภาพโสด ร้อยละ 86 จบการศึกษาระดับปริญญาตรี ร้อยละ 54.7 ไม่มีประสบการณ์เกี่ยวกับการทำแท้งบุตร ร้อยละ 54.7 มีความรู้ระดับปานกลางในเรื่องการยุติการตั้งครรภ์ และร้อยละ 51.3 มีความรู้ระดับปานกลางเรื่องกฎหมายการทำแท้งบุตร ส่วนใหญ่ไม่เห็นด้วยกับกฎหมายการทำแท้งที่ใช้ในปัจจุบัน (ร้อยละ 82.6) และร้อยละ 77.4 เห็นด้วยให้มีการปรับปรุงกฎหมายให้เหมาะสม ปัจจัยด้านศาสนามีความสัมพันธ์กับความคิดเห็นต่อกฎหมายปัจจุบัน ส่วนปัจจัยด้านอาชีพและจำนวนบุตร มีความสัมพันธ์กับความคิดเห็นต่อการแก้ไขกฎหมายอย่างมีนัยสำคัญทางสถิติ ($P < 0.05$)

สรุป: ส่วนใหญ่ของกลุ่มนักกฎหมายที่เข้ารับการอบรมที่สำนักอบรมกฎหมายแห่งเนติบัณฑิตยสภา มีความรู้เรื่องการยุติการตั้งครรภ์และกฎหมายการทำแท้งในระดับปานกลาง นักกฎหมายส่วนใหญ่ไม่เห็นด้วยกับกฎหมายปัจจุบันและเห็นด้วยหากมีการปรับปรุงกฎหมายเกี่ยวกับการยุติการตั้งครรภ์ให้เหมาะสมกับสถานการณ์ปัจจุบัน

คำสำคัญ: การยุติการตั้งครรภ์ กฎหมายการทำแท้ง ความรู้ ความคิดเห็น นักกฎหมาย

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