 BETWEEN 1955 and 1975 most industrialised countries liberalised their abortion laws. Since then, progress in efforts to legalise abortion elsewhere has slowed almost to a standstill. Access to legal abortion continues to elude much of the Third World. In many countries almost all abortions are illegal; in others, moderate laws are simply not implemented. Recently, organised opposition to legalising abortion has grown and become stronger in some countries, notably eastern Europe, and abortion laws have become more, not less restrictive.

Recognising the overwhelming difficulty of extending legalisation and the terrible toll of 'back-alley' abortions, some abortion rights advocates have shifted their efforts from legalisation to the provision of safer illegal or quasi-legal abortion services. These services have been widely discussed in the international community. Some are semi-clandestine, claiming to treat septic or spontaneous abortions; others offer no such cover and are fully clandestine. Although they reach only a small minority of women seeking abortions, they have vastly improved the quality and safety of abortion for those women they do serve. Not only are they substantially safer medically than back-alley abortions, many are organised by caring individuals who offer more than abortion itself, by providing counselling, legal assistance and other reproductive health services. They are frequently cited as model programmes, and their expansion is offered as a possible alternative to legislation.

It is not surprising that the success of these services, coupled with the difficulty of legal change, has led to an increasing separation of the question of abortion safety from that of its legalisation. The call for 'safe and legal abortion' has been effectively replaced by the call for merely ‘safe abortion.’ The speeches, articles, and documents of feminists, physicians, lawyers, ethicists, and family planning providers are replete with the shortened term.

This concept of a safe but illegal abortion should not be accepted at face value, for it raises at least three serious questions: First, what do we mean by a safe abortion; is safety to be defined largely within the parameters of medicine? Second, even if one adopts a medical definition of safety, are there limits to a provider's ability to deliver a medically safe abortion where the procedure is illegal? Finally, will the promotion of the concept of safety detached from legality reduce the already troubled drive to legalise abortion?

WHAT DO WE MEAN BY SAFE?

At the most basic level, those who talk about safe abortion want to avoid the mortality and morbidity associated with illegal abortion. This is an important goal and, given the increasing simplicity of abortion technology, it is increasingly possible to achieve this end. However, it is only the first step toward safety. Abortion is much more than a medical procedure. Women's well-being is more than the absence of mortality and morbidity. It includes social, psychological and - so long as abortion is illegal - political dimensions.

There is nothing safe about the risk of imprisonment - either for the woman or the provider. Women's well-being is poorly served if we are required to become criminals in order to have control over our fertility. Even where the state knowingly tolerates illegal abortion, women and providers never know when a crackdown will occur. A woman does not know if the clinic will be late with a protection payment the week she visits. She does not know if a new
minister of health or police chief will respond to right-to-life pressure by raiding the clinic the day she is there. She does not know if the clinic is under observation and whether or not that will be the night her home will be visited and blackmail begin.

Participation in illegal abortions requires both provider and patient to circumscribe other aspects of the exercise of freedom in order to minimise the risk of exposure and even criminal charges. It may also influence decisions about political activism on a range of issues, particularly those that require taking positions likely to challenge government policy on any issue. Some women have expressed concern that an illegal abortion would be revealed if they worked to legalise abortion or on related women's rights issues, or even more broadly to correct human rights abuses. Some have been reluctant to run for political office. For providers of clandestine, illegal services even a campaign for legalisation raises concern that increased attention on the abortion issue might result in a crackdown on existing services or punitive measures against the provider.

History shows that when abortions are performed illegally, the power relationship between patient and provider is profoundly skewed in favour of the provider. Even a medically competent physician might use this power relationship in a manner that is not in the interest of the patient. For example, in one illegal abortion clinic I visited in Indonesia, the physician – who was a clinical investigator for the Norplant trials – required each woman who had an abortion to accept Norplant immediately post-abortion. What woman would feel free to say no? There is also medical danger as well as a violation of patient autonomy associated with this practice. A clinic doctor informed me that one patient who received Norplant at the time of abortion was subsequently found to have suffered a missed abortion and the pregnancy continued. Since abortion was illegal and the pregnancy had advanced into the second trimester with no possibility of a safe abortion, he was anxiously awaiting the birth, fearful of some fetal abnormality. What legal recourse does a woman have if she is badly treated, or if malpractice occurs? Clearly, not all providers of illegal, medically safe abortions will be committed to, or even understand the importance of women's well-being. It is hard enough for a woman to protect her autonomy when the care in question is legal; what chance does a woman have when the treatment is illegal?

**How medically safe are safe illegal abortions**

Social and political considerations aside, there are serious limitations on the ability of even the best-intentioned providers to deliver abortions at a consistently safe level comparable to that in legal settings. First, we know that the single most important element in abortion safety is provider competence. The more abortions a provider performs, the fewer the complications. Yet, fear of exposure leads many doctors who perform illegal abortions to limit their number: one does not want large numbers of women passing through the clinic, unknown patients may be informers or police plants. Fear of exposure has also traditionally led practitioners to delay hospitalisation when complications occur, which can result in further complications and even death.

Perhaps the greatest medical risks in abortion are incomplete or missed abortions, some the result of ectopic pregnancy. Since it is almost impossible for illegal clinics to send abortion tissue to an outside laboratory for tissue pathology, such problems are more likely to go unidentified. Even when identified, the woman may not be reachable; the incidence of patients who give false names and addresses when seeking illegal services is significantly higher than that related to legal procedures.

**Conclusion**

While none of these factors should lead us to discourage attempts to provide safer illegal abortions, they certainly should lead us to see such services as temporary measures along the road to legalisation – and they should certainly lead us to be cautious in describing any illegal service as 'safe'. Yes, women need safer services in the interim, but ultimately they need services that are both medically safe and legal. I am concerned that in leaving 'legal' out of the equation we create a false sense that abortion can be safe even if illegal and that there is no urgency about legal reform.
Increasingly, reproductive rights are understood as human rights. It would be tragic if, in our desire to prevent women from suffering the medical consequences of illegal abortion, we unwittingly undermine raising consciousness about the injustice and absence of human dignity always present in illegal abortions.