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**Comparative Study
of International Law
on Contraceptives:
Revised and Updated**

**Occasional Monograph Series
Number One**

An ICP Work Agreement Report

**INTERDISCIPLINARY COMMUNICATIONS PROGRAM
Smithsonian Institution**

**Une étude comparative du
droit international sur les contraceptifs:
révisée et mise à jour**

Résumé en français.

**Estudio comparativo de la
ley mundial sobre anticonceptivos:
revisado y actualizado**

Resumen en castellano

THE INTERDISCIPLINARY COMMUNICATIONS PROGRAM (ICP) is a private organization which aims to facilitate communication, exchange of ideas, and intellectual interactions among persons of different professions and disciplines who have, or should have, a common interest in a problem of common concern. It is associated with the Office of the Assistant Secretary for Science of the Smithsonian Institution. The programs of the Smithsonian Institution span the world's hemispheres, and are supported by private gifts and bequests as well as by public funds.

In June 1972, ICP undertook an integrated effort—the International Program for Population Analysis (IPPA)—to encourage members of the social sciences and humanities, particularly those from the developing countries of the Third World, to become involved in the study of problems and solutions of contemporary conditions related to population dynamics and population policies. Several components make up IPPA:

- Support of short-term research projects on the social science aspects of population problems of developing countries.
- A communications network—implemented by small workshops, and a publications program which includes a quarterly newsletter, conference proceedings, and occasional monographs—among researchers and decisionmakers interested in policy solutions to population problems.
- Technical resource facilities to aid and develop the community of interest in population concerns.

This document is the first publication in ICP's Occasional Monograph Series to bring the final social science findings of an IPPA-sponsored research project to the attention of social scientists and decisionmakers around the world, particularly in developing countries. The analyses of the range of laws dealing with contraceptive use around the world is designed to provide policymakers with the beginning indications as to how contraceptive law in their countries compares with similar law in other countries, whether the *de jure* situation in their countries is consonant with the *de facto* situation, and if the legal picture reflects national policies and international declarations on human rights, health and welfare, socioeconomic development, and population growth. It is hoped that the information will prove useful to individuals and organizations involved in formulating and implementing laws and policies that heighten the quality of national development through their effect on population dynamics.

—Cover design by Roslyn Shelesnyak

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**Comparative Study
Of World Law
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An ICP Work Agreement Report

Jan Štěpán
Edmund H. Kellogg

INTERDISCIPLINARY COMMUNICATIONS PROGRAM
Smithsonian Institution

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PREFACE

This monograph is a review and analysis of laws, regulations, and judicial decisions affecting the most important family planning procedure—contraception—in 67 countries, for which sufficient information could be collected.* The subject is unusually complex. Texts of laws, regulations, and decisions affecting contraceptives are rarely up-to-date or available in convenient form. The task is further complicated by the state-federal system in a number of countries. In addition, rules affecting contraceptives appear in laws bearing on many fields, including public health, pharmacy regulation, and medical ethics; commerce and industry; foreign tariffs; and education. Governments have often also attempted to regulate contraception through the criminal laws.

The many gaps in information do not necessarily mean there are no laws dealing with contraception in a particular country. For example, we have not been able to cover customary or tribal law which affects many people in some parts of the world. Neither have we been able to cover "private law" obstructions, such as the rules of private broadcasting associations and medical associations, or medical insurance regulations as to malpractice suits.

*Reasonably full compilations of laws on abortion and voluntary sterilization have already been published, as follows:

- World Health Organization. 1971. *Abortion Laws: A Survey of Current World Legislation*. World Health Organization: Geneva.
- Law and Population Monograph Series, published by the Fletcher School of Law and Diplomacy, Tufts University: Medford, Massachusetts.
- Lee, Luke T. 1973. *Brief Survey of Abortion Laws of Five Largest Countries*. No. 14.
- Lee, Luke T. 1973. *International Status of Abortion Legalization*. No. 16.
- Stepan, Jan and Edmund H. Kellogg. 1973. *The World's Laws on Voluntary Sterilization for Family Planning Purposes*. No. 8.

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RESUME

La présente monographie étudie et analyse les lois, réglementations et décisions de nature juridique qui portent sur la plus importante méthode de planification familiale—la contraception—dans 67 pays sur lesquels des renseignements en nombre suffisant ont pu être recueillis.

Jusqu'au milieu du siècle, dans le monde entier, les pays avaient une politique pronataliste. Toute interférence dans le processus de la procréation, résultat naturel et normal de l'amour et des rapports sexuels, était considérée immorale et contre nature. Dans la plupart des pays, la législation, consciemment ou non, reflétait cette attitude. Au cours des vingt dernières années, et en particulier pendant les années 60, l'attitude du grand public a considérablement changé à l'égard de la contraception et un grand nombre des lois en vigueur sur la fécondité sont plus ou moins tombées en désuétude*.

Le fait même que ces lois soient souvent ignorées dans la pratique, ou ne

*La loi française de 1967 avait placé la pilule sous un contrôle strict, comparable à celui des stupéfiants; sa remise aux femmes célibataires de moins de 21 ans n'était permise que contre autorisation écrite des parents. Cette loi interdisait également la distribution des moyens contraceptifs aux Centres de planification familiale. A la mise sous presse de cette monographie, nous apprenons que le Parlement français a adopté une nouvelle législation qui libéralise l'accès aux moyens contraceptifs (Loi N°74-1026 du 4 décembre 1974). Selon le ministre de la santé, Mme Simone Veil, la contraception tomberait alors dans le domaine public, comme toute autre prescription médicale. L'inscription sur le carnet à souche et l'autorisation parentale ne sont désormais plus nécessaires pour la prescription des pilules anticonceptionnelles et le coût de tous les moyens contraceptifs et des examens de laboratoire seront remboursés par la Sécurité sociale. Les Centres de planification familiale peuvent désormais distribuer des moyens contraceptifs aux mineurs et aux individus non couverts par la Sécurité sociale.

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soient pas appliquées, indique peut-être qu'elles sont devenues caduques. Dans des pays dont le contexte juridique, économique et culturel diffère, on trouve des lois diverses sur la contraception qui vont de la stricte interdiction à l'acceptation totale, au soutien et à l'encouragement. Bien que la législation doive refléter la politique suivie par le gouvernement d'un pays, il n'est pas rare de constater qu'une politique nouvellement adoptée n'y est pas encore exprimée. Il arrive même que de nouvelles lois et réglementations contredisent les nouvelles attitudes.

Pour donner une image claire de ces contradictions entre la pratique, la politique suivie et la législation, la monographie présente l'ensemble des dispositions hétérogènes relatives aux trois types de contraceptifs dans la plupart des pays—les preservatifs, les contraceptifs hormonaux modernes per os (la pilule) et le stérilet (DIU)—qui seront sans doute le plus fréquemment utilisés de par le monde dans un proche avenir. De même, nous nous sommes particulièrement penchés sur les cinq principales lois—importations, fabrication, ventes et distribution, publicité et diffusion—qui réglementent la disponibilité des moyens contraceptifs.*

Des règles relatives à la contraception apparaissent dans des lois qui couvrent les domaines les plus divers, et notamment, la santé publique, la pharmacie et la déontologie médicale, le commerce et l'industrie, les tarifs douaniers et l'éducation. Les gouvernements ont souvent tenté d'intervenir par le biais du droit pénal.

CONCLUSIONS

L'analyse de la situation dans divers pays révèle qu'il existe quatre types de juridictions:

- o Celles où il existe un *corps juridique général*, accompagné parfois de décrets ministériels, portant directement sur la contraception. Comme

*Une ventilation des lois dans 67 pays se trouve dans les tableaux du texte anglais dont les numéros suivent:

(1) Algérie (24) Allemagne (Republique démocratique) (25) Allemagne (Republique fédérale d') (2) Argentine (3) Australie (4) Autriche (5) Belgique (6) Brésil (7) Burundi (8) Cameroun (9) Canada (12) Chili (13) Chine (Republique populaire de) (14) Colombie (15) Congo-Brazzaville (38) Corée (Republique de) (16) Costa Rica (34) Côte d'Ivoire (18) Dahomey (19) Danemark (61) Egypte (54) Espagne (63) Etats-Unis (21) Finlande (22) France (23) Gabon (26) Ghana (27) Guinée (64) Haute-Volta (28) Hongrie (29) Inde (30) Indonésie (31) Iran (20) Irlande (32) Israël (33) Italie (35) Jamaïque (36) Japon (37) Kenya (39) Liban (40) Malaisie (41) Mali (42) Mexique (44) Niger (45) Nigeria (46) Pakistan (43) Pays-Bas (47) Pérou (48) Philippines (49) Pologne (50) Portugal (10) République centrafricaine (51) Roumaine (62) Royaume-Uni (52) Sénégal (53) Singapour (55) Sri Lanka (Ceylan) (56) Suède (11) Tchad (17) Tchécoslovaquie (57) Thaïlande (58) Tunisie (59) Turquie (60) URSS (65) Venezuela (66) Yougoslavie (67) Zaïre.

Résumé en français

Il s'agit d'une situation récente, il n'en existe qu'un petit nombre dont certains Etats des Etats-Unis.

- o Celles—comme le Sri Lanka—où il n'existe *pratiquement aucune loi* se rapportant directement à la contraception et où ce point est traité par des réglementations et la coutume.
- o Celles où la loi définit *une politique générale de grande portée sans entrer dans les détails*. (Cette politique peut être appliquée par des réglementations.) L'attitude à l'égard de la disponibilité du matériel contraceptif y est habituellement entièrement favorable comme au Royaume-Uni et dans certains pays scandinaves, ou totalement défavorable comme en Irlande et en Espagne.
- o Celles où il existe un *mélange fragmentaire souvent contradictoire de lois désuètes et récentes, habituellement dispersées dans les divers codes et domaines de la loi*, par exemple, le code pénal ou criminel, les lois concernant la santé publique (code de la santé, lois sur les produits pharmaceutiques, code de déontologie médicale, les lois sur la presse, le service postal, les importations, etc. Les situations de ce genre sont les plus fréquentes.

Deux observations peuvent être faites au sujet de ces deux dernières catégories: premièrement, dans de nombreux pays, il existe des lois qui sont généralement ignorées dans la pratique, surtout en ce qui concerne les sanctions en application du code pénal et les lois exigeant une ordonnance médicale pour la pilule.

Deuxièmement, dans maints pays, on se repose essentiellement sur le code pénal ou d'investigation criminelle pour la réglementation de la contraception. Ceci est particulièrement frappant dans les pays qui ont, ou ont eu, une attitude négative à l'égard du planning familial. Cette approche n'est toutefois pas limitée à ces pays; elle se retrouve encore dans certaines nouvelles législations en matière de planning familial.

La notion de la réglementation de la contraception et du planning familial au moyen du code pénal est de plus en plus déconsidérée. En effet, ces lois tendent à être ignorées dans la pratique. La tendance actuelle est unanimement à la "décriminalisation", car le domaine des relations personnelles, privées et familiales est considéré comme particulièrement incompatible avec l'application du code pénal. Les anciens tabous sexuels peuvent expliquer les sanctions prises autrefois, mais ceci devient impossible car la société est de plus en plus divisée quant aux valeurs morales.

1. Raisons d'être des lois sur les moyens contraceptifs

Il faut bien comprendre les motifs fondamentaux qui influent sur la législation en matière de contraceptifs pour comprendre ces lois et réglementations.

RAISONS TRADITIONNELLES

Quelques-uns des motifs les plus anciens, qui tirent leur origine d'avant la Deuxième Guerre Mondiale, exercent encore de nos jours une influence et sont à la base des lois pronatalistes d'autrefois. Ce sont:

L'instinct de survie. Élément essentiel et besoin ressenti depuis les origines de l'humanité jusqu'à une date très récente, il existe peut-être encore aujourd'hui dans des régions comme l'Afrique tropicale où le taux de mortalité est très élevé.

Le nationalisme. Il s'exprime à trois niveaux: les rivalités ethniques au sein d'un pays où les groupes d'une origine religieuse, culturelle ou ethnique craignent d'être numériquement dépassés par un groupe rival (les Cingalais et les Tamils à Sri Lanka, par exemple); les rivalités nationales entre pays voisins, accompagnées de la croyance selon laquelle la sécurité nationale dépend de l'existence d'une grande armée (la France et l'Allemagne entre 1870 et 1945; le Honduras et El Salvador de nos jours); et la crainte de l'impérialisme sur le plan international qui mène la population de quelques pays du tiers-monde à considérer le planning familial comme un génocide dirigé par les Européens de l'Ouest et les Américains du Nord contre la population des pays en voie de développement.

Les problèmes de doctrine. La planification familiale est souvent assimilée au malthusianisme ou au néo-malthusianisme.

L'opposition religieuse. Certains chefs religieux chrétiens et musulmans tendent à s'opposer à la contraception, ainsi qu'à l'avortement et à la stérilisation volontaire.

La protection de la moralité publique. Depuis plus d'un siècle, les tabous sur les questions liées aux activités sexuelles ont exercé dans de nombreux pays une influence très forte et directe sur les lois concernant les moyens contraceptifs. Ces tabous se rangent dans trois catégories bien distinctes:

- o L'opinion selon laquelle tout ce qui se rapporte à la sexualité est obscène, immoral ou indécent.
- o L'idée que la publicité en faveur de la contraception est indécente en soi.

Résumé en français

- o La crainte de voir l'accès facile aux moyens contraceptifs entraîner un relâchement des mœurs.

RAISONS MODERNES

Au cours des vingt dernières années, de nouvelles notions ont été acceptées en matière de contraceptifs et de planification familiale. Ce sont: le droit de l'homme à pratiquer la planification familiale; les exigences de la santé publique et du bien-être social; un accroissement démographique excessif dans de nombreux pays en voie de développement; des raisons d'ordre médical; des considérations économiques et commerciales.

Les deux premiers facteurs sont les critères les plus importants, et les plus pertinents: ils sont presque universellement acceptés pour les décisions juridiques dans ce domaine. D'aucuns considèrent que le troisième ne s'applique pas à tous les pays, mais reconnaissent son importance dans un grand nombre de pays en développement. Les deux derniers découlent des pratiques médicales et commerciales modernes.

2. Approches régionales de la contraception

Dans certaines régions du monde, on peut faire remonter les approches *de facto* et *de jure* de planification familiale en général, et de contraception en particulier, à des raisons propres aux régions et à leur histoire. Certes, un tableau régional, dans un domaine où s'imbriquent tant de motivations, ne peut être que très général et doit s'accompagner d'un avertissement précisant que maints détails omis peuvent modifier la conjoncture.

Certaines conclusions générales peuvent toutefois être tirées. Les pays industrialisés qui ont accepté la contraception abordent le problème sous l'angle des droits de l'homme et du bien-être de la famille. Les pays en voie de développement qui ont accepté le principe de la contraception sont en outre influencés par le souci des effets nuisibles d'une croissance démographique rapide sur le processus du développement économique. Une différence notable existe encore entre les attitudes et les approches juridiques dans les pays très catholiques et celles du reste du monde, mais ce contraste semble s'atténuer progressivement. Sur le plan ethnique, la résistance à la contraception semble se concentrer surtout dans les pays latins et dans ceux qu'influence la culture française.

La division de l'Afrique sub-saharienne en territoires francophones et anglophones fait ressortir le violent contraste qui existe entre les deux héritages coloniaux. A quelques exceptions près, les premiers continuent

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d'appliquer les restrictions à la contraception que renferme la loi française de 1920, alors que de nombreux pays anglophones élaboraient des programmes de planification familiale. Dans la plupart des pays qui englobent la vaste bande allant de l'Afrique du Nord à l'Asie du Sud-Est, en passant par le Proche-Orient, les pressions démographiques forcent les gouvernements à soutenir ou à tolérer des programmes actifs de planning familial.

En Europe, le groupe libéral des pays de l'Ouest et les pays socialistes de l'Est ont adopté essentiellement la même attitude favorable à la planification familiale par la contraception. Malgré des attitudes idéologiques différentes à l'égard du problème de l'accroissement démographique mondial, la santé publique et les droits de l'homme sont à la base de la motivation dans ces deux régions. La situation juridique aux Etats-Unis a récemment changé, passant d'une intolérance fondée sur des raisons d'ordre moral au soutien des autorités pour la planification familiale.

La campagne de masse menée contre la fécondité en République populaire de Chine semble surtout être motivée par des facteurs démographiques et se distingue de tous les programmes contemporains par son importance et les méthodes directes utilisées.

3. Catégories spécifiques de réglementation

Cinq grands types de lois limitent ou réglementent l'accès aux contraceptifs. Ce sont: celles qui touchent à 1) l'importation, 2) la fabrication, 3) la vente et la distribution, 4) la publicité et la diffusion et 5) l'expédition par la poste.

REGIME DES IMPORTATIONS

Quelques pays qui s'opposent à l'usage des moyens contraceptifs en interdisent aussi purement et simplement l'importation. La plupart interdisent celle des médicaments qui ne satisfont pas aux normes de qualité et de sécurité. Certains interdisent celle de médicaments dont l'utilisation régulière n'est pas autorisée dans leur pays d'origine, et ce pour empêcher les compagnies pharmaceutiques étrangères de les expérimenter sur la population locale.

Une autre raison qui incite à limiter l'importation de médicaments est celle qui pour a objet de protéger les avoirs en devises ou de réserver aux industries naissantes le droit de fabriquer, mélanger ou emballer les moyens contraceptifs. Ainsi, plusieurs pays qui accordent un appui officiel vigoureux à la planification familiale limitent ces importations en vue d'aider à implanter des industries locales. Parmi les mécanismes utilisés pour en décourager l'importation figurent des tarifs douaniers élevés, des droits de

Résumé en français

débarquement ou de courtage et des formalités compliquées. Les droits de douane, les impôts et les droits divers représentent une entrave sérieuse à la distribution des contraceptifs et peuvent entraîner une hausse du prix de vente au détail atteignant 40 pour 100 sur la pilule et 60 pour 100 sur les préservatifs.

REGIME DE LA FABRICATION

Presque tous les pays autorisent de nos jours la fabrication des contraceptifs qui sont soumis à la protection en matière de santé publique par des dispositions portant sur les essais et l'inscription au Codex.

Il existe néanmoins quelques pays qui interdisent la fabrication et l'importation des contraceptifs. Il n'y a guère de preuves que les restrictions à la fabrication constituent une entrave sérieuse à leur dissémination. Cela est peut-être dû au fait que la plupart des gouvernements encouragent et soutiennent les industries locales ou que ces restrictions ne sont pas toujours rigoureusement appliquées.

VENTE ET DISTRIBUTION

La majeure partie des lois modernes ne mentionnent pas la vente et la distribution des contraceptifs en général, contrairement à celles qui portent de façon précise sur les préservatifs, la pilule et le stérilet. Dans de nombreux pays existent cependant des lois interdisant ou restreignant tous les moyens contraceptifs en général. Aujourd'hui, cette interdiction est dans la pratique contournée en les vendant comme articles destinés aux soins médicaux. Les préservatifs sont vendus par exemple sous le couvert de la prévention des maladies vénériennes et les pilules prescrites pour des raisons médicales. Une autre façon fréquemment utilisée de limiter l'usage des moyens contraceptifs consiste à en interdire la présentation.

Une approche opposée consiste à adopter une politique assurant que les contraceptifs seront mis à la disposition du public en quantité suffisante; c'est ce qui se passe depuis la Deuxième Guerre Mondiale.

REGIME SPECIAL DES PRESERVATIFS

La question du lieu de vente des contraceptifs, de leur présentation et de la publicité s'y rapportant prend une grande importance dans le cas des lois sur la vente des préservatifs. Il semble exister deux types de lois. Dans les pays où règne une attitude libérale vis-à-vis de la contraception, les préservatifs peuvent habituellement être vendus dans plusieurs types de magasins, par des distributeurs automatiques ou par la poste. Dans les pays

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où existent des restrictions, ils ne peuvent être vendus qu'en pharmacie, sous forme de moyens prophylactiques contre les maladies vénériennes.

Régime spécial de la pilule

Trois types de restrictions juridiques s'appliquent dans le cas de la pilule: les lois sur la contraception en général, l'autorisation de vente exclusive par les pharmaciens et l'exigence d'une ordonnance médicale.

Naturellement, les pays qui s'opposent de façon générale à la contraception interdisent la vente de la pilule. Mais elle peut cependant y être prescrite et vendue pour des raisons "exclusivement médicales" non comme moyen contraceptif mais comme régulateur du cycle menstruel.

Dans presque tous les pays, la loi exige que la pilule soit exclusivement vendue en pharmacie. Dans certains pays, elle autorise l'existence de certains dépôts pharmaceutiques en l'absence de pharmacie dans la région. Presque partout, les médecins ont conservé leur droit traditionnel de remettre directement les médicaments à leurs malades et notamment la pilule. De même, dans la plupart des pays, les programmes officiels et les associations privées de planification familiale remettent les contraceptifs per os à leur clientèle sous contrôle médical.

Dans pratiquement tous les pays, une ordonnance médicale est exigée pour la vente de ces contraceptifs per os. Dans de nombreux pays en voie de développement, la législation n'est pas appliquée et la pilule est généralement remise sans ordonnance dans les pharmacies et autres lieux. Dans quelques pays industrialisés, les dispositions juridiques peuvent limiter davantage encore la distribution de la pilule qui n'est autorisée que si elle est faite par les gynécologues ou les spécialistes des services de santé locaux, après examen de leurs clientes. Il est rare que les lois sur la présentation d'une ordonnance se soient relâchées. Toutefois, fin 1973, le Chili a éliminé le critère de l'ordonnance pour se procurer des contraceptifs.

Dans certains pays où la pression démographique est intense, on a suggéré que les contraceptifs per os soient rayés de la liste des médicaments à ne remettre que sur ordonnance.

Dans la plupart des pays, les lois ont été adoptées pour se conformer au désir du corps médical qui cherche à établir des sauvegardes adéquates contre les effets secondaires de médicaments relativement nouveaux.

Régime spécial des contraceptifs intra-utérins

On peut expliquer l'absence relative de dispositions juridiques sur la distribution du stérilet en partie par sa nouveauté et en partie par le fait qu'il ne peut être mis en place par l'intéressée. La plupart des restrictions portant sur

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son utilisation sont basées non pas sur la législation de la contraception, mais bien sur d'autres lois ou règlements régissant l'exercice de la médecine. Dans certains cas, en particulier aux Etats-Unis, sa disponibilité est liée au contrôle des médicaments.

Dans presque tous les pays d'Europe et dans bon nombre d'autres pays du monde, il est en général admis que l'insertion du stérilet doit être faite par un médecin. Cette règle se base sur les lois qui régissent la profession médicale. A l'heure actuelle, on peut discerner deux tendances à s'écarter de cette règle générale. Dans certains pays industrialisés, on tend à imposer des contrôles plus stricts; dans les pays en voie de développement, on tend à faire preuve d'une plus grande latitude.

Dans certains pays industrialisés, l'autorisation de mise en place du stérilet est réservée aux gynécologues. Dans plusieurs pays en voie de développement où s'exercent des pressions démographiques, on a tendance à la confier à du personnel paramédical ayant reçu une formation particulière: sages-femmes, infirmières spécialement formées à cet effet, etc.

La situation est entièrement différente en République populaire de Chine. Le stérilet y a été la première méthode anticonceptionnelle introduite sur une large échelle. Il semble représenter la méthode la plus fréquemment utilisée dans les régions rurales.

RECLAME ET PUBLICITE

Les dispositions concernant les réclames de contraceptifs et la publicité en faveur de la contraception et de la planification familiale sont à la fois les plus anciennes et les plus fréquentes des lois portant sur ce sujet. Elles semblent motivées à la fois par une attitude traditionnelle pronataliste accompagnée du sentiment irrationnel de l'immoralité de la contraception et par le corps médical. On a également avancé que cette publicité encouragerait et accroîtrait la vente illégale de médicaments à ne délivrer que sur ordonnance. D'autres raisons en faveur de quelques restrictions particulières ont été avancées: elles empêchent une publicité mensongère, les activités des charlatans et des pressions indésirables dans un domaine aussi intime que la vie sexuelle.

Principaux types de restrictions

- Il y a six grandes catégories de restrictions:
 - o L'interdiction absolue de toute information sur la contraception.
 - o La publicité des moyens anticonceptionnels est autorisée auprès du corps médical, mais seulement sous contrôle officiel; elle est interdite auprès du grand public.

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- La publicité de tous les contraceptifs destinée au corps médical est autorisée mais ne peut s'adresser au grand public.
 - La publicité portant sur les médicaments "à délivrer sur ordonnance" n'est autorisée que si elle est destinée au corps médical mais les autres peuvent faire l'objet d'une publicité généralisée.
 - Pour tous les médicaments, la publicité destinée au grand public est autorisée, mais elle doit être approuvée au préalable par les autorités compétentes.
 - D'autres restrictions sur la publicité avec diverses motivations couvrent les contraceptifs, comme les autres médicaments.
- Certains pays n'imposent aucune restriction juridique à certains aspects de la publicité, mais la limitent dans la pratique.

Observations générales sur les limitations de la publicité

L'étude des lois sur la publicité et la diffusion en matière de contraception nous amène à formuler trois conclusions. Premièrement, certaines dispositions se retrouvent dans les lois de pays qui diffèrent entre eux et se trouvent à divers stades de leur développement économique et démographique. Dans l'ensemble, on se refuse à permettre la promotion auprès du grand public de matériel contraceptif en général, et de la pilule en particulier. Deuxièmement, les restrictions à la publicité semblent en général observées; la différence entre la situation de jure et de facto n'est pas aussi marquée que dans le cas de la vente de contraceptifs. Troisièmement, la publicité est un domaine où les notions traditionnelles sur la décence sont toujours en vigueur.

UTILISATION DES SERVICES POSTAUX

Historiquement, les dispositions interdisant l'usage des services postaux pour l'expédition des contraceptifs viennent des pays soumis à la "Common Law". Jusqu'en 1970, les Etats-Unis imposaient de strictes limitations à l'envoi de matériel contraceptif par la poste.

RESUMEN

En la presente monografía se examinan y analizan las leyes, disposiciones y decisiones de la situación legal que regula el procedimiento más importante para la planificación de la familia—el anticoncepcionismo—en 67 países sobre los cuales fue posible recoger suficiente información.

Hasta mediados del siglo actual todas las naciones del mundo promovían la fecundidad. Todo lo que interfiriera con la procreación como resultado natural y propio del amor y la unión sexual se tildaba de inmoral y antinatural. Las leyes de la mayoría de los países reflejaban este sentido, ya fuera consciente o inconscientemente. Durante los últimos 20 años, y en particular durante la década de los sesenta, se han producido grandes y fundamentales cambios en la actitud del público frente al anticoncepcionismo, y muchas leyes relacionadas directamente con la fecundidad han quedado más o menos anticuadas.*

En realidad, el hecho de que en la práctica muchas veces dichas leyes no

*La ley francesa de 1967 ha puesto a la píldora bajo control estricto parecido al de las drogas narcóticas, permite su distribución a mujeres no casadas menores de 21 años que cuenten con el consentimiento escrito de sus padres, y prohíbe la distribución de anticonceptivos a centros de planificación de la familia. Al entrar en prensa esta monografía nos enteramos de que el Parlamento Francés ha aprobado una nueva ley que facilita el acceso a la anticoncepción (Ley No. 74-1026 del 4 de diciembre de 1974). Según la Sra. Simone Veil, Ministro de Salud, de esta forma la anticoncepción llegaría a constituirse en un derecho común como cualquier otro procedimiento médico. Todos los requisitos ya sea que provengan de un libro de talonarios o del consentimiento de los padres para llenar la receta de píldoras han sido sustituidos y el costo de todos los anticonceptivos y trabajo de laboratorio son reembolsables de acuerdo con el plan de seguro de salud. Los centros de planificación de la familia ahora podrán distribuir anticonceptivos a menores de edad y a aquellas personas que no participan en un seguro de salud para el público.

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se observen o no se hagan cumplir puede ser señal de que son anticuadas. En naciones con distintos antecedentes legales, económicos y culturales se encuentran leyes distintas sobre la anticoncepción que van desde una prohibición estricta hasta la aceptación, apoyo y promoción totales. Si bien las leyes vigentes deben reflejar la política que persigue el gobierno de un país, no es raro encontrar que una nueva política ya aceptada no se refleje en dichas leyes. Ocasionalmente aun las nuevas leyes o reglamentos pueden estar en pugna con las nuevas actitudes.

Para ofrecer una visión clara de las discrepancias existentes entre la práctica, la política y el derecho, esta monografía presenta el cúmulo de disposiciones heterogéneas que existen en la mayoría de los países con respecto a tres clases de anticonceptivos—el condón, el anticonceptivo moderno hormonal oral (píldora) y el dispositivo intrauterino (DIU)—que posiblemente serán los empleados con más frecuencia durante los próximos años. De igual manera, nos hemos concentrado en cinco tipos principales de leyes—sobre importación, fabricación, ventas y distribución, publicidad y uso de los servicios postales—que regulan la disponibilidad de anticonceptivos. En el texto inglés se encuentra un desglose de las leyes de 67 países sobre tres tipos de anticonceptivos: el condón, la píldora y el DIU.*

Las disposiciones sobre anticonceptivos se encuentran en leyes que abarcan muchos campos, incluyendo campos de la medicina tales como salud pública, farmacia y ética médica; así como los de comercio e industria, aranceles exteriores y educación. A menudo los gobiernos han tratado de reglamentar el campo por medio de la legislación penal.

RESULTADOS

El análisis de la situación en los distintos países revela los cuatro tipos siguientes de situaciones legislativas:

- o Sistemas jurídicos en que existen conjuntos de leyes completas, a veces acompañadas por reglamentos ministeriales, que tratan direc-

*Los números de los cuadros son los siguientes:

(24) Alemania, República Democrática (25) Alemania, República Federal de (64) Alto Volta (1) Argelia (2) Argentina (3) Australia (4) Austria (5) Bélgica (6) Brasil (7) Burundi (8) Camerun (9) Canadá (11) Chad (17) Checoslovaquia (12) Chile (13) China, República Popular de (14) Colombia (15) Congo-Brazzaville (38) Corea (34) Costa de Marfil (16) Costa Rica (18) Dahomey (19) Dinamarca (61) Egipto (54) España (63) Estados Unidos de América (48) Filipinas (21) Finlandia (22) Francia (23) Gabón (26) Ghana (27) Guinea (28) Hungría (29) India (30) Indonesia (31) Irán (20) Irlanda (32) Israel (33) Italia (35) Jamaica (36) Japón (37) Kenia (39) Líbano (40) Malasia (41) Malí (42) México (44) Níger (45) Nigeria (43) Países Bajos (46) Pakistán (47) Perú (49) Polonia (50) Portugal (62) Reino Unido (10) República Centroafricana (51) Rumanía (52) Senegal (53) Singapur (55) Sri Lanka (Ceilán) (56) Suecia (57) Tailandia (58) Túnez (59) Turquía (60) URSS (65) Venezuela (66) Yugoslavia (67) Zaire.

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tamente de anticoncepcion. Como esto es relativamente reciente, no hay muchos paises en esta situacion, aparte de Francia y algunos estados de los Estados Unidos.

- o Sistemas juridicos como el de Sri Lanka, en los que *casi no existe ninguna ley* que trate directamente de anticoncepción abandonandose el problema a los reglamentos o a la costumbre.
- o Sistemas juridicos que establecen por ley *una politica general y de grandes pretensiones*. (Esta politica podra ponerse en practica por medio de reglamentos.) En estos sistemas la actitud frente a la disponibilidad de anticonceptivos es casi siempre totalmente favorable, como en el Reino Unido y algunos paises escandinavos, o totalmente negativa como en Irlanda o España
- o Sistemas juridicos con *leves fragmentarias, a menudo mezclas incoherentes de leyes anticuadas y recientes que casi siempre se encuentran dispersas en los distintos codigos y campos legales*, por ejemplo, codigos penales, leyes sobre salud publica (codigos de salud, leyes farmaceuticas, codigos de etica medica), leyes de prensa, postales, leyes reguladoras de importacion, etc. Este tipo de situación es muy frecuente.

En cuanto a las dos ultimas categorias se pueden hacer dos observaciones. Primera, en muchos paises existen leyes que en la práctica se cumplen poco, típicamente en lo que respecta a sanciones penales y leyes que exigen receta médica para obtener la pildora.

Segunda, en muchos paises para regular la anticoncepcion se abusa de leyes penales. Este enfoque existe de manera particular en los paises en que la actitud sobre la planificacion de la familia ha sido o es negativa. Sin embargo, no se limita a estos paises y aparece en alguna que otra nueva legislacion en el campo de la planificacion de la familia.

El regular la materia de anticonceptivos y de planificacion de la familia por medio de leyes penales se considera cada vez mas como imperfecto. En realidad, en la practica se tiende a hacer caso omiso de estas leyes. La tendencia moderna se dirige abrumadoramente hacia la despenalización en general porque la esfera de las relaciones personales y privadas de la familia no se presta para la ley penal. Los viejos tabús sexuales pueden explicar las sanciones penales de antaño, pero el sistema resulta inadecuado o inaplicable cuando en una sociedad es menor el consenso general sobre lo que es o no es manifiestamente inmoral.

1. Base filosófica
de la legislación
sobre anticonceptivos

Para comprender las leyes y disposiciones es necesario conocer el fundamento filosófico en que se basa la legislación sobre anticonceptivos.

RAZONES TRADICIONALES

Algunas de esas raíces filosóficas, de antes de la Segunda Guerra Mundial, aún ejercen su influencia hoy y son el fundamento de las leyes que favorecer la natalidad. Entre las ideas rectoras de esa actitud figuran:

La supervivencia del género humano. Este factor, vital y necesario desde el origen del hombre hasta tiempos recientes, puede sentirse, aun hoy, en regiones tales como el Africa tropical donde la tasa de mortalidad infantil es muy elevada.

Nacionalismo. Esta actitud se manifiesta en tres niveles: rivalidades de origen étnico dentro de los diversos países en que ciertos grupos de origen religioso, cultural o racial temen ser excedidos en número por un grupo rival (por ejemplo, los singaleses y tamiles en Sri Lanka); rivalidades nacionales entre países limítrofes, acompañadas por la creencia de que la seguridad nacional depende de ejércitos numerosos (Francia y Alemania entre 1870 y 1945; Honduras y El Salvador en la actualidad); el temor al imperialismo a nivel mundial que conduce a los habitantes de países en desarrollo a considerar los esfuerzos de la planificación de la familia como genocidio dirigido por los europeos occidentales y norteamericanos contra los países en desarrollo.

Problemas conceptuales. La cuestión de la planificación de la familia se equipara con frecuencia al malthusianismo o neo-malthusianismo.

Oposición religiosa. Algunos dirigentes cristianos y musulmanes tienden a oponerse a la anticoncepción juntamente con el aborto y la esterilización voluntaria.

Protección de la moral pública. Durante más de un siglo, el tabú sexual tuvo un fuerte efecto directo en las leyes sobre anticonceptivos en muchos países. Esta idea se desglosa en tres categorías distintas:

- La impresión de que todo lo relacionado con la vida sexual es obsceno, inmoral e indecente.
- La actitud de que toda publicidad sobre anticoncepción es indecente por sí misma.
- El temor de que la disponibilidad de anticonceptivos conduzca a la promiscuidad.

RAZONES MODERNAS

A continuación se presentan algunas nuevas creencias sobre anticonceptivos y la planificación de la familia que han sido aceptadas generalmente durante los últimos 20 años: el derecho humano de planificar la familia; los requisitos de salud pública y bienestar; crecimiento excesivo de la población en muchos países en desarrollo; factores médicos; consideraciones económicas o comerciales.

Los dos primeros factores son los criterios principales, más pertinentes y aceptados casi universalmente para la legislación en este campo. Algunos opinan que el tercer factor no es relevante para todos los países, pero se le considera de importancia decisiva para muchos de los países en desarrollo. El cuarto y el quinto se desprenden de prácticas médicas y comerciales.

2. Enfoques regionales de la anticoncepción

En ciertas regiones del mundo es posible encontrar enfoques comunes *de facto* y *de jure* de la planificación de la familia en general, y de la anticoncepción en particular, aunque surjan de motivos peculiares de las regiones y sus historias. Claro está que solo se puede tratar de presentar a grandes rasgos un panorama regional de un campo como este tan entrelazado con motivaciones distintas y con la precaución de que muchos detalles omitidos pueden diferir del panorama general.

Sin embargo, se puede llegar a ciertas conclusiones generales. Los países desarrollados que han aceptado la anticoncepción enfocan el problema desde el punto de vista de los derechos humanos y el bienestar de la familia. Los países en desarrollo que han aceptado la anticoncepción están influidos, además, por el efecto perjudicial de un crecimiento demográfico rápido sobre el proceso de desarrollo económico. Existe todavía una diferencia marcada entre las actitudes y enfoques legales en los países decididamente católicos y los países del resto del mundo, pero al parecer este contraste va disminuyendo paulatinamente. Desde el punto de vista étnico, gran parte de la resistencia a la anticoncepción parece concentrarse en los países latinos y los países influidos por la cultura francesa.

La división del África al sur del Sahara en dos regiones, una de habla francesa y otra de habla inglesa pone de manifiesto el fuerte contraste entre las dos culturas coloniales. Con contadas excepciones, los países de habla francesa han retenido las restricciones en contra de la anticoncepción que figuraban en la ley francesa de 1920, mientras que muchos países de habla inglesa han implantado programas de planificación de la familia. En la

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mayoría de los países situados en una ancha faja que se extiende desde el Norte de Africa a través del Cercano Oriente hasta el Asia Meridional y Oriental, las presiones demográficas están obligando a los gobiernos a apoyar, o a tolerar, los programas activos sobre la planificación de la familia.

En Europa, el grupo liberal de países occidentales y los países socialistas orientales comparten una actitud básica positiva hacia la planificación de la familia por medio de la anticoncepción. A pesar de las distintas actitudes ideológicas frente al problema del crecimiento demográfico mundial, ambas regiones están motivadas por consideraciones de salud pública y derechos humanos.

La acción colectiva para restringir la fecundidad en la Republica Popular de China parece estar motivada en forma predominante por factores demográficos y no tiene par entre los programas contemporáneos tanto en su extensión como por sus métodos directos.

3. Campos específicos de legislación

Hay cinco tipos principales de leyes que limitan o regulan la disponibilidad de anticonceptivos. Se trata de leyes que afectan: 1) la importación; 2) la fabricación; 3) la venta y distribución; 4) anuncios y publicidad, y 5) el uso de los servicios postales.

DISPOSICIONES RELATIVAS A LA IMPORTACION

Unos cuantos países que no aprueban el uso de anticonceptivos prohíben sencillamente su importación. La mayoría de los países prohíben la importación de todo medicamento que no cumpla las normas locales de calidad y seguridad. Algunos países también prohíben la importación de medicamentos que no hayan sido autorizados para uso general en el país de origen, con el fin de impedir que los fabricantes extranjeros de medicamentos ensayen sus productos en poblaciones locales.

Entre otros motivos de limitación de la importación figura el deseo de retener divisas extranjeras escasas, o de reservar para la industria naciente la manufactura, mezcla o envasado de anticonceptivos. Varios países que apoyan con vigor oficial la planificación de la familia limitan las importaciones para crear industria local fijando altas tarifas aduaneras, derechos de desembarco o de corretaje, o bien trámites difíciles de cumplir. A veces las tarifas, impuestos y cuotas aduaneras constituyen un serio impedimento legal para la distribución de anticonceptivos, y pueden aumentar el precio final de venta al público hasta en un 40 por ciento en las píldoras que se toman por vía oral y en un 60 por ciento en los condones.

DISPOSICIONES CONCERNIENTES A LA FABRICACION

En la actualidad casi todos los países permiten la fabricación de anticonceptivos, pero por razones de protección de la salud pública están sujetos a disposiciones de prueba o registro.

Existen, naturalmente, países excepcionales que prohíben tanto la fabricación como la importación de anticonceptivos. No hay motivo, sin embargo, de pensar que la limitación de la fabricación constituya un serio obstáculo a la distribución de anticonceptivos. Esto se debe tal vez a que la mayoría de los gobiernos favorecen y respaldan a la industria local, o quizás a que las limitaciones no siempre se cumplen rigurosamente.

VENTA Y DISTRIBUCION

La mayoría de las leyes recientes no se refieren a la venta o distribución de anticonceptivos en general, en contraposición con las leyes que se refieren específicamente a condones, píldoras o DIU. Sin embargo, muchos países tienen antiguas leyes que prohíben o restringen todos los contraceptivos en su totalidad. Hoy la práctica general en la mayoría de estos países sigue siendo la de evadir la prohibición mediante la venta de anticonceptivos como artículos de atención médica. Por ejemplo, los condones se venden como medio de protección contra las enfermedades venéreas y las píldoras como medio de regular el ciclo menstrual. Otro método general de limitar los anticonceptivos estipula que la venta de estos se realice "*exclusivamente en farmacias*". Otra restricción frecuente contra los anticonceptivos en general es el prohibir la exhibición de los que están a la venta.

Un enfoque opuesto es la política de contar con un abastecimiento adecuado de anticonceptivos, que tuvo su origen durante la Segunda Guerra Mundial.

Disposiciones especiales sobre el condón

La cuestión de visibilidad y publicidad es de particular significado en relación con las leyes que rigen la venta de condones. Al parecer existen dos métodos. En los países que tienen una actitud liberal frente a la anticoncepción, se pueden vender los condones en varias clases de establecimientos o mediante máquinas o por correo. En otros países con políticas que restringen la anticoncepción, solamente las farmacias pueden vender los condones como medio profiláctico contra las enfermedades venéreas.

Disposiciones especiales sobre la píldora

A la píldora se le han aplicado tres tipos de restricciones legales: las leyes

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generales contra la anticoncepción, el requisito de que la venta de píldoras se haga sólo en farmacias y la necesidad de obtener una receta médica.

Naturalmente, los países que se oponen a los anticonceptivos en general prohíben la venta de la píldora. Sin embargo, aun en esos países se recetan las píldoras y se venden "solo por razones medicas" y no como anticonceptivos sino para regular el ciclo menstrual.

En casi todos los países se encuentra el mismo requisito legal de que los anticonceptivos orales se vendan sólo en farmacias. En algunos países la ley permite que otros establecimientos vendan ciertas clases de medicamentos en lugares donde no existen farmacias. En casi todas partes los médicos han mantenido el derecho de proveer medicamentos, inclusive la píldora, directamente a sus pacientes. De igual manera, en la mayoría de los países los programas oficiales de planificación de la familia o asociaciones privadas interesadas en la planificación de la familia suministran a sus miembros anticonceptivos orales bajo supervisión médica.

Casi todos los países exigen receta médica para la venta de anticonceptivos orales. En muchos países en desarrollo se hace caso omiso de la ley y se puede comprar la píldora sin receta, unas veces en las farmacias y otras en otros lugares. En unos cuantos países desarrollados ciertas disposiciones pueden limitar la distribución de la píldora a ginecólogos o a especialistas en establecimientos locales de salud después de que el paciente se haya sometido a ciertos análisis. No es frecuente que se hayan liberalizado los requisitos sobre la necesidad de tener receta médica. Sin embargo, a fines de 1973 en Chile se eliminó el requisito de receta médica para todos los anticonceptivos.

En algunos países con graves problemas demográficos, se ha sugerido que los anticonceptivos se omitan de la lista de medicamentos que se pueden obtener "sólo con receta".

En la mayoría de los países las leyes se basan en el deseo de los médicos de establecer protección adecuada contra los efectos secundarios de medicamentos relativamente nuevos.

Disposiciones especiales sobre el dispositivo intrauterino

El relativo silencio legislativo sobre el DIU se puede explicar en parte por su novedad y en parte por el hecho de que no se puede autoadministrar. La mayoría de las restricciones en su uso no se basan en leyes que controlen la anticoncepción, sino en otras disposiciones sobre práctica médica. En algunos casos, especialmente en los Estados Unidos, se les somete al mismo control que a los productos farmacéuticos.

En casi todos los países europeos y muchas otras naciones, la práctica generalmente aceptada es que un médico coloque el DIU. Esta norma se

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basas en leyes que regulan la profesión médica. En la actualidad se pueden ver dos tendencias que se alejan de esta norma. En algunos países desarrollados se tiende hacia un control más estricto, mientras que en los países en desarrollo la tendencia es hacia requisitos más flexibles.

En algunos países desarrollados la autorización de colocar el DIU se limita a los ginecólogos. Por otra parte, en varios países en desarrollo con problemas demográficos se tiende a confiar al personal paramédico preparado —parteras, enfermeras especialmente adiestradas, etc.— la responsabilidad de colocar el DIU.

En la República Popular de China existe una situación enteramente distinta. El DIU fue el primer método anticonceptivo introducido en ese país en gran escala y en las zonas rurales parece ser el que se emplea con más frecuencia.

ANUNCIOS Y PUBLICIDAD

Las disposiciones sobre propaganda de anticonceptivos y la publicidad de éstos y de planificación de la familia son las más antiguas y más frecuentes de todas las que rigen la planificación de la familia. Su prevalencia parece basarse en la actitud histórica en favor de la natalidad, incluyendo la opinión de que la anticoncepción es inmoral y, además, en los esfuerzos médicos actuales encaminados a controlar la práctica de que el público se autorecete. Se ha dicho también que los anuncios propagarían la venta ilegal de medicamentos que requieren receta. Otros argumentos esgrimidos para imponer limitaciones especiales es que así se impide la propaganda falsa y la "charlatanería" y se eliminan las posibles intromisiones en la intimidad de la vida sexual.

Tipos principales de restricciones

Existen seis tipos principales de restricciones:

- La prohibición total de toda información y publicidad de anticoncepción.
- El permitir sólo a la profesión médica hacer anuncios sobre anticonceptivos pero únicamente con autorización oficial.
- El permitir a la profesión médica, pero no al público, anunciar todo método anticonceptivo.
- El anuncio de medicamentos que requieren receta se limita a la profesión médica, pero los que no la requieren, inclusive los anticonceptivos, pueden anunciarse en general.

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- o La publicidad de toda clase de medicamentos le será lícito al público en general si se cuenta con la previa aprobación de la autoridad competente.
- o Otras varias restricciones sobre anuncios con distintos fines incluyen los anticonceptivos y también otros medicamentos, y, finalmente, algunos países no tienen restricciones legales de ciertos aspectos de propaganda pero se limitan en la práctica.

Comentarios generales sobre las limitaciones de la publicidad

El examen de las leyes sobre propaganda y publicidad de anticonceptivos en un gran número de países nos lleva a tres conclusiones. Primera, ciertas disposiciones son comunes a las leyes de países que no tienen mucho en común y se hallan en diferentes etapas de desarrollo económico y demográfico. Hay una gran renuencia a permitir la promoción pública de artículos anticonceptivos en general, y de las píldoras que necesitan receta en particular. Segunda, al parecer las restricciones sobre publicidad se cumplen en general. La diferencia entre situaciones *de jure* y *de facto* en la publicidad no es tan grande como en el caso de la venta de anticonceptivos. Tercera, la publicidad es un campo donde las viejas ideas de lo que es decente y lo que no lo es parecen haber retenido gran parte de su vigencia.

USO DE LOS SERVICIOS POSTALES

Las disposiciones que restringen el uso del servicio postal en relación con los anticonceptivos han tenido su origen históricamente en los países que se rigen por el Derecho Común. Hasta 1970, Estados Unidos tuvo en vigor disposiciones estrictas contra el envío de materiales anticonceptivos por correo.

INTRODUCTION

Until the middle of this century, nations all over the world encouraged fertility. Any interference with procreation as the natural and proper result of love and sexual partnership was thought to be immoral and unnatural. The laws of most countries reflected this attitude, consciously or unconsciously. During the past 20 years, particularly in the 1960s, fundamental changes in public attitudes towards contraception have taken place and many existing laws affecting fertility have been rendered more or less obsolete. Since law, by its nature, is conservative and slow moving, it is not surprising that, in most countries, laws in the field of contraception have not yet caught up with the changes in public opinion. Indeed, the fact that such laws are often ignored in practice, or not enforced, may be an indication that they are out of date.

Among nations with different legal, economic, and cultural backgrounds, diverse laws on contraception range from strict prohibition to total acceptance, support, and promotion. Although law should reflect the policy pursued by the government of a country, it is not unusual to find that a newly adopted policy is not yet reflected in the law. Occasionally, even new statutes or regulations may be contrary to new attitudes.

To provide a clear perception of existing discrepancies between practice, policy, and law, we present in this monograph the mass of heterogeneous provisions which exist in most countries with regard to the condom, the modern oral hormonal contraceptive (pill), and intrauterine device (IUD)—the three kinds of contraceptives which are likely to be most frequently used in the world for the next few years. Similarly, we focus on the five major types of laws—imports, manufacture, sales and distribution, advertising and publicity, and use of mails—which regulate the availability of contraceptives.

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Existing law is a fermenting mixture of the old and restrictive, with modern and liberal rationales. The Findings contain the investigators' analysis of four basic legislative approaches utilized by governments with regard to access to contraception. Typical and recurring rationales that seem to have influenced the law as it now exists in various countries are discussed in Part 1. The general situation in the major geographic areas is portrayed in Part 2. This is followed in Part 3 by a description and analysis of typical or otherwise important legal provisions affecting contraceptives.

An attempt is made to summarize the legal situation in 67 countries in the Tabular Analysis of Laws.

FINDINGS

An analysis of legal provisions regulating access to contraception reveals four types of legislative situations:

- Jurisdictions having a *comprehensive set of laws*, sometimes accompanied by ministerial regulations, dealing directly with contraception. This is a relatively recent development and, therefore, only a few such jurisdictions exist, including France and some states of the United States.
- Jurisdictions—such as Sri Lanka—having *virtually no laws* dealing directly with contraception; the question is dealt with by regulation or by custom.
- Jurisdictions having a *far reaching and general policy, established by law, which does not go into detail*. This policy may be implemented by regulations. Attitudes are usually wholly favorable, as in the United Kingdom and some Scandinavian countries, or wholly negative, as in Spain.
- Jurisdictions having a *piecemeal, often inconsistent mixture of obsolete and recent laws, usually scattered throughout the various codes and fields of law*—for example, criminal or penal codes, public health laws (health codes, pharmaceutical laws, codes of medical ethics), press laws, postal laws, laws regulating imports, et cetera. This type of situation occurs most frequently.

Looking at the world in terms of large regional and cultural groupings, it is possible to make some generalizations about characteristic attitudes and approaches toward contraceptives.

Developed countries which have accepted contraception approach the problem from the point of view of human rights and family welfare. Developing countries which have accepted contraception are additionally influenced

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by concern with the damaging effect of swift population growth on economic development.

In Europe, the liberal group of Western countries and the socialist Eastern countries share a basically positive attitude toward family planning through contraception. Despite ideologically different attitudes toward the problem of the world's population growth, public health and human rights aspects motivate both regions.

The mass action to curb fertility in the People's Republic of China seems to be motivated predominantly by demographic factors and is unique among contemporary programs as to both extent and direct methods.

A marked difference still exists between attitudes and legal approaches in strongly Catholic countries and those of the rest of the world, but the contrast seems to be slowly decreasing. From the ethnic viewpoint, much of the resistance to contraception seems to be concentrated in Latin countries and in countries influenced by the French cultural heritage.

Many countries have laws which are widely ignored in practice, typically in the areas of penal sanctions and laws requiring medical prescription for the pill. Heavy reliance on penal or criminal law to regulate contraceptives is particularly marked in countries which have or have had a negative attitude toward family planning (for example, Belgium, Eire, Italy, and Spain).

The concept of regulating matters of contraceptives and family planning through the criminal law is increasingly regarded as faulty. The overwhelming modern trend is toward decriminalization, with the area of personal, private family relations considered especially unsuitable for criminal law. Criminal sanctions based on old sexual taboos are becoming unworkable now that there is far less consensus in society as to what is and is not grossly immoral.

1. Rationales on Which Laws Affecting Contraceptives Are Based

An understanding of the basic rationales influencing legal regulation of contraceptives is necessary to understand the laws and regulations themselves, since existing law is a fermenting mixture of old, restrictive attitudes with modern, liberal views.

TRADITIONAL RATIONALES

Some of the rationales prevalent before World War 2 are still influential today and lie behind the older pronatalist laws. These rationales include:

Human survival. A vital factor and a felt need from the origin of mankind until very recent times. This factor can be sensed even today in regions like tropical Africa which suffer a high rate of child mortality.

Nationalism. This rationale finds expression at three levels: ethnic rivalries within individual countries where groups of one religious, cultural, or racial origin are in fear of being outnumbered by a rival group (for example, the Singhalese and the Tamils in Sri Lanka); national rivalries between neighboring countries, accompanied by the belief that national security depends on large armies (France and Germany between 1870 and 1945; Honduras and El Salvador today); and fear of imperialism at the world level which leads people in a number of developing countries to view family planning efforts as genocide directed by Western Europeans and North Americans at the people of the developing countries.

Doctrinaire issues. The family planning issue is frequently equated with Malthusianism or neo-Malthusianism.

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Religious opposition. Some Christian and Moslem leaders tend to oppose contraception along with abortion and voluntary sterilization.¹

Protection of public morals. For more than 100 years, taboos on matters relative to sexual activities had a very strong and direct effect on laws concerning contraceptives in many countries.

This rationale breaks down into three distinct categories:

- View that all matters connected with sex are obscene, immoral, or indecent.
- Attitude that publicity on contraception is indecent in itself.
- Fear that accessibility to contraceptives will lead to promiscuity.

The Emotional Taboo on Sex

In the United States, the so-called Comstock era of the 1870s and 1880s marked a high point in the widespread puritanical opinion that anything to do with sex was obscene and sinful. During this period, the U. S. Congress adopted laws which, in sweeping language, prohibited the use of the mails for, and the interstate transportation of, any material concerned with contraception.² More than half of the states adopted strict prohibitions on sales, distribution, advertisement, and even use of contraceptives. In 1918, with the arrest of Margaret Sanger, a pioneer in the development of the birth control movement, substantial public interest and support for legal reforms was created.³ Through a series of decisions in the appellate courts, the provisions of the Comstock laws were gradually nullified in several state statutes. The most significant challenges to the Comstock Act occurred in 1965 and 1972 with the Supreme Court declaring the remnants of these state laws to be unconstitutional.⁴ Only in January 1971 was the federal repeal bill signed into law.⁵

The taboos of the Victorian period were not confined to the United States. Although there have never been any laws in the United Kingdom directed specifically against the use or provision of contraceptives, the language and

¹Unlike abortion and sterilization, opposition to contraception on the part of Moslem and even some Roman Catholic authorities seems to have disappeared or to be losing force.

²The basic legislation, introduced in the U. S. Congress by Anthony J. Comstock and passed in 1873 without significant opposition, set in motion a series of legislative acts and judicial decrees—on both state and federal levels—in pursuit of Comstock's cause, that is, to protect youth from vice and upgrade public morality by reforming the postal laws.

³*People v. Sanger*, 222 N. Y. 193, 118 N. E. 637, 638 (1918). For many years, whenever American advocates of family planning needed to clarify a basic legal issue with a court, they had to commit a flagrant violation of the criminal law so as to force authorities to prosecute.

⁴*Griswold v. Connecticut*, 381 U. S. 479 (1965); *Eisenstadt v. Baird*, 405 U. S. 438 (1972). Following the *Griswold* decision, progressive legislation was enacted in 16 states in 1965 and 1966 (Driver 1972).

⁵U. S. Public Law 91-662.

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mentality of 19th century English judges, revealed in well-known trials, reflected these taboos (Kloss and Raisbeck 1973). In Belgium, the provision against contraceptives in the 1923 amendment to the Penal Code—now repealed by law of 1973—was placed under the heading “Public Offenses Against Morals” (Lee and Larson 1971, pp. 159-164). The Eire Criminal Code Amendment Act of 1935, which prohibits the sale, exposure, import, or advertisement of any contraceptive, bears the title: “An Act to Make Further and Better Provision for the Protection of Young Girls and the Suppression of Brothels and Prostitution . . .”⁶ Before the passage of the 1967 law on contraception, debates in the French Assembly contained emotional statements in favor of the taboo:

. . . With the pill . . . women will become nothing more than objects of sterile lust. The pill will further encourage illicit love affairs. It is . . . an immoral method.⁷

Publicity on Contraception as Indecent

Since the time when contraception became an issue, there has been a question as to whether public sale, public display, or advertisement of contraceptives are public nuisances from the viewpoint of obscenity. Not only do the usual obscenity laws which protect the public against pornography similarly apply in many countries to the sale, display, or advertisement of contraceptives, but a separate legal fiction has frequently been applied to contraceptives under which they are considered as obscene per se.

Several laws place contraception, abortion, obscenity, and vice in the same category. An example of this is the state of New South Wales in Australia which enacted in the Obscene and Indecent Publications Act, 1901, that: “Any advertisement in relation to contraception or contraceptives shall be deemed to be an indecent advertisement.” More often contraceptives are identified with indecency by implication. As late as 1960, every one of the 30 state laws in the United States which dealt with contraception included a provision forbidding advertisement of contraceptives in some form.

This immorality or indecency rationale was applied so broadly that, until comparatively recently, not only contraceptive objects, but family planning itself, was deemed to be offensive to public decency and to be discussed, if at all, in private. An Australian judge stated that it [family planning] “suggested impure thoughts, it was offensive to chastity and delicacy, it expressed to the mind that which delicacy, purity, and decency forbid to be expressed . . .”⁸

⁶Eire. Criminal Law Amendment Act No. 6, 1935.

⁷*Journal Officiel, Débats, Assemblée Nationale*, July 1, 1965.

⁸*Ex parte Collins*, (1888) 9 L. R. (N. S. W.) 497, (cited by Finlay and Glasbeck 1973).

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In some countries, this concept can still be seen in the legislative approach to the sale of contraceptives by vending machines. Such sale is sometimes held to be dangerous to public decency or to the morals of the young. The emotionalism involved in this issue is exemplified by the following passage from a 1960 article by a judge of the West German Supreme Court:

Where means to be used for prevention of pregnancy and for the untrammelled indulgence in sexual desires are exposed in public streets and places in vending machines, such lewdness necessarily acquires the sanction of something normal and accepted. Human weakness and human failure are thus brought into daylight and displayed to the general public as matters which are natural and generally accepted . . . (Willms 1960.)

Best known as well as important because of its influence on the former French colonies, is the French law of July 31, 1920 which suppressed abortion and forbade the sale and dissemination of contraceptive products and information. An interpretation of this text by the French Supreme Court expanded the general prohibition of contraceptives on the basis that the vendor acts "necessarily" with the purpose of promoting contraception. These prohibitions of 1920 were nullified by legislation of 1967, which authorized the manufacture, import, and sale of contraceptives, distributed exclusively by pharmacies (Bourgeois-Pichat 1972).⁹

Fear of Promiscuity.

The third aspect of the immorality rationale is, in essence, based on the concept of deterrence, well known in criminal law, which holds that the expectation of punishment will deter people from committing a crime. Thus, it is assumed that the probability of pregnancy and the birth of an unwanted child is an important deterrent against extramarital sex for a young woman, while the availability of efficient and simple contraceptives would result in an increase in extramarital relations or even in prostitution.

The kind of girl who would like to know life without drawing too much attention to herself, the kind of young woman who would like to avoid the expense of maternity . . . will suddenly find [in a

⁹The French law of 1967 had placed the pill under strict control similar to that for narcotic drugs, allowing its distribution to unmarried women under 21 only with written parental consent, and prohibiting distribution of contraceptives to family planning centers. As this monograph goes to press, we learn that the French parliament has passed new legislation which liberalizes access to contraception (Law No. 74-1026 of December 4, 1974). According to Mrs. Simone Veil, the Minister of Health, contraception would thus become a matter of common right like any other medical procedure. All requirements either of a counterfoil book or of parental consent for the prescription of pills have been repealed, and costs of all contraceptives and laboratory work are reimbursed under the health insurance scheme. Family planning centers may now also distribute contraceptives to minors and to persons not covered by public health insurance.

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proposed liberal law] the medical prescription which will justify them and protect appearances.¹⁰

MODERN RATIONALES

Over the past 20 years, a number of new considerations have come into general acceptance in relation to contraceptives and family planning. These include:

- The human right to practice family planning.
- The requirements of public health and welfare.
- Excessive population growth in many developing countries.
- Medical considerations.
- Economic or commercial considerations.

The first two factors are the most widely accepted criteria for legislative action in this field. The third factor is believed by some not to be relevant for all countries, but is deemed of critical importance for many of the developing countries. The fourth and fifth derive from modern medical and commercial practices.

The Human Right

The right of couples to decide on the number and spacing of their children as a basic human right was established by a unanimous vote of the United Nations Conference on Human Rights at Teheran in 1968.¹¹ In 1969 the General Assembly resolved that this right implies the right of access to the knowledge and means necessary for its exercise.¹² In 1971 the U.N. Economic and Social Council urged that these rights be implemented by 1980.¹³ This attitude represents a complete turn-around from the position of the League of Nations, which referred to birth control as "abhorrent" and a "social menace" (Symonds and Carter 1973). Efforts of women to improve their status had much to do with such recognition of the right to family planning information, services, and supplies. Socialist countries hold that a woman has the right to decide on her own pregnancy. A more recent action was taken at the World Population Conference, 1974, by the Brazilian delegate in an official statement announcing future Brazilian policy. "Birth control is a matter for decision by the family unit which is not subject to government interference. It is the responsibility of the state to provide the

¹⁰M. Georges, debate in French Parliament. July 1, 1967. *Journal Official, Débats, Assemblée Nationale*, 2577.

¹¹*Resolution XVIII on Human Rights Aspects of Family Planning*, adopted by the Conference Plenary Meeting on May 12, 1968, by a vote of 56 in favor, none opposed, 7 abstaining.

¹²*Declaration on Social Progress and Development*. General Assembly Resolution 2542 (XXIV), December 11, 1969, adopted by a vote of 114 in favor, none opposed, 2 abstaining.

¹³Economic and Social Council. *Resolution 1672 (LII) on Population and Development* (1971).

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information and the means that may be required by families of limited income" to practice family planning.

However, on both the international and country level, many of the changes in attitude and law favoring access to family planning may have been motivated more by fear of excessive population growth and desire to enhance family welfare than by human rights considerations. The first constitutional provision dealing with the population issue, for example, appears to be that in the Philippines, where the Government was constitutionally vested with responsibility "to maintain population levels most conducive to national welfare."¹⁴ But since Teheran, no constitutional amendments in domestic legislation specifically reflecting the human right to family planning was put into effect until the new Yugoslav federal constitution of 1974 proclaimed:

It is a human right to be able to decide freely on the birth of children. This right may be restricted only for reasons of health.¹⁵

Similar provision is made in the 1974 constitution of the Yugoslav republic, Slovenia, a predominantly Catholic region.

Additionally, the courts in at least three countries—Italy, the United States, and Eire—have taken action on the basis of constitutional law to bring the law into conformity with this right. In Italy, the Constitution makes a reference to customary and "generally recognized principles of international law"; the Constitutional Court in 1971 struck down, on grounds of protecting free speech, some restrictive laws of the Mussolini period forbidding dissemination of information about contraception.¹⁶ In the United States, the Supreme Court developed the right of privacy in matters of sex and the family by implication from the 1789 Bill of Rights amendments to the Constitution.¹⁷ The Irish Supreme Court decided on December 19, 1973 in

¹⁴Art. XV, Sec. 10, 1973. *Constitution*. Republic of the Philippines.

¹⁵Art. 32, 1974. *Constitution*. Socialist Federal Republic of Yugoslavia.

¹⁶In 1965 the Italian Constitutional Court upheld the constitutionality of Sec. 553 of the Penal Code which, for the protection of morals, prohibited contraceptive propaganda. This decision was overruled by the same court in its Decision No. 49 of March 16, 1971, which stated:

... the problem of family planning has, at the present period of history, become so important socially and concerns such a broad scope of interests, that in the light of public awareness and of the gradual widening of health education it can no longer be considered an offense to public morals to discuss various aspects of the problem publicly, to disseminate information concerning it, or to promote contraceptive practices.

The Court found the provisions cited in the decision inconsistent with basic freedom of speech.

¹⁷The *Griswold v. Connecticut* (1965) decision of the U. S. Supreme Court found that a Connecticut statute forbidding the use of contraceptives unconstitutionally intruded upon the right of privacy of husband and wife. Following this decision, Massachusetts tried to preserve its law by adding a 1965 amendment enabling married people to obtain contraceptives from physicians or, upon prescription, from pharmacies. In 1972, the U. S. Supreme Court, in *Eisenstadt v. Baird*, struck down this legislation as unconstitutional and extended the protection of privacy to the unmarried.

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the *McGee* case that the ban on imports of contraceptives for private use was unconstitutional; the decision was founded on the interpretation of Article 41 of the Constitution relating to the protection of the "family, in its constitution and authority."¹⁸

One specific consequence of the general acceptance of family planning as a human right and, in particular, the ancillary right to have access to the necessary knowledge and means, is the effect it has on established concepts of obscenity. A West German criminologist recently reminded the legislators of his country:

In the field of birth control, we can hardly consider as criminally reprehensible that which international organizations, of which we are a member, recommend to the people of other continents (Bauer 1969)

Public Health and Welfare

The second modern rationale supporting liberal contraceptive laws is the importance now being given to public health and welfare, and concern for the damaging effect of unwanted pregnancies on physical as well as mental health and the whole family environment. Ill effects of such pregnancies include: increase in infant and maternal mortality after the fourth pregnancy; poverty and malnutrition prevalent in excessively large families which may result in permanent damage to children; housing problems; strained sexual relations between spouses troubled by fear of another pregnancy; the unsettling effect of pregnancy on the wife's job situation; the shattering effect of pregnancy on the young unmarried girl; forced marriages of immature couples; and the extremely high number of abortions. In addition, it has been shown that a child who feels unwanted by his parents runs a higher risk of emotional instability and juvenile delinquency than a wanted child (Forssman and Thuwe 1966; Group for the Advancement of Psychiatry 1973). Thus, problems of general social welfare, as well as family welfare, are involved.

The problem of illegal abortions may be among the most serious consequences of the non-accessibility of contraception.¹⁹ Although legislators in the latter half of the 19th and first half of the 20th centuries tried to stop abortion by strict legislation, it was—and is—the most common form of birth

¹⁸Mrs. Mary McGee's legal challenge to the Revenue Commissioners and the Attorney General resulted in the court declaring unconstitutional part of the Criminal Law Amendment Act of 1935. Although the ruling permits citizens and tourists to bring contraceptives into the country, the advertising and selling of contraceptives remains illegal. See *New York Times*, December 20, 1973, p. 3.

¹⁹"Induced abortion is probably the single most widely used method of fertility control in the world today and has been associated with declining birth rates in many countries" (United Nations Advisory Committee, 1971).

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control. A number of Latin American policymakers have concluded that access to contraception is essential for a solution to the problem.²⁰

High Rates of Population Growth

There has not been a consensus among all countries as to the importance or economic impact of the population explosion which has occurred in many developing countries since World War 2. As pointed out in Part 2 of this monograph, the Asian, North African, and some Latin American countries have recognized the danger and are taking steps to deal with it. Other developing countries in Africa and Latin America do not view high rates of population growth as a threat to economic development.

Medical Considerations

Among medical considerations frequently reflected in legislation are the following:

- o The requirement that the contraceptives used must be safe, acceptable to the population, and of good quality.
- o The requirement that the contraceptives must be made safely available to all socioeconomic classes under the conditions of medical care prevailing in the country.
- o The rules of medical ethics and medical practice prevalent in the country, including the question of use of paramedical health personnel and the degree to which medical duties may be delegated in each country.
- o The degree to which public advertising of certain drugs may lead to harmful self-medication.
- o The quasi-monopolistic interest of some physicians or pharmacists in preserving certain existing rules or practices.

Economic and Commercial Considerations

In some countries, purely economic or commercial considerations limit the general availability of contraceptives. The two principal considerations of this nature are the need to protect local industries, particularly an infant industry; and the need to conserve scarce foreign exchange.

The specific nature of the regulations based on these rationales, and the effect which they have on the availability of contraceptives are discussed in Part 3.

²⁰Professor Enrique Onetto Bächler, Deputy Chief of Maternal Health, Chile, as quoted in *Population Dynamics Quarterly* (1973). See also El Salvador sums up family planning success; plan enters new phase (*Population Dynamics Quarterly* 1974).

2. Regional Approaches to Contraception

In certain regions of the world it is possible to trace common *de facto* and *de jure* approaches to family planning, in general, and to contraception, in particular. Naturally, any regional picture in a field so interwoven with various motivations can be attempted only in very rough outline and with a caveat that many omitted details may depart from the general picture.

EUROPE

Three trends are visible among the developed countries of Europe. The first trend is seen in Great Britain, Scandinavia, and the Netherlands. In these countries contraception has been regulated in a markedly nonprohibitive way. Although national birth rates are generally lower than in Southern Europe, contraception is supported on the grounds of welfare (the "wanted children only" principle) and human rights. Recently both the Federal Republic of Germany (West Germany) and France have adopted contraceptive legislation on the basis of this approach.

A second group of European countries maintains strict restrictions on, and even prohibition of, contraceptives. These are the predominantly Catholic countries—Eire, Portugal and Spain; the last two are also Latin countries. Until recently, France and Italy belonged to this group. Recent French legislation now officially sanctions contraceptives, although in a restricted way. In Italy, the Constitutional Court in 1971 struck down a statute prohibiting contraceptive information; thus, at least in practice and in the absence of specific laws, contraceptives are now presumably legally available in Italy. Belgium retains some legal limitations which originated in the 1920s, although they are apparently not strictly enforced. In a few remaining countries of Western Europe, especially Austria and Switzerland,

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there are no significant provisions specifically governing contraceptives and the issue is not much discussed.¹

A third European group consists of socialist Eastern Europe, including the USSR and Yugoslavia. These countries share a positive approach to individually motivated family planning. Despite the declining birth rate in the European part of the USSR, the disparity between its natality rate and that of Asian USSR republics, and the roughly zero rate of natural increase in Eastern Germany and Hungary, few pronatalist policies are visible in laws or official attitudes, except in Romania.²

Ideologically, the socialist position follows the classics of Marxism and is therefore strictly anti-Malthusian. The family planning theory of the Communist states apparently gives more emphasis to the right of *women* to decide as to their motherhood than to the right of *couples*. The domestic position has been expressed as follows:

Naturally . . . an intra-family regulation of births is necessary, but it is in no way a function of the state. It has to be conceived of as an act of the parents . . . The Soviet State affords to a woman full freedom on the question of how she solves the problem of her maternity. The law regulates expert performance of abortions in a hospital; and, to protect women from the damaging consequences of such hospitalized abortions, various contraceptives are manufactured and sold (Savokasova 1966).

The growing use of abortion has strengthened official interest in contraception. However, until now the issue of population and family planning has not been considered to be of special importance; there are therefore few laws in socialist countries which deal specifically with contraceptives. An exception is Yugoslavia, where strong interest in family planning was expressed in 1969 in *The Resolution on Family Planning*, a document unique in Europe.³

¹It should be noted that the Consultative Assembly of the Council of Europe voted on Oct. 18, 1972, to "invite" its member governments to "authorize the sale of contraceptives" and to "create family planning advice bureaux in urban and rural areas."

²It would be a mistake to draw an opposite conclusion from constitutions of these countries which promise government support to large families (1936 Constitution of the USSR, Sec. 122, para. 2; 1960 Constitution of Czechoslovakia, Sec. 26, para. 2) or to "families with many children" (1952 Constitution of Poland, Sec. 67, para. 1). The laws of these countries actually support families with one or more children rather than *large* families. However, the recent implementing regulations of the Czech and Slovak Ministries of Health, which somewhat limit indications for induced abortions, are described as "necessary for the protection of the health of women and for the improvement of population development . . ." (Regulations No. 71/1973 and 72/1973, Czechoslovak Collection of Laws).

³*The Yugoslav Resolution on Family Planning* establishes family planning as a fundamental human right and duty. Society is viewed as obligated to provide appropriate information and means for family planning. Extensive use of induced abortion is discouraged through

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In 1974, the new Yugoslav constitution declared family planning to be a human right.

ASIA AND NORTH AFRICA

In the majority of countries situated in the broad strip from North Africa through the Near East to South and East Asia, demographic pressures are compelling governments to support or tolerate active family planning programs. India, in 1952, was the first country to start an energetic official program. Demographic pressures and governmental reaction have been similar in Pakistan, Egypt, Iran, and Tunisia have government programs dating from the mid-1960s. A change from a formerly negative policy can be seen in Turkey and possibly in Lebanon.

Policies favoring family planning have been officially adopted in Indonesia, Malaysia, Singapore, Sri Lanka, and Thailand. Extensive programs have been developed in the Republic of China (Taiwan), Hong Kong, the Philippines, the Republic of Korea (South Korea).

Common to these countries is a growing recognition by their governments that the demographic situation demands some sort of voluntary fertility control, and that government-sponsored family planning programs must be undertaken. In contrast with Latin America and tropical Africa, nationalist and religious attitudes are not as serious an obstacle as tradition, customs, and, in some countries, illiteracy. Nevertheless, various obsolete laws are still on the books in many North African and Asian countries. Failure to repeal these provisions may be a question of legislative expediency, delay in undertaking a legislative "clean-up", or opposition of vested medical or professional interests, rather than of a confrontation with cultural or religious concepts.⁴ In such cases, restrictive laws on contraceptives are frequently ignored in practice.

LATIN AMERICA

In Latin America, the unprecedented growth of population during recent decades is viewed as an acute problem in only a few countries. Some governments—Costa Rica, Dominican Republic, Mexico, and Venezuela

economic disincentives and legal restrictions. Legislative regulations encourage families who wish to limit their size to rely heavily on contraceptive technology. The resolution contains a recommendation for sex and health education to be included in the programs of schools and youth groups. The entire resolution is to be implemented through coordination and cooperation of the state's educational, social, and health organizations. (See Sluzheni list SFRJ 1969/20 (p. 612, No. 307.)

⁴In discussing WHO's role in family planning, Dr. Halfdan Mahler, Director-General of the World Health Organization, referred to the "vested interest of the medical profession which still hangs as a cloud over many of the things we do" (*People* 1973).

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—either officially sponsor or financially support family planning projects. In other countries—Argentina, Brazil, Uruguay—family planning is still officially opposed. Among relevant factors influencing anti-contraceptive law in Latin America are the influence of the Catholic Church, the traditional approach to women's status characteristic of Iberian cultures, and illiteracy. Also important are long-standing feelings of nationalism and rivalry, complicated by suspicions of the intentions of West European countries and especially of the United States. Thus, even governments which recognize the need for family planning have to choose a low-visibility policy and to proceed with circumspection so that the sensitive issue of birth control will not be exploited by their opponents.

TROPICAL AFRICA

The division of Africa south of the Sahara into French and English-speaking parts highlights the strong contrast between the two colonial heritages. With few exceptions, francophone countries are opposed to family planning and are pronatalist. Most have retained the restrictions against contraception contained in the French law of 1920, which was originally designed to deal with the situation in metropolitan France and which has been abandoned there since 1967. Indeed, the pending 1974 French legislation providing for free distribution of contraceptives may influence the francophone countries to alter their restrictive laws. In the former Belgian parts of Africa, Zaire is taking a new look at the problem, while Rwanda and Burundi still oppose family planning.

Although attitudes toward family planning vary, concern with population growth is clearer in the anglophone than in the francophone area. Ghana, Kenya, and Nigeria have enacted or announced official family planning programs, although they still retain some colonial laws limiting distribution of, and even information about, contraceptives. In all three countries, rates of natural increase are well above the average for the region.

Tropical Africa has the highest general and infant death rate in the world and, in many regions and tribes, a corresponding desire for large families. The level of literacy is low. Among the overwhelmingly rural population—approximately 90 percent of its inhabitants—an unprecedented migration to cities is now taking place, causing unemployment and worsened living conditions there. The future development of family planning policies on this continent is harder to predict than in any other region.

NORTH AMERICA

The legal situation in the United States of America has shifted comparatively recently from a former attitude of intolerance based on moral grounds

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to present official support for family planning by the federal government and some state governments. Welfare and human rights issues were largely instrumental in bringing about the change, although recently there has been a growing general recognition that population growth is not, in itself, a good thing (Dienes 1972; Pilpel and Wechsler 1971, U.S. Commission on Population Growth and the American Future 1972).

At the state level, liberalizing changes have been taking place since 1960. The 16 states which had restrictive contraceptive laws have eliminated them except for certain minor restrictions. Distribution of contraceptives and contraceptive information is now legal in all states, and an increasing number of states support family planning services and sex education. The trend seems to be toward disappearance of certain limitations in some states on advertising, sale to minors, insertion of the IUD, et cetera, although these restrictions do remain in some states.

At the Federal level, a Presidential message in 1969 stated that "we should establish as a national goal provision of adequate family planning services . . . to all those who want them but cannot afford them."⁵ The U.S. Commission on Population Growth and the American Future (1972) recommended policies and laws which would "enable individuals to avoid unwanted childbearing." Congress, meanwhile, repealed the 19th century laws preventing the use of the mails for transportation of contraceptives and has appropriated increasing amounts of money for domestic family planning services.⁶ In 1965 the Supreme Court found in *Griswold v. Connecticut* that the "right of privacy" guaranteed by the Constitution, covers the right to decide "whether and when to bear or beget a child."⁷

The legal trend in Canada is similar to that in the United States.

THE PEOPLE'S REPUBLIC OF CHINA

A family planning program, unprecedented in its scope and methods, has been undertaken in the People's Republic of China whose population is estimated to be the largest in the world. The present movement seems to amount to an organized mobilization of the whole of Chinese society to limit its fertility. Disciplined family planning is presented to the people as a party task and a national duty. Both planned and unplanned pregnancies and births are discussed at neighborhood meetings. Auxiliary medical workers visit families, give advice, and deliver contraceptives. Pills, IUDs, and vasectomies, as well as abortions, are among the family planning methods used (Faundes and Luukkainen 1972).

⁵The First Presidential Message on Population, formally transmitted to Congress on July 18, 1969. *New York Times*, July 19, 1969, p. 8.

⁶For names and discussion of laws, see footnote 4, Part 1.

⁷*Griswold v. Connecticut*. 381 U.S. 479 (1965).

3. Specific Fields of Regulation

Five main types of law limit or regulate the availability of contraceptives. These are laws which affect 1) imports; 2) manufacture; 3) sales and distribution; 4) advertising and publicity; and 5) the use of the mails.

PROVISIONS RELATING TO IMPORTS

A few countries which disapprove of contraceptives also simply forbid their import. These include Brazil and several francophone West African countries where the influence of the old French law of 1920 is strong. The affect of possible new contraceptive legislation in France on the 1920-based laws in Africa is uncertain. Lebanon has such a law, presumably inherited from the French mandate period, but does not enforce it. Romania's government, which has a monopoly on importations, apparently does not import contraceptives. Spain prohibits commercial imports, but not import for personal use (International Planned Parenthood Federation 1973b).

Most countries forbid importation of any drug that does not meet local standards of quality and safety. Some countries (for example, Jamaica) also forbid the importation of drugs not authorized for general use in their country of origin; this is to prevent experimentation on the local population by foreign drug companies.

Another motive for limiting imports is to conserve scarce foreign exchange or reserve the manufacture, compounding, or packaging of contraceptives for infant industries.

Several countries which give strong official support to family planning (including Iran, Mexico, Pakistan, the Republic of Korea, and Yugoslavia) limit imports to aid in the establishment of local industries. Mechanisms may include high customs tariffs, landing or brokerage fees, or difficult formalities.

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In some cases, this policy seems to have helped build up a strong local contraceptives industry. (The Republic of Korea now exports condoms.) Elsewhere, the barriers are an inadvertent holdover from a general protective tariff policy; in one country, the duty on packaging materials needed for the local industry was, until recently, higher than the duty on finished and packed imported contraceptives.

The Westinghouse Population Center study (1972) concluded that customs duties, taxes and fees are a serious legal impediment to contraceptive distribution, and that "these tariffs can increase the final retail price by as much as 40 percent on oral pills and by over 60 percent on condoms." Even a low tariff is a serious barrier since the need to arrange for the payment can cause delay and provide opportunities for extra-legal demands in some countries where duty-free products are normally cleared promptly.

A number of developing countries—India, Sri Lanka, and Turkey—place restrictions on all foreign purchases, including contraceptives, to conserve foreign exchange. Restrictions may require special permits to obtain foreign exchange, or advance payment by the importer of a large part of the purchase price. Since these countries usually support family planning, they allow gift contraceptives to be imported freely since imports of these items do not harm foreign exchange reserves.

It has been reported that, in Colombia, barriers to legal importation of condoms are so great that virtually all condoms available to the public are smuggled (A. D. Little, Inc. 1972).¹ In India, the Government appears to tolerate public sale of condoms which have apparently been imported illegally.

PROVISIONS RELATING TO MANUFACTURE

Almost all countries now permit the manufacture of contraceptives subject to protection of public health by testing or registration provisions. These various protective regulations are listed in the Country Tables at the back of this book.

There are, of course, the exceptional countries which forbid the manufacture as well as the import of contraceptives, including Spain and many francophone African countries. The Romanian Government apparently does not manufacture contraceptives; since they are not imported, they are hard to obtain.

There is little evidence that limitations on manufacture constitute a severe hindrance to the spread of contraceptives. This may be because most gov-

¹In the Colombian case, it is possible that the government may be maintaining legal import barriers both to protect the Andean Market arrangements and to give a favored position to Peruvian condoms.

ernments favor and assist local industry, or it may be because the limitations are not always strictly enforced (Westinghouse Population Center 1972).

SALE AND DISTRIBUTION

Most recent laws do not deal with the sale or distribution of contraceptives in general, as distinguished from laws dealing specifically with condoms, pills, or IUDs. However many countries have older laws prohibiting or restricting all contraceptives as a whole. Thus, in Spain the Penal Code provides heavy penalties for "any form whatever" of sale, offer for sale, administration, or publicizing of "medicaments, substances, objects, instruments, apparatus, means or procedures capable of avoiding procreation." The Irish law is similar. In Brazil the strict prohibition of sale appears to be limited to "contraceptive medicines."²

Although known as one of the most restrictive laws on contraception, the French legislation of 1920 merely contained a general prohibition of abortifacients, prohibiting contraceptives only when sold for the purpose of anti-conception propaganda. This general prohibition was later broadened by the French Supreme Court to include the provision that whoever sells contraceptives is purposely promoting contraception.³

However, the general practice in most countries with laws of this type was—and is—to circumvent the prohibition by selling contraceptives as articles of medical care. Condoms are sold as a means to prevent venereal disease. Pills are prescribed on "medical grounds" for menstrual cycle regulation. This situation is reportedly common in Spain, Italy (even before the 1971 decision of the Constitutional Court), Latin American countries, francophone Africa, and Lebanon.

Another way to limit contraceptives generally can be seen in the French legislation of 1967, which provides that sale of contraceptives take place "exclusively in pharmacies." Similar provisions have been tried in several other countries, including Brazil, Cameroon, Chad, Gabon, Greece, and Venezuela. Although the main rationale for these provisions may be the government's wish to discourage contraception, in some countries the rule has been given added support by successful lobbying by pharmaceutical interests.

Another frequent restriction on contraceptives in general is to prohibit display of contraceptives offered for sale. Some Australian states forbid the sale of contraceptives in a "public place" or "hawking from house to house" (Finlay and Glasbeck 1973). Until recently the Belgian prohibition on distribution was applied to free distribution and aimed at advertising or publicity. Belgium also forbade display of contraceptives in a shop. The

²Brazil Decree No. 20.377, September 8, 1931, Art. 125.

³*Cour de Cassation, Chambre Criminelle*, Crim. Dec. 10, 1925, D. P. 1926.1.97.

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Netherlands prohibits public display of contraceptive devices, but this provision is apparently not enforced. The West German law, as amended in 1960, still prohibits sale of contraceptives through vending machines along public roads or in public places. The rationale behind these provisions is that contraceptives are, by definition, indecent.

An opposite approach is the policy of ensuring an adequate supply of contraceptives, which has appeared since World War 2, starting in the Scandinavian countries. Sweden's negative policy toward contraception was reversed by a Royal Order of October 18, 1946 requiring all pharmacies to sell contraceptives. "It was hoped that this would help to dissolve the social taboos attached to these devices as well as to encourage more competition in their sales in order to lower market prices" (Lee and Larson 1971). In Denmark, condoms may now be sold in any shop, or from outdoor or indoor vending machines. Finland has a similar provision.

Special Provisions on Condoms

The questions of visibility or publicity are particularly significant in connection with laws affecting sales of condoms, possibly because they are frequently associated with illicit sex and venereal disease.

Two basic types of approach seem to exist. In countries with a liberal attitude toward contraception—most East European nations, Scandinavia, and the United Kingdom—condoms may usually be sold in many types of stores, by vending machine, or by mail. In countries with restrictive policies towards contraception, condoms may be sold only in pharmacies as prophylactics against venereal disease. This includes the francophone African countries, Brazil, Portugal, Spain, and Venezuela. Sale of condoms is also limited to pharmacies in some countries with pro-family planning policies, such as the Republic of Korea and Ghana, despite the limited number of pharmacies in those countries.

The issue of public display of condoms for sale has centered on the conditions under which condoms may be sold in public vending machines. Some jurisdictions have laws forbidding sale of condoms by vending machines in public places—for example, several states of Australia and the United States, Greece, Hungary, Switzerland, and by a specific provision enacted as late as 1960, West Germany. In Denmark, Great Britain, and the Netherlands, the law delegates to municipalities the power to regulate sale of condoms from vending machines.

The confrontation between the two approaches to condom sales is illustrated by West German judicial and legislative history during the 1960s. One of the highest courts, the *Bundesgerichtshof*, decided in 1959 that sale of condoms from vending machines in a public place was, in itself, a violation of public morals and decency. However, another West German high court,

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the *Verwaltungsgerichtshof*, reached the opposite conclusion, adding that the sale by vending machines, even in public places, is more discreet and less offensive than sale in a shop. In 1970 the *Bundesgerichtshof* accepted the second position and overruled its former decision.⁴ Although the administrative law of West Germany still has a provision prohibiting sale of condoms from vending machines in public places, a governmental comment on the 1972 draft penal code amendments announced that a bill is being prepared to relax the restrictions on sale of contraceptives by vending machines and by mail.⁵

Special Provisions on the Pill

In the 1960s, the oral hormonal contraceptive became the focal point of interest in family planning for two reasons. First, because it is a drug with a broad influence on bodily functions, its use involves medical problems which had not yet been entirely solved. Second, it is the most effective known contraceptive and is relatively easy to use.

Three types of legal restrictions have been applied to the pill: general laws against contraception; the requirement that sales of pills take place only in pharmacies; and the requirement of a medical prescription.

Of course, countries which are opposed to contraceptives in general prohibit sale of the pill. However, even here a natural back door has been found since it is difficult for any country to prohibit administration of a useful, medically indicated medicine. Thus, pills are prescribed and sold "on medical grounds only," not as contraceptives, but as a means to regulate the menstrual cycle. Countries where this approach is used include Argentina, Brazil,⁶ Eire, and Spain as well as France before 1967. This approach has enabled a substantial level of illegal contraceptive sales, but has not helped people with limited economic means or without social contacts with the medical profession.

The legal requirement that oral contraceptives be sold only in pharmacies is almost universal (International Planned Parenthood Federation 1973b). In some countries—Australia, Costa Rica—the law permits specified substitute shops to sell some kinds of medicines in areas where there is no pharmacy. In Brazil, the requirement of professional qualifications to conduct a pharmacy may be eased in remote places. Nearly everywhere, physicians have

⁴Germany, Federal Republic of. Decisions of the *Bundesgerichtshof*: BGHSt 13, 6 (1959); 3GHSt 23,241 (1970) (overruling). Decision of the *Bundesverwaltungsgerichtshof*: BVerwG 10,164 (1960).

⁵*Entwurf eines Fuenften Gesetzes zur Reform des Strafrechts (5 StrRG) (Gesetzesentwurf der Bundesregierung)*. Deutscher Bundestag, 6. Wahlperiode, Drucksache VI/3434, p. 7.

⁶A 1973 letter from Brazil states that despite the law, contraceptive devices and anti-ovulation medications are sold in pharmacies in the normal course of business, even without a prescription.

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retained their old right to dispense medicines—including the pill—directly to patients. Similarly, in most countries, facilities used by official government family planning programs, or, in some cases, non-governmental family planning associations, furnish clients with oral contraceptives under medical supervision. A notable exception is France, where even under the law of 1967, such facilities are expressly forbidden to dispense contraceptives.

The principal argument for restricting sales to pharmacies is that only a professional with a certain level of formal education has the knowledge required to deal with the increasingly complicated modern drugs. Another frequent argument is that since pills are almost always sold on prescription only, this control is enforced by the requirement that they be dispensed only in pharmacies. In addition, most countries not only have a tradition that medicaments be sold exclusively in pharmacies, but also have private interest groups which wish to maintain a monopoly on distribution.

Virtually all countries require medical prescription for sale of oral contraceptives (Westinghouse Population Center 1972). The requirement exists in all developed countries, including Australia, Canada, continental Europe, the United Kingdom, and the United States. In most of these countries, the availability of physicians and the general high standard of living makes this requirement easy to meet. In many developing countries, however, lack of physicians, difficulty of travel, and the doctor's fee result in practical exclusion of the pill as a contraceptive. The Summary Report of the Westinghouse Population Center (1972), which made an in-depth study of pill distribution in eight countries, concluded that "the single greatest impediment to increased distribution of contraceptives is the lack of availability of oral pills . . . outside of pharmacies."

In many developing countries, the law is disregarded and the pill is commonly available without prescription. Whereas the "prescription only" requirement legally exists in nearly all countries included in the Country Tables at the back of this book, studies indicate that the pill can be obtained without medical prescription—sometimes in pharmacies and sometimes also in other places—in Brazil, Republic of China, Egypt, Ghana, Indonesia, the Ivory Coast, Jamaica, Lebanon, Malaysia, Mexico, Pakistan, Panama, the Phillipines, Thailand, Turkey, and Venezuela, among other countries.

In a few developed countries, provisions may limit distribution of the pill more narrowly. Older regulations in some of the constituent republics of Yugoslavia reserve the right to prescribe pills to gynecologists. A similar trend can be found in other socialist countries because of specialization of work within national health systems. In Hungary, exceptionally strict regulations limit pill prescription to specialists in local health institutions after the patient undergoes tests. Women who use the pill continuously must have regular physical checkups, free-of-charge to those entitled to social security.

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A register is maintained for every woman taking pills, which may be prescribed only for 6 months and sold by designated pharmacies.⁷ The rationale underlying regulation is apparently of a strictly medical nature, since the country's policy is to permit unlimited sale of adequate contraceptives at a reduced price.

The rigid restrictions on distribution of pills under the 1967 French law were justified only partly on medical grounds. The intent was also clearly to restrict access by young and unmarried people to efficient contraceptives;⁸ one of the limitations was a prohibition against prescribing pills to unmarried persons under 21 without written consent of the parents.⁹ The conservative, post-World War I French attitude has influenced some francophone African countries which have not yet considered the changes being debated in the French Parliament.¹⁰

A draft bill of a law expressly dealing with prerequisites for sale of oral contraceptives was submitted to the Italian Parliament on August 2, 1972. Sale of medications "with a progestative function" would be allowed only upon medical prescription, valid only for one "administration" of the drug, and expiring in 6 months. Use of the pill would have to be under the direct control of a physician.¹¹ The present legal as well as factual situation in regard to contraceptives in Italy seems to be unsettled.

Loosening of the prescription requirement has been infrequent. It has occurred in Pakistan. In the Republic of Korea it is in effect for women who can "pass medical screening." Israel appears to have no legal ban on the sale of hormonal contraceptives without medical prescription. In some countries with high population pressures (for example, Bangladesh and Sri Lanka), it has been suggested that oral contraceptives be removed from the

⁷Hungary. Decree Eu.M. No. 36, 1968 on the hormonal contraceptive Infecundin, and Eü.M. directive No. 4, 1971 on Bisecurin. In East Germany the right to obtain oral contraceptives, offered to women in a 1972 regulation, has been elaborated so as to increase the number of physicians who may prescribe oral contraceptives (i. e., to include physicians other than gynecologists). Under the present organization of health services in East Germany only gynecologists or obstetricians may prescribe the pill. Regular checks for women taking the pills are to be organized.

⁸France. *Journal Officiel, Debats, Assemblée Nationale* July 1 and December 14, 1967; *Senat*, December 5 and 15, 1967.

⁹Whoever sells or otherwise furnishes oral contraceptives to "non-emancipated" (i. e., in practice, unmarried) persons under 21 years, and a physician who knowingly prescribes them without written consent of a parent may be punished by imprisonment from one to four years and/or a fine. Law No. 67-1176, Sec. 7,11, (1). See World Health Organization, 1971.

¹⁰Special provisions of the 1967 law apply to the three departments of overseas France, which are considered overpopulated. Centers of family planning and education are provided for, which may give out free contraceptives. See decree of Ministry of Public Health of January 5, 1974, *Le Monde*, January 6, 1974, p. 6, col. 4.

¹¹Italy. Draft No. 646 of *Regulation on Anticeptive Propaganda and on the Sale and Use of Progestative Contraceptives*.

list of prescription-only drugs. Recently, Antigua and Fiji removed the prescription requirement for the pill. Since late 1973, the prescription requirement for contraceptives, including the pill, for all married couples, has been eliminated in Chile.¹² In Thailand it was tried experimentally with good results. In Pakistan, the Decree of May 4, 1973 by the Ministry of Health failed to rescind the sale-in-pharmacies requirement. (Rosenfield 1972).

In most countries, the laws have been motivated by the desire of physicians to establish adequate safeguards against side effects of relatively new drugs, with little attention being given to the aspects of human rights and family welfare.

Special Provisions on Intrauterine Devices

Although heavily relied on in some national family planning programs, the IUD has either not been regulated by law in most countries, or has been covered only marginally. The relative lack of provisions on the distribution of this device can be explained partly by its novelty and partly by the fact that it cannot be self-administered. Most restrictions on the IUD are not based on laws regulating contraceptives, but on other kinds of laws or regulations dealing with medical practices.

Thus, its availability is bound, especially in the United States, by controls on drugs. In nearly all European countries and in many other nations, the generally accepted practice is IUD insertion by a physician. As most countries have no specific legal provision for this, the rule is based on laws which regulate the medical profession. At present, two trends away from this general rule can be discerned. In some developed countries, the trend is toward stricter control. In developing countries, the trend is toward more relaxed requirements. In some developed countries—for example, in Finland (Turpeinen 1966) and in several European socialist countries—authorization to insert IUDs is restricted to gynecologists. In Eastern Europe, this restriction is an outgrowth of the administrative organization of state health centers, where medical care is provided.

Hungary has a detailed legal directive on IUDs. The device may be inserted in women who already have had one or more births, regardless of age, and in women over 18 years whose pregnancy is unwanted for health reasons. The time of inserting the device is regulated and regular checks every 6 months are required. Although insertion and periodic examination are free-of-charge, there is a fee for the device itself.

In several developing countries, including the Republic of Korea, Pakistan, the Philippines, and Thailand, where population pressures exist, the

¹²Antigua and Fiji *People*, 1974.

Chile: Personal communication to ICP from Professor Enrique Onetto Bächler, Deputy Chief of Maternal Health, Santiago, Chile, October 9, 1974.

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trend is to entrust trained paramedical personnel—midwives, specially trained nurses, et cetera—with insertion responsibility.¹³ In Mexico, the Republic of Korea, and the Philippines, special authorities train paramedicals for insertion work. On the other hand, in Brazil a special provision prevents midwives from “applying pessaries” in the uterus, whether empty or full.¹⁴ Another apparent limitation is the rule, in some Asian countries (for example, Indonesia) that the consent of the husband is necessary before insertion of the IUD.

A completely different situation exists in the People’s Republic of China. IUDs were “the first contraceptive method introduced in China on a large scale.” In rural areas it seems to be the most frequently used contraceptive, although “relatively low effectiveness” has been reported (Faundes and Luukkainen 1972). Insertion is performed mainly by trained nurses or midwives and in some places by “barefoot doctors” who have received an elementary or middle (that is, 5 to 8 years) schooling and a 6-month training in health services.

ADVERTISING AND PUBLICITY

Provisions in this field, dealing both with the advertisement of contraceptives and with publicity for contraception and family planning, are the oldest and most frequent laws concerning family planning. Their prevalence appears to be due to historical attitudes of pronatalism, including the attitude that contraception is immoral, as well as to the totally separate medical rationale, in connection with the pill, that “prescription only” medicines should not be advertised to the public.

Origins of the anti-obscenity-motivated laws date back to the English Obscene Publications Act of 1857 and the Indecent Advertisement Act of 1889 (Fox 1967) which influenced the countries of the former British Empire; to the French Law of 1920 which influenced former French

¹³On Pakistan see Jaferey, S. A. 1968.

In the Republic of Korea, Section 7 of the Maternal and Child Health Law, No. 2,514 of February 8, 1973 states:

Insertion of intra-uterine contraceptive devices shall be performed only by a physician or those who are designated by presidential decree.

Presidential Ordinance No. 6,713, May 28, 1973, implementing this law, provides that designated persons mentioned in Section 7 shall be:

... licensed midwives or nurses who have been trained in such courses as prescribed by the Minister of Health and Social Affairs for more than two months at either the National Institute of Health, the Korean Institute for Family Planning, or medical institutions as prescribed by the Minister . . .

For a description of the practice in Indonesia, see: Keeny 1972. *People* 1973.

¹⁴Brazil. Decree 50,387, March 28, 1961. Sec. 16 (f).

colonies and mandates; and to the Comstock era laws of the United States. The same attitude also influenced the Catholic countries of Latin America.¹⁵

Laws restricting advertisement of medicines are aimed at regulating self-medication by the lay public. It has also been argued that advertising would encourage the spread of illegal sales of prescription drugs. Other reasons for some special limitations are to prevent misleading and "quack" advertising and possible unsolicited harassment in sexual matters.

Principal Types of Restrictions

Dissemination of information on contraception is totally prohibited. This is the case in the very conservative countries—for example, Brazil, Eire, and Spain—as well as in Italy before 1971 and, apparently, in Lebanon and francophone Africa. In Romania all advertising of contraceptives seems to have been discontinued since 1966. In the Philippines, until December 1972, the law even prohibited advertising by mail to the medical profession.¹⁶ As late as 1969, the Australian state of New South Wales forbade all advertisement of contraceptives—including advertisement to professionals—as obscene *per se*; ". . . any advertisement in relation to contraception or contraceptives shall be deemed to be an indecent advertisement."¹⁷

Advertising of contraceptives to the medical profession is permitted, but only with official authorization. Advertising of contraceptives to the public is prohibited. In France, a special implementing decree (No. 69-105, Sec. 5) under the 1967 law provides that commercial advertising in professional journals requires specific authorization from the Minister of Social Affairs, who must consult a special board. The law specifically forbids "all anti-natalist propaganda".

Advertising of all contraceptives to the medical profession, but not to the public, is permitted. In some Latin American countries and in most Aus-

¹⁵An example of official hostility towards family planning is the following commentary by a Brazilian appeals judge, referring to Sec. 20 of the 1941 Law on Contraventions, which prohibits sales promotion of contraceptives (J. Duarte, 1944, p. 308):

. . . foreign influences have been reflected in Brazil. Contraceptive practices were introduced in our customs, and lewd women were induced by bad examples, by propaganda . . . to avoid the consequences of sinful love affairs or even what they considered to be the burden of disenchanting maternity . . . The use of medicines, processes, abortive means, and contraceptives had assumed a frightening proportion. All this has provoked a measure which, at least, would keep up the appearances and would not uphold the scandalous and degrading propaganda.

¹⁶Philippines. Letter of Instruction No. 47 of December 1972. See also Country Table.

¹⁷New South Wales, stat. Obscene and Indecent Publications, Act. 1901-1969. Sec 3, para. 1.

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tralian states, this ban covers even non-medical contraceptives. This situation may not be significantly different from that in some of the countries which limit all advertising, since a total ban on advertisement of medicaments except to physicians and pharmacists is apparently too difficult to enforce.

Advertising of "prescription" drugs is confined to the medical profession, but non-prescription contraceptives may be advertised generally. This is the typical rule found not only in all Western developed countries but also in the large majority of developing countries. It has been enacted into law in only some of the socialist countries—Poland and Yugoslavia—since in most of these countries only public enterprises can trade in pharmaceutical products, and advertising problems can be handled administratively. Even in a country with a family planning program as intensive as in the Republic of Korea, a ban on advertising contraceptives in the non-medical press was enacted in 1971. (Efforts to repeal these provisions are expected.) In Canada, the prohibition on advertising to the public was expressly extended to the IUD.

Advertising of all medicines to the general public may be permitted if approved in advance by a competent authority. This is the case in Chile and Ghana.

Various other restrictions on advertising, with diverse motivations, cover contraceptives as well as other drugs. There are detailed provisions against false or misleading advertisement of medicines in the Federal Republic of Germany¹⁸ and the United Kingdom.¹⁹ Canada specifically forbids the publication for purposes of advertisement of any statement regarding efficacy which is not based on adequate testing.²⁰ Free delivery of samples of medicines, including contraceptives, to physicians as a form of advertisement is prohibited in Thailand. In the Federal Republic of Germany, sending of medicine samples to physicians is permitted only if the physician specifically requests the medicine for testing purposes. The quantity sent must be commensurate with this purpose.²¹ Public health considerations lead some countries—for example, Malaysia, the United States, and Yugoslavia—to provide that advertisements for prescription drugs (which appear mainly in the professional press) must note side effects, contraindications, et cetera.

Some countries have no legal restriction on certain aspects of advertising, but limit it in practice. In the Netherlands, the pharmaceutical industry and

¹⁸Germany, Federal Republic of. Medicine Advertising Law of July 11, 1965, BGBl. I. S. 604, Sec. 9

¹⁹United Kingdom. Medicines Act of 1968, Sec. 83.

²⁰Canada. Criminal Code, Sec. 306, para. 2.

²¹Germany, Federal Republic of. Law on Medicines of May 16, 1961, BGBl. I. S. 533, Sec. 34, para. 2

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the national association of newspaper proprietors are in agreement against the advertising of prescription drugs, an agreement which is accepted generally by the mass media.

General Comments on Advertising Limitations

Examination of laws on advertising and publicity on contraceptives leads to three conclusions. First, certain similar provisions recur in the laws of countries which are themselves dissimilar and at different stages of economic and demographic development. There is widespread reluctance to permit public promotion of contraceptive articles in general and prescription pills in particular. Second, advertising restrictions seem to be generally observed; the difference between *de jure* and *de facto* situations is not as great as it is in the case of contraceptive sale. Third, advertising is an area where established ideas of decency and indecency seem to have retained much of their force.

A major policy dilemma exists with regard to advertising, particularly in the case of the pill. On one hand, public health authorities argue that use of a drug should not be encouraged until everything possible is known about its side effects and that self-medication should be discouraged. A West German medical authority has argued (Kerrid'1 and Maretus 1965) that advertising of medicines may be untenable since no society should encourage a larger consumption of drugs than necessary. It should be pointed out in this connection that in light of the wording of the laws of most countries, if the pill is taken off the list of "prescription only" drugs, the ban on advertising contraceptives may fall automatically.

USE OF THE MAILS

Provisions restricting the use of the mails in connection with contraceptives have historically originated in common law countries. In the United States, the Congress 100 years ago enacted severe provisions against sending contraceptive matter through the mails. A vestige of the old law, which was repealed in 1970, still remains, prohibiting the use of the mail for unsolicited advertising in this field and for sending samples. Mexico excludes samples of pills, IUDs, and condoms from the mails.

A peculiar situation that existed until 1973 in the Philippines is typical of how remnants of old laws tend to persist long after official policy and attitudes toward contraception have changed. The Revised Administrative Code of the country declared that articles, instruments, drugs and substances designed, intended, or adapted for preventing conception were "absolutely nonmailable matter." In December 1972, a Presidential Letter of Instruction to the Postmaster General directed him to disseminate informa-

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tion on family planning.²² This action presumably repeals the restrictive provision.

²²Philippines. Letter of Instruction No. 47 of December 1972. See Country Table.

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Tabular Analysis* of Laws, By Country

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|---------------------------------|---|
| 1. Algeria | 35. Jamaica |
| 2. Argentina | 36. Japan |
| 3. Australia | 37. Kenya |
| 4. Austria | 38. Korea, Rep. of |
| 5. Belgium | 39. Lebanon |
| 6. Brazil | 40. Malaysia |
| 7. Burundi | 41. Mali |
| 8. Cameroon | 42. Mexico |
| 9. Canada | 43. The Netherlands |
| 10. Central African Republic | 44. Niger |
| 11. Chad | 45. Nigeria |
| 12. Chile | 46. Pakistan |
| 13. China, People's Rep. of | 47. Peru |
| 14. Colombia | 48. Philippines |
| 15. Congo-Brazzaville | 49. Poland |
| 16. Costa Rica | 50. Portugal |
| 17. Czechoslovakia | 51. Romania |
| 18. Dahomey | 52. Senegal |
| 19. Denmark | 53. Singapore |
| 20. Eire | 54. Spain |
| 21. Finland | 55. Sri Lanka (Ceylon) |
| 22. France | 56. Sweden |
| 23. Gabon | 57. Thailand |
| 24. Germany, Democratic Rep. of | 58. Tunisia |
| 25. Germany, Federal Rep. of | 59. Turkey |
| 26. Ghana | 60. Union of Soviet Socialist Republics |
| 27. Guinea | 61. United Arab Republic (Egypt) |
| 28. Hungary | 62. United Kingdom |
| 29. India | 63. United States of America |
| 30. Indonesia | 64. Upper Volta |
| 31. Iran | 65. Venezuela |
| 32. Israel | 66. Yugoslavia |
| 33. Italy | 67. Zaire |
| 34. Ivory Coast | |

*Much of the information for the Tabular Analysis of Laws, by Country was derived from the following sources:

International Planned Parenthood Federation, Europe Region. 1973. *A Survey of the Legal Status of Contraception, Sterilisation and Abortion in European Countries*. International Planned Parenthood Federation: London.

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1. ALGERIA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	1969 Ordinance grants exclusive import rights for pharmaceuticals to the Algerian Central Pharmacy. It has been reported that 2 million cycles of pills were purchased commercially in 1972.		
Manufacture			
Sale and Distribution	Contraceptives are available in pediatric clinics to women who have had five children.		
Advertising and Publicity			
Use of Mails			

2. ARGENTINA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import of contraceptives in finished form is forbidden. (This may not apply to condoms for prophylactic use) Import duty is 5% on raw materials not locally available; 95% if raw materials are locally available.		
Manufacture	Contraceptives may be manufactured, but must be officially tested and registered before sale.		
Sale and Distribution	No restrictions on sales. May be sold in vending machines.	Price controls imposed because of government anti-inflation efforts Pills and IUDs were formerly available, usually without prescription, in registered pharmacies; but in March 1974, a Ministry of Health Decree required a prescription signed by three medical authorities.	
Advertising and Publicity	By decree of March 1974 dissemination of birth control information prohibited. Voluntary family planning association had carried on some information and education work prior to March 1974. Condoms may be advertised, but discretion must be exercised as to language used		
Use of Mails			

3. AUSTRALIA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted. Duty is 47½%, plus sales tax of 27½%	Imports are permitted. Procedures for evaluation of pills to be imported have been established by the Australian Drug Evaluation Committee. Duty is 32½%, plus sales tax of 27½%	Imports are permitted. Duty is 32½%, plus sales tax of 27½%.
Manufacture	States require license for manufacture of medicaments. Victoria, Western Australia, and Tasmania require registration or classification of medicines before marketing. Federal legislation gives the Ministry of Health power to set standards for goods designed for therapeutic use.		
Sale and Distribution	The Federal and Queensland branches of the Australian Medical Association ruled in 1971 that prescribing contraceptives to unmarried minors should not be <i>ipso facto</i> unethical. Unlawful selling is punishable by fines. <i>De jure</i> : States' laws prohibit sale of contraceptives in public places, including shops. In Victoria even pharmacies apparently are forbidden to sell condoms. In places with restricted access, vending machines may be used. <i>De facto</i> : Condoms are sold not only by chemists, but even by hairdressers in some rural areas, as well as in Victoria.	Pills are sold in pharmacies on prescription only, and by physicians. The legislation in all states puts pills on the list of poisons available on prescription only.	IUDs are widely accepted and their legality is never questioned. <i>De jure</i> : There are no restrictions. <i>De facto</i> : IUDs are only inserted by physicians, and often only by gynecologists.
Advertising and Publicity	Some states specifically prohibit advertisement, display, or gratuitous delivery of any contraceptive, unless directed, to physicians and pharmacists. In 1969, New South Wales enacted legislation declaring contraceptive advertisements indecent. All states have legislation prohibiting obscene or indecent publications or advertisements. In <i>Ex parte Collins</i> (1888) it was held that a publication setting forth methods of contraception was not obscene. Some states (e.g. Victoria) prohibit house-to-house sale or promotion of contraceptives. Offenses of unlawful advertising are punishable by fines.		
Use of Mails			

4. AUSTRIA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	No specific restriction. Commercial imports of pre-packed pharmaceutical products must meet designated standards.		
Manufacture	Manufacture of contraceptives injurious to health is prohibited.	Manufacture of contraceptives injurious to health is prohibited.	Manufacture of contraceptives injurious to health is prohibited.
Sale and Distribution	No restrictions on condoms; they are sold in various shops and in vending machines.	Pills are sold in pharmacies on prescription only. Medical advice is free under National Insurance program; there is a charge for pills.	A ministerial order of 1953 prohibiting certain contraceptives detrimental to health was applied to IUDs; this was repealed in 1972.
Advertising and Publicity	No restrictions. A regulation of 1941 prohibiting advertisement of contraceptives was repealed in 1952.		
Use of Mails			

5. BELGIUM

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Private import of contraceptives for personal use is not prohibited.	Private import of contraceptives for personal use is not prohibited.	Private import of contraceptives for personal use is not prohibited.
Manufacture	Manufacture of contraceptives is not prohibited.	Manufacture of contraceptives is not prohibited.	Manufacture of contraceptives is not prohibited.
Sale and Distribution	Condoms are sold in pharmacies and other shops. Sale or distribution to persons younger than 18 years of "indecent objects" is prohibited.	Pills are sold in pharmacies on prescription only; sale to minors is limited.	
Advertising and Publicity	Penal Code prohibitions on advertisement of contraceptives repealed in 1973. Medical press carries advertisements. Until 1973, production, import, transport, or advertisement of birth control publications prohibited, if for purpose of trade or distribution. Government is now sponsoring official contraceptive information program.		
Use of Mails			

6. BRAZIL

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import, manufacture, or sale of products labelled as contraceptives has recently been banned as a matter of practice. Materials presumably may be imported as prophylactics or as medications to control menstrual cycles. Duty on condoms is 37% of c i f.*	Duty on pills is 31% of c i f.*	Status of IUD imports is not clear
Manufacture	Central Laboratory for the Inspection of Drugs and Medicaments has been established to make examinations and analyses, to give technical opinion on new products, and to propose withdrawal of licenses for products, etc.	Pills may be sold only after having been licensed by the Service of Medical Control.	
Sale and Distribution	The Federal Council of Medicine recently liberalized prescription of contraceptives and insertions of IUDs, although its authority to act in this matter is not clear.		
	Condoms are illegal as contraceptives but may be sold in pharmacies as prophylactics against venereal disease. No official distribution.	Theoretically, pills are sold in pharmacies on prescription only as drugs used for ovulation and menstrual control, but are in fact accessible without prescription. No official distribution. Doctors are forbidden to take part in practices designed to prevent conception.	In the state of Guanabara the sale, insertion, and recommendation of the use of IUD is forbidden in pharmacies, drug stores, doctors' offices, etc.
Advertising and Publicity	Advertising, even indirectly, any pharmaceutical products as contraceptives is forbidden. It is a criminal offense, punishable by fine, to "announce a procedure, substance, or an object" for avoidance of pregnancy. ⁹ Publicity for family planning is theoretically forbidden, but family planning is publicly discussed in the press and elsewhere. At the World Population Conference in Bucharest, August 1974, the Brazilian delegation announced that Brazil would provide information and means for family planning for low income families.		
Use of Mails			

*Cost, insurance and freight.

⁹Law on Penal Contraventions, 1941.

7. BURUNDI

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IBBs
Imports	Import of medicines requires authorization by health authorities. Import and transport of birth control pamphlets is prohibited if for trade or free distribution.		
Manufacture			
Sale and Distribution	Free distribution of contraceptives is prohibited.	Free distribution of contraceptives is prohibited. Pills can be sold in pharmacies; where there is no pharmacy within 15 km., physicians may sell pills.	Free distribution of contraceptives is prohibited.
Advertising and Publicity	Display of contraceptives is prohibited. Advertising contraceptives or distributing contraceptive information is prohibited by the Penal Code of 1940.* Advice on contraceptives for other than commercial purposes is permitted.		
Use of Mails			

*Section 178, paragraphs 3-5 of the Penal Code are modeled on Section 383, paragraphs 7-8 of the Belgian Code as amended in 1923, except that the upper limits on penalties have been doubled. Belgium has since liberalized its code in this regard

8. CAMEROON

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import of contraceptives is prohibited.	Import of contraceptives is prohibited.	Import of contraceptives is prohibited.
Manufacture	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited.
Sale and Distribution	<p>Interpretation of French Law of 1920 against contraceptive propaganda construed as banning contraceptives themselves</p> <p>Condoms available in pharmacies as protection against venereal disease.</p>	<p>Pills forbidden as contraceptives, but available in pharmacies on physician's prescription only for health reasons. Few physicians per capita population.</p>	IUDs prohibited.
Advertising and Publicity	Commercial advertising prohibited. National Association of Pharmacists required to enforce all regulations against advertising of pharmaceutical products.		
Use of Mails			

Miscellaneous: Strong penal provisions are available to enforce the restrictions.

9. CANADA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports permitted. Detailed provisions found in the Food and Drug Regulations, including importer's responsibility to furnish previous notification to Director of Food and Drug Administration.		
Manufacture	Notification of manufacture required. Detailed control provisions contained in Food and Drug Regulations. Sale or advertisement of a new drug requires authorization from Ministry of Health.		
Sale and Distribution	Free or subsidized family planning services with contraceptives are available in some provinces, with financial support from the federal government. Condoms must be labelled.	Pills sold in pharmacies on prescription only, and are listed as prescription drugs in the Food and Drug Regulations. Labelling required. Prohibitions on distributing drugs as samples. Welfare recipients obtain pills without charge. In the province of Quebec, social aid may meet the cost of pills.	The law as to who may insert an IUD is not clear, even if insertion of IUD is considered to be a medical act. Under the law of Ontario, a paramedical cannot perform a medical act for payment.
Advertising and Publicity	Contraceptive "drugs" not listed as prescription drugs may be advertised to the general public. No birth control program may be advertised unless it is "appropriate to the medium." Condoms may be advertised but not by distribution of samples or through the mail.	Advertisement of pills on radio and TV subject to official approval.	IUDs may not be advertised.
Use of Mails	Sending advertisements of condoms through the mails prohibited.	Sending samples of drugs through the mails prohibited, except to physicians.	

10. CENTRAL AFRICAN REPUBLIC

TYPE OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import of contraceptives is prohibited.	Import of contraceptives is prohibited.	Import of contraceptives is prohibited.
Manufacture	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited.
Sale and Distribution	Interpretation of French Law of 1920 against contraceptive propaganda construed as banning contraceptives themselves.		
	Condoms are available in pharmacies as protection against venereal disease.	Pills are forbidden as contraceptives, but available in pharmacies on physician's prescription only for health reasons. Few physicians are available per capita population	IUDs are prohibited.
Advertising and Publicity	Commercial advertising is prohibited.	Commercial advertising is prohibited.	Commercial advertising is prohibited.
Use of Mails			

Miscellaneous: Strong penal provisions are available to enforce restrictions.

11. CHAD

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import of contraceptives is prohibited.	Import of contraceptives is prohibited.	Import of contraceptives is prohibited.
Manufacture	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited.
Sale and Distribution	Interpretation of French Law of 1920 against contraceptive propaganda construed as banning contraceptives themselves.		
	Condoms are available in pharmacies as protection against venereal disease.	Pills are forbidden as contraceptives, but available in pharmacies on physician's prescription only for health reasons. Few physicians are available per capita population	IUDs are prohibited.
Advertising and Publicity	Commercial advertising is prohibited.	Commercial advertising is prohibited.	Commercial advertising is prohibited.
Use of Mails			

Miscellaneous: Strong penal provisions are available to enforce restrictions, including imprisonment and fines for all contraceptive advertising, selling, and mailing.

12. CHILE

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import per se requires consent of Ministry of Economics, Industry and Commerce, while import of pharmaceutical products requires special authorization from Director General of Health.*		
Manufacture	Manufacture of pharmaceutical products requires special authorization from Director General of Health. Quality control handled by National Health Service.**		
Sale and Distribution	Pharmaceutical products, including pills, may not be distributed free except as physicians' samples or in an emergency. Condoms are customarily sold in pharmacies, although there is no legal requirement to that effect.	Since 1974, pills without prescription may be distributed by specially trained and registered midwives.*	Since 1974, IUDs may be inserted by physicians and midwives.
Advertising and Publicity	Only those products may be advertised which have been authorized or recognized by the National Health Service as medicaments or as products of medical utility. Misleading advertising of pharmaceutical products is prohibited. In fact, contraceptives are not advertised. Curriculum in the fourth year of secondary school of the health education course covers population awareness, population policy, and family planning.		
Use of Mails			

Miscellaneous: Violation of any provision of the Health Code is a misdemeanor punishable by fine and cancellation of permission to operate a pharmacy or other enterprise.

*The National Health Service has broad powers in matters concerning import, manufacture and distribution of pharmaceutical products. Activities related to family planning have been concentrated in the National Health Service.

**Communication from Dr. Enrique Oneto Bächler, November 1974.

13. CHINA, PEOPLE'S REPUBLIC OF

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Legal provisions, if any, are unknown	Legal provisions, if any, are unknown.	Legal provisions, if any, are unknown
Manufacture	Legal provisions, if any, are unknown.	Legal provisions, if any, are unknown. Various kinds of pills are produced.	Legal provisions, if any, are unknown. Various kinds of IUDs are produced
Sale and Distribution	Since 1970 all contraceptives have been free and are distributed through the health organization		
		Pills are delivered by health units, through paramedical personnel No restriction as to sale in pharmacies or prescription	IUDs are inserted by the local health units, mainly by trained nurses or midwives. In some places they may also be inserted by barefoot doctors
Advertising and Publicity	No commercial advertisements exist, in view of the political system and public administration of health care. Originated and directed by the Communist Party, publicity is both officially and unofficially implemented by various organizations at the local level, by press, meetings, propagandists, field workers (barefoot doctors), midwives, etc.		
Use of Mails			

14. COLOMBIA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Customs laws require an importer to deposit 130% of the value of the import with a bank. Import of drugs requires a license from Ministry of Public Health.		
	No legal barriers, but import duties, exchange controls, and red tape are so onerous that, in practice, most condoms are smuggled into the country.	Duty on the invoice value of pills is 60%. Duty on ingredients necessary to manufacture pills is relatively minor	
Manufacture	No condoms are produced.	Pills mostly compounded locally, using imported ingredients.	No IUDs are produced.
Sale and Distribution	Retail drug outlets serve 75% of population, 2,000 more "boutiques" (small drug shops) exist.		
	Condoms are sold in drug stores. Public image of condoms is strongly associated with illicit sex and prostitution. Price of condoms, often illegally imported, is considered exorbitant. PROFAMILIA, Colombian Family Planning Association, imported 576,000 units to be distributed at very low prices in 1970, to promote the use of condoms. Small supply was imported in 1971 by the Ministry of Health to be distributed through health centers.	<i>De jure</i> Sold in pharmacies on prescription only. <i>De facto</i> Prescription requirement is widely ignored. It is possible "to obtain any amount of pills anywhere in Colombia without a medical prescription". Some pills distributed officially by the Ministry clinics or by PROFAMILIA and ASCOFAME (Association of Medical School Faculties).	IUDs are inserted mostly in clinics (Ministry of Health, ASCOFAME, PROFAMILIA); also by private physicians.
Advertising and Publicity	Publicity is allowed. In 1970 PROFAMILIA spent approximately U.S. \$100,000 to advertise the services of its clinics; this was the largest mass media campaign in Latin America.		
		Commercial advertisement of pills to consumer is prohibited	
Use of Mails			

*Echeverry, 1971.

15. CONGO

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import of contraceptives is prohibited.	Import of contraceptives is prohibited	Import of contraceptives is prohibited
Manufacture	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited
Sale and Distribution	Interpretation of French Law of 1920 against contraceptive propaganda was construed as banning contraceptives themselves. No official distribution.		
	Condoms are available in pharmacies as protection against venereal disease.	Pills are forbidden as contraceptives, but are available in pharmacies on physician's prescription only for health reasons. Few physicians are available per capita population	IUDs are prohibited.
Advertising and Publicity	The Congo is one of the first francophone African countries to organize sex education in school. Commercial advertisement of contraceptives is prohibited.		
Use of Mails			

- *Miscellaneous:* Strong penal provisions are available to enforce the restrictions.

16. COSTA RICA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	All contraceptives are imported. Each import of drugs or medical articles requires a sealed permit from the Board of Registration of Drugs. Import of drugs confined to College of Pharmacists and its authorized establishments. All new medical supplies must be registered with the College of Pharmacists in the Ministry of Public Health.		
		Pills are imported as Patent Medicines or Pharmaceutical Specialties	
Manufacture	No special restrictions on manufacture, but local production is as yet non-existent. Control function is assigned to College of Pharmacists. General provisions of Sanitary Code for all drugs apply to contraceptives under Official Pharmacopoeia		
Sale and Distribution	Condoms are available in pharmacies.	Pills may be sold in pharmacies or sanitary units authorized by Ministry of Public Health on prescription only. Official distribution of pills at subsidized low price or free to very poor. Social Security distributes pills free in San Jose. Pills must be registered with Board of Registration	IUDs are inserted in clinics.
Advertising and Publicity	Wording used in drug advertisements is controlled by regulations of Office of Registration of the College of Pharmacists. No special provisions for contraceptives. No limitation on publicity for sale in pharmacies and no obscenity limitations. Samples can be sent to physicians only. National Program of Family Planning and Sex Education covers information on contraception. It has exclusive responsibility for propaganda on contraceptives		
Use of Mails			

Miscellaneous: Sanitary Code provides penalties for impurities in drugs.

17. CZECHOSLOVAKIA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Public enterprises have exclusive right to trade with foreign countries. Import of pharmaceutical contraceptives for private use permitted, with a physician's certificate.		
Manufacture	Manufacture by State enterprises exclusively.	Manufacture by State enterprises exclusively.	Manufacture by State enterprises exclusively.
Sale and Distribution	Condoms are widely available in pharmacies, and elsewhere. No legal restrictions for indoor or outdoor vending machines. Price considered low. No official distribution.	Pills are sold in pharmacies on prescription only. Price and distribution regulated by Ministry of Health. New regulation may provide free contraceptives to more women	IUDs are inserted only by gynecologist in gynecological clinics or departments.
Advertising and Publicity	No restrictions on advertising or publicity.	No restrictions on advertising or publicity.	No restrictions on advertising or publicity.
Use of Mails			

18. DAHOMEY

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted.	Imports are permitted.	Imports are permitted.
Manufacture			
Sale and Distribution	Condoms are available in pharmacies as protection against venereal disease.	Pills and IUDs are distributed in government-sponsored and private clinics. Pills are available in pharmacies on prescription only.	
Advertising and Publicity			
Use of Mails			

19. DENMARK

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports		Import of pills must be approved by National Health Service.	
Manufacture		Any manufactured hormonal contraceptive must be approved by the National Health Service. Approval granted only after completion of pharmacological, toxicological, and clinical studies.	
Sale and Distribution	<p>Since 1970, contraceptive products may be sold only if they have been approved by the National Health Service. Contraceptives may be sold in pharmacies or in places approved by a competent medical officer on consultation with the police.</p> <p>No limitation. Condoms may be sold in any shop or vending machine.</p>	Pills are sold in pharmacies on prescription only. Sale and labeling regulated by the National Health Service.	IUDs are sold on prescription only.
Advertising and Publicity	<p>No restriction. After delivery or abortion, a physician was obligated to advise the women on contraception. The new abortion law of 1973 omits this provision. Sex education is included in all school curriculums.</p> <p>Condoms may be advertised to the general public.</p>	Pills may be advertised only to physicians and pharmacists or in professional journals.	
Use of Mails			

20. EIRE

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	PIBs	IUDs
Imports	Imports prohibited for commercial purposes. The Irish Supreme Court decided in the 1973 McGee case that the ban on imports of contraceptives for private purposes is unconstitutional, thus invalidating part of the Criminal Law Amendment Act of 1935.		
Manufacture	McGee decision does not restrict manufacture, but forbids "keeping for sale any contraceptive."		
Sale and Distribution	Keeping for sale any contraceptive is forbidden under the Criminal Law Amendment Act of 1935. A government bill to modify that provision was defeated in Parliament in June 1974. Sale broadly prohibited ("to sell, or expose, offer, advertise, or keep for sale . . . any contraceptive.")	Pills may not be sold as contraceptives but may be sold in pharmacies on prescription for purpose of cycle regulation.	IUDs are prohibited.
Advertising and Publicity	The censorship laws prohibit advocacy or advertising of all forms of contraception.		
Use of Mails	The mailing of contraceptive information and family planning is not prohibited.*		

*In February 1974 a Dublin District Court acquitted two family planning groups of charges that the mailings were, in fact, sales.

21. FINLAND

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Both commercial and private import of contraceptives permitted.	Both commercial and private import of contraceptives permitted.	Both commercial and private import of contraceptives permitted.
Manufacture	Manufacture requires permission of the Ministry of Social Affairs and Health.		
Sale and Distribution	Condoms are available in various shops. No legal limitation.	Distribution of pills allowed only after each brand has been authorized by the National Board of Health. Pills are sold in pharmacies and health centers on medical prescription only.	IUDs are inserted by gynecologists only.
Advertising and Publicity	No law prohibits advertisement of contraceptives. Public Health Law (1972) provides that every local community has to arrange free guidance on contraception. Health centers distribute pills and IUDs. Advice on contraception must be given to women after abortion. Since 1965, the booklet, <i>Birth Control Guide</i> , is distributed to every woman visiting a maternity clinic.		
Use of Mails			

22. FRANCE

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	<p>Law of 1967 includes punishment of up to 2 years of imprisonment and a fine for whoever imports contraceptives in whatever way they plan to import</p> <p>May be imported only by authorized firms, if they present necessary guarantees</p>	<p>Legal prohibitions on import of pills do not distinguish between commercial and private use imports</p>	<p>Manufacturers must declare in advance the categories of products they plan to import</p> <p>May be imported only by authorized firms, if they present necessary guarantees</p>
Manufacture	<p>Control of conditions of manufacture and consignments of contraceptives carried out by pharmaceutical inspection issued for 5 years. Manufacturers must declare in advance the categories of products they plan to manufacture</p> <p>Condoms may be manufactured by firms authorized by the Minister of Social Affairs</p>	<p>Sale of all contraceptive including condoms is subject to granting marketing license</p> <p>Pills may be manufactured only by firms authorized under the conditions prescribed in the Public Health Code</p>	<p>IUDs may be manufactured by firms authorized by the Minister of Social Affairs</p>
Sale and Distribution	<p>Contraceptive medicaments, products, and objects, as well as necessary preliminary medical examinations, will be reimbursed by the health insurance scheme. Several restrictions of 1967 legislation have been repealed by new Law (No. 74-1026) of December 4, 1974</p> <p>Condoms are sold in pharmacies as protection against venereal disease.</p>	<p>Pills are sold in pharmacies on prescription only. Centers for family planning and education are authorized to distribute pills on prescription to minors (without parental consent) and to persons not covered by the public health insurance.</p>	<p>IUDs are inserted only by physicians in offices, hospitals, and approved treatment centers.</p>
Advertising and Publicity	<p>Commercial advertising for contraceptives is prohibited except in medical and pharmaceutical journals. All "antinatalist propaganda" is forbidden.</p>		
Use of Mails			

23. GABON

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are prohibited*	Imports are prohibited *	Imports are prohibited *
Manufacture	Manufacture is prohibited	Manufacture is prohibited	Manufacture is prohibited
Sale and Distribution	Condoms are sold in pharmacies as protection against venereal disease. No official distribution.	Pills are sold in pharmacies on prescription for therapeutic purposes only. A board of three physicians may prescribe pills when a woman's health or the well-being of a family could be endangered by a further pregnancy. Prescription must be entered in a counterfoil book by the physician and in a special register by the pharmacist. Only in cases of "absolute necessity" may pills be prescribed for women under 25 years.	IUDs are prohibited
Advertising and Publicity	Commercial advertising of contraceptives and publicity for family planning are prohibited.		
Use of Mails			

*Wolf (1973) Study states that Gabon's new anti-contraception law is stiffer than the French law of 1920

24. GERMANY, DEMOCRATIC REPUBLIC OF

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Private import of contraceptives for personal use is prohibited.	Private import of contraceptives for personal use is prohibited.	Private import of contraceptives for personal use is prohibited.
Manufacture	Medicaments may be distributed only after they have been sufficiently researched.	Medicaments may be distributed only after they have been sufficiently researched.	Medicaments may be distributed only after they have been sufficiently researched.
Sale and Distribution	Condoms available in pharmacies, stationery shops, etc. Also available in indoor vending machines.	Pills are sold in pharmacies on prescription only. Women on Social Security (overwhelming majority of women) receive pills or other contraceptives prescribed by physicians without charge.	
Advertising and Publicity	No legal provisions on advertising of contraceptives. After abortion has been performed, the women must be given information on contraception.		
Use of Mails			

25. GERMANY, FEDERAL REPUBLIC OF

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import restriction, but manufacturer of medical products must have a production permit valid for his own country. Imported product must be labeled with the name of the producer. Contraceptives from other members of European Economic Community enter duty-free (for three members admitted in 1973, transitional tariffs will gradually disappear). Duties ranging from 2.3% to 17.6% are imposed on contraceptives from non-members of the Economic Community.		
Manufacture	License is necessary to produce medicaments commercially. Quality control inspectors visit producers and other enterprises every 2 years.		
		Pill must be registered with the Federal Health Office before they are sold.	Provision of IUDs must be declared.
Sale and Distribution	Condoms are available in pharmacies, drug stores, etc. No special prohibitions. Indiscreet display in public places is prohibited. Sales in vending machines forbidden in streets and public places.	<i>De jure</i> Pills are available in pharmacies on prescription only. Registration is also required. <i>De facto</i> Prescribed, if no contraindication, to any women asking for pill, even to young people. National Health Insurance does not reimburse for contraceptives. Prescription medicines must be sold with an enclosed instruction indicating amount and frequency of doses.	Only physicians may do insertions.
Advertising and Publicity	Advertisements must not be contrary to morals or decency. Prohibitions on various kinds of advertisements of medicaments to the general public. Medical specialties for physician may be delivered only on request and in amount not disproportionate for testing a new medicine. No restriction on publicity for family planning. Sex education is obligatory in schools, with family planning included.		
		Pills cannot be advertised to the general public for commercial purposes.	
Use of Mails	Contraceptives must be mailed closely packed. This excludes the possibility of mailing samples per se since samples must be mailed unsealed.		

26. GHANA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted. License needed to import condoms. Efforts to protect domestic rubber industry result in high (50%) duty on condoms. No duty on gift contraceptives.	Imports are permitted. License required to import pills. No duty on pills.	Imports are permitted. 50% duty on IUDs. No duty on gift contraceptives.
Manufacture	Government favors local production of condoms although no local manufacturing exists.	Pharmacy Board licenses organizations to manufacture pills. Board may demand details on composition of pills.	
Sale and Distribution	Condoms are sold in pharmacies and supermarkets. Condoms are sold at a low subsidized price by the National Trading Corporation, but it only has 15 outlets. Condoms are also distributed by the National Family Planning Program.	Pills are sold in pharmacies on prescription only and are classified as a dangerous drug. Prescription book must be kept. There is official distribution.	IUDs inserted by physicians only. IUDs are available through official services.
Advertising and Publicity	Advertisement is prohibited unless published under direction of Ministry of Health; this is not always enforced. Copies of descriptive matter published in relation to a drug must be submitted to Pharmacy Board. No point-of-sale promotion or display. Publicity for family planning is encouraged.		
Use of Mails			

27. GUINEA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import of contraceptives is prohibited.	Import of contraceptives is prohibited.	Import of contraceptives is prohibited.
Manufacture	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited.
Sale and Distribution	<p>In: xpretation of French Law of 1920 against contraceptive propaganda construed as banning contraceptives themselves.</p> <p>Condoms are available in pharmacies as protection against venereal disease.</p>	<p>Pills are forbidden as contraceptives, but available in pharmacies on physician's prescription only for health reasons. Few physicians are available per capita population.</p>	IUDs are prohibited.
Advertising and Publicity	Commercial advertising is prohibited.	Commercial advertising is prohibited.	Commercial advertising is prohibited.
Use of Mails			

Miscellaneous: Strong penal provisions are available to enforce the restrictions.

28. HUNGARY

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports			
Manufacture	Contraceptives are manufactured by state enterprises.	Contraceptives are manufactured by state enterprises.	Contraceptives are manufactured by state enterprises.
Sale and Distribution	Condoms are available in pharmacies, other shops, indoor vending machines.	Pills are available in pharmacies specified by decree of Ministry of Health. Prescription regulated by an obstetrician-gynecologist in the local health institution. In case of continuous use, regular checks are required every 6 months (free-of-charge for those under Social Security). Pills are prescribed for only 6 months at a time and users are registered. Since 1973, district doctors and doctors of industrial plants, most of them general practitioners, have been authorized to prescribe the pill. The doctor decides whether laboratory tests are necessary. Social insurance covers 85 percent of the cost of the pills as is the case for other medicines.	Regulated by Ministry of Health Directive. May be inserted only in specialized health institutions; only for women who have already had births or are older than 18 years, if pregnancy is unwanted, or for health considerations. Regular checks every 6 months. Insertion check free-of-charge, although there is a fee for the IUD itself.
Advertising and Publicity	No restrictions. Family planning education included in the public education system on each level. Council of Ministers declared that a systematic program should be ensured for the adult population, especially for parents of school children. A prerequisite for marriage is that the couple has had medical consultation on family health and family planning, including the proper method of contraception.		
Use of Mails			

29. INDIA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Commercial import of condoms is barred.*	Commercial import of pills is barred.	Bound by general tariff acts in addition to laws specially applicable to drugs and to contraceptives. A license is required for the import of all drugs.
Manufacture	Local production of condoms and pills is favored and local ingredients are available. Condoms and pills are subject to government regulations. Indian government produces the NIRODH condom.		
Sale and Distribution	Condoms are sold in pharmacies. Official "depot holders" may sell at 1/3 of subsidized price. ² Also available through special consumer goods chains. The condom (a drug under a 1940 law) is subject to government control and warranty tests. Condoms are sold at specially subsidized prices and are distributed free by government family planning centers. Swedish government donates condoms to help expand their use.	Pills are sold in pharmacies on prescription only. Maximum price for a drug may be fixed by <i>executive discretion</i> , but not done for pills so far. Private clinics have distributed pills free. The pill is a drug under law and subject to government control.	Government program to distribute and insert IUDs was slowed down after several years, but IUD is still permitted.
Advertising and Publicity	Although advertising a drug for the prevention of conception is forbidden, the Government may permit publication of any advertisement of such a drug if it so desires. <i>India 1966</i> , a reference annual published by the Indian Ministry of Information and Broadcasting, states: "Advertisements of contraceptives are permitted, in view of the importance of family planning." Obscenity rules under Indian Penal Code are strict. However, in 1965, <i>Udeshis v. State</i> , A I R , liberalized these rules to permit advertising for "social" purposes. Only the government-sponsored NIRODH condom is advertised through a special advertising campaign.	Since pills require a prescription, they are only advertised by direct mail to medical practitioners.	
Use of Mails			

*Nevertheless, a number of foreign condoms are imported and are on the market. Enforcement officials ignore this since a large sum of money is not involved and the government favors contraception.

²Under government's NIRODH scheme, condoms are distributed to villages through depot holders and six largest consumer goods chains (soap, tea, kerosene, tobacco, etc.). The government plans to have 400,000 outlets selling condoms at a subsidized low price.

30. INDONESIA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Gifts and samples are duty-free. Condoms are now probably duty-free, although there was a 40% duty.*	No duty on pills. Import permitted, but foreign exchange controls exist and import license is required.	Gifts and samples are duty-free. IUDs are now probably duty-free, although there was a 40% duty.*
Manufacture		Local manufacture of pills is under consideration; pills are assembled and packaged locally.	
Sale and Distribution	Condoms are sold in pharmacies and small tobacco shops.	Pills are sold in pharmacies only, but number of pharmacies is inadequate. Prescription is legally required, but as a practical matter, nurses and midwives give out pills. The second national 5-year plan may remove prescription requirements. No government price control. Official family planning program distributes pills.	Government-supported agencies insert IUDs. There is, apparently, a custom of requiring the consent of the husband before the insertion of the IUD.
Advertising and Publicity	Commercial advertisement is forbidden by Penal Code. No dissemination of any information on contraception is allowed to persons under 17. Publicity for family planning is forbidden by the Penal Code; however this is not enforced. Penal Code provides criminal penalties for giving unsolicited contraceptive information, and also for furnishing contraceptives to persons under 17.		
Use of Mails			

*It is not clear whether or not condoms and IUDs have been placed under Postal Tariff 848 (medical supplies) which would render them duty-free. Old duty under Postal Tariff 167 was abolished by Minister of Finance decision.

31. IRAN

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import license from Ministry of Health is needed, but is easy to obtain. Import of condoms not restricted and all are imported. There is no quality control on condoms. Import of raw materials is encouraged. Duty is 30% of c i f.*	Import license from Ministry of Health is needed, but difficult to obtain; 1972 law requires all pills distributed in Iran to be processed in country. Duty on pill imports total 28.5%.	Import license from Ministry of Health is needed, but difficult to obtain.
Manufacture	No condoms are manufactured in Iran	Approval of Ministries of Health, Economy & Justice required for manufacture of any drug. Company must be 51% Iranian. Almost all pills are manufactured in Iran. Both the Drug Administration of the Ministry of Health and the Technical Committee of the Family Planning Division of the Ministry control the quality of pills.	
Sale and Distribution	Condoms are sold by street vendors and in miscellaneous shops. Condoms are free or inexpensive at clinics. Official distribution at both government and private clinics.	Pills are sold in pharmacies ⁴ on prescription only, but this is not always strictly enforced. Ministry of Economy sets retail price of pill (usually 70% above cost of product). If pill is imported, price is usually 70% above FOB price. Pills are inexpensive or free in clinics and most of pills dispensed go through the official and semi-official service channels.	IUDs are inserted by the clinics.
Advertising and Publicity	Commercial advertising to the medical profession is allowed and is carried out actively. Although public advertising is not prohibited by law, it must be approved by Ministry of Health. The Medical Society takes a cautious attitude and advertising is not frequent. Ministry of Health covers pills, condoms, and IUDs in its media advertising, but this is not strongly pushed. Government distributes pamphlets on family planning free to population.		
Use of Mails			

*Cost, insurance, and freight.

⁴Commercial access to the pill is limited by the fact that one-third of all pharmacies are in Tehran, and half of the population is beyond range of pharmacies. The fact that pills are available free or at subsidized low prices through the official family planning services discourages commercial efforts.

32. ISRAEL*

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports for both commercial and for private use are permitted. Ministry of Health controls the import of drugs. No regulation has yet been issued. There is no specific law dealing with contraceptives.		
Manufacture	Ministry of Health controls manufacturing of drugs including contraceptives (Pharmacists' Ordinance) No regulations have yet been issued. There is no specific law dealing with contraceptives.		
Sale and Distribution	Condoms are generally available in stores. There is no official distribution.	Pills are sold in pharmacies and are treated like other drugs. No prescription is required, although Law could be interpreted to require a prescription. This has not occurred * No official distribution.	Law could be interpreted to require a prescription but this has not occurred. The IUD is not inserted by official agencies but certain clinics do perform this service.
Advertising and Publicity	Commercial advertisement of medicaments may be directed only to physicians and pharmacists. Publicity for family planning is allowed.		
Use of Mails			

*There is no specific law dealing with contraceptives.

*The Dangerous Drugs Ordinance (Laws of Palestine, 1933, 1:607) would apply if any pill were to contain any ingredient listed in schedule accompanying ordinance. This is not now the case.

33. ITALY

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are not prohibited* but must be registered	Imports are not prohibited* but must be registered.	Imports are not prohibited* but must be registered.
Manufacture	Manufacture of medical specialties requires authorization by Ministry of Health. Government testing of all medicaments is required.		
Sale and Distribution	ENPAS (State Employees' National Health Service) supplies its beneficiaries with contraceptives as part of the regular medical treatment.		
	Condoms are sold in various kinds of shops, by vending machines, and through the mail.	Pills are sold in pharmacies on prescription only for medical reasons. Price controls exist.	Physicians insert IUDs.
Advertising and Publicity	All advertisements and all information on contraception had been prohibited by the Penal Code. These provisions were declared unconstitutional by a decision of the Italian Constitutional Court in 1971.		
Use of Mails	Condoms may be sold through the mails.		

*Security Laws do not prohibit import, production, etc. of contraceptives, but do prohibit import of writings, drawings, etc. on contraception.

34. IVORY COAST

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted.	Imports are permitted.	Imports are permitted.
Manufacture	Condoms are sold in pharmacies.	Pills are sold in pharmacies usually without medical prescription.	
Sale and Distribution			
Advertising and Publicity			
Use of Mails			

Miscellaneous: The French Law of 1920 is still on the books but is not enforced.

35. JAMAICA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	<p>No imports permitted from countries that do not import Jamaican goods. Drug must be authorized in country of origin* and registered in United Kingdom, United States, or Canada.</p> <p>In Spring 1974, the Minister of Health, by decree, removed import duties on condoms and pills.</p> <p>No restrictions on condoms. Duty on condoms is 22% plus port charge*.</p>		
Manufacture	<p>There are no restrictive laws, and plans are being made for future manufacture of contraceptives.</p>		
Sale and Distribution	<p>Free distribution if patient cannot afford to buy condoms. No price control on commercial sales and prices are high.</p>	<p>Pills are available in pharmacies only. A prescription is required, but this is not enforced. Law removing the requirement is under consideration by the Parliament. There is free distribution if patient cannot afford pills. Otherwise, there is a token fee.</p>	<p>IUDs are available free of charge from National Family Planning Board clinics. There are no legal limitations on IUDs.</p>
Advertising and Publicity	<p>Government conducts advertising campaign, using mass media and outdoor advertising.</p>		
Use of Males	<p>Condoms may be advertised commercially if cleared with National Family Planning Board.</p>	<p>Pills may not be advertised commercially.</p>	

*This rule is intended to prevent encroachment on Jamaicans by foreign drug companies.

36. JAPAN

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	License for import of drugs is necessary. Permission to import condoms takes 10 days. Quality standards are prescribed for condoms by both industry and Ministry of Health.	License for import of drugs is necessary. No pill or IUD is authorized for import.	
Manufacturers	Drug manufacturers must have license. Quality standards are prescribed for condoms by both industry and Ministry of Health.	Drug manufacturers must have license. No pill authorized for manufacture as of 1971.	Drug manufacturers must have license. Only one type of IUD, the Japanese-invented Ota-Ring, is manufactured.
Sale and Distribution	The condom is the leading contraceptive used in Japan. An official program of free distribution of condoms to low income families is subsidized by the government. Condoms are sold door-to-door.	No pill is authorized as of 1971 for sale in Japan because of potential health risks. It is reported that pills are available in pharmacies on prescription for non-contraceptive use and that a small number of women are using the pill. The sale and distribution of pills are under study by Central Pharmaceutical Affairs Council.	The only IUD authorized for use, as of 1971, was the Japanese-manufactured Ota-Ring. According to IPPF other IUDs are illegal in Japan; matter under study by Society of Obstetrics and Gynecology. Recent reports indicate that the Society has recommended that the government approve use of other IUDs.
Advertising and Publicity	False or exaggerated statements on efficacy of drugs prohibited. Publicity for family planning is not restricted. The object of government's family planning is to promote contraception rather than reliance on abortion. Condoms may be displayed for sale.		
Use of Mails			

37. KENYA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted, but only by licensed dealer.	Imports are permitted, but only by licensed dealer.	Imports are permitted, but only by licensed dealer.
Manufacture	Ministry of Health regulates manufacturing of contraceptives, which must be under supervision of registered pharmacist		Manufacture is permitted but does not take place.
Sale and Distribution	Condoms are available. In the Meru District there has been an intensive government-sponsored sales and distribution project through commercial channels. Free samples are given and prices are subsidized. There is also distribution through government and family planning association clinics.	Pills are sold in pharmacies on prescription only. There are only 45 pharmacies in the country and few physicians in rural areas. Pills are free in government clinics.	Free IUD insertions offered by both government and family planning association clinics.
Advertising and Publicity	Publicity for family planning is permitted. Advertisement is authorized if for the advancement of medical science. The Family Planning Association has responsibility for education and motivation. Condoms are advertised. The government-sponsored sales program was promoted by radio, film, leaflets, door sales, and mailings.	Pills have not been advertised although advertisement is not illegal.	
Use of Mails	A government-sponsored program has promoted condom sales through the mails.		

38. KOREA, REPUBLIC OF (SOUTH KOREA)

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import of finished contraceptives is not permitted. Korean market is restricted to locally produced contraceptives, manufactured partly from imported bulk ingredients and partly from local raw materials * 100% duty on latex for condoms		
Manufacture	Korean market is restricted to locally produced contraceptives, manufactured partly from imported bulk ingredients and partly from local raw materials. License to manufacture required. Company must submit clinical data on the product to be manufactured, including a statement on side effects. Foreign companies must operate through a Korean partner. No product can have the same chemical make-up as another on the market. Side effects and contraindications must be marked on the package. There are restrictions on quality, purity, packaging and labelling of condoms.		
Sale and Distribution	There is one pharmacy per 2,350 inhabitants and those are mainly found in the cities. The Korean Government subsidizes the national family planning program which offers a choice of contraceptives. Condoms are sold in pharmacies only. There are no vending machines. Government supplies sold in bulk at lower cost. Total markup between manufacturer and consumer is 80% in commercial channels.	Pills are sold in pharmacies only. Prescription is not required. Physicians, midwives, and nurses aides with special training are authorized to give guidance. Pill price is relatively inexpensive but technological improvements and new packaging may lead to rises in price. Total markup in commercial channels is 42%. A national program for distribution of pills to IUD drop-outs was initiated in 1967. Side effects and contraindications of pills must be marked on package.	IUDs may be inserted by physicians, examiners, and nurses who are trained for more than 2 months at medical institutions designated by the Ministry of Health and Social Affairs. The government has supported an IUD campaign.
Advertising and Publicity	Showcase display of contraceptives permitted, but is infrequent encouraged. Advertisement of condoms is not prohibited.	Excessive advertisement of contraceptives might be subject to obscenity rules. Publicity highly organized, widespread, and officially encouraged. 1971 law restricting advertisement of pills to medical and family planning journals was repealed in 1975. Advertisements of pills must include detailed information on side effects.	
Use of Mails			

*Duty-free import of raw materials and ingredients requires that the importing firm must export products equivalent to at least 10% of value of materials imported.

39. LEBANON

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Although forbidden by implication, contraceptives are imported.* The Penal Code of March 1, 1943 reflects French influence.		
Manufacture	Presumably forbidden.	Presumably forbidden.	Presumably forbidden.
Sale and Distribution	Although sale of condoms is forbidden,** they are available as prophylactics against venereal disease. Distributed by Family Planning Association which is licensed by the Government. No Government distribution of contraceptives.	Although sale of pills is forbidden, they are available in pharmacies without prescription, as cycle regulators.* No Government distribution of contraceptives. Family Planning Association licensed by Government does distribute pills. Issuance of progesterone to women with certain illnesses forbidden by Ministry of Health Decree of 1968.	Although theoretically forbidden, they are available through the Family Planning Association.
Advertising and Publicity	Prescribing contraceptives, spreading contraceptive information, or advertising contraceptives is forbidden.		
Use of Mails			

*Pharmacists submit lists of those medical products which they desire to import to the Ministry of Health. The purpose of the contraceptives included in the lists is not stated, but merely marked "Medical Use." The Ministry of Health has not barred import. Pills for the Family Planning Association are imported with the approval of the Ministry of Health on the condition that they are distributed free by its clinics and not given to women with certain illnesses.

40. MALAYSIA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Most contraceptives are imported. Condoms subject to quotas under Customs Duty list. No duty on condoms.	Most contraceptives are imported. License required to import pills, no undue delay occurs. Usual duty of 25% not imposed on pills. There is 2% surtax and 5% sales tax.	Most contraceptives are imported.
Manufacture	No manufacturing takes place, except for some condoms. Local manufacturers are granted <i>pioneer</i> status and are registered.		
	Local production of condoms is favored as part of official industrial policy. Institute of Malaysia prescribes quality standard for condoms but this is not controlled.	Manufacturers of pills are subject to control. Standards Institute of Malaysia sets standards for pills.	
Sale and Distribution	Condoms are widely available in stores including barber shops and news vendors. Condoms are distributed by National Family Planning Board. The Swedish SIDA gives free condoms to Government. Commercial price fluctuates.	Pills are sold by pharmacies, licensed wholesalers and medical practitioners. Law requires prescription, but in fact no prescription is necessary. Instructions on use are given by officers of Family Planning Board, and pills are dispensed by midwives and nurses. Pills are distributed free by National Family Planning Board at rubber estates and in clinics. Board is also making pills available at low cost. Pills are not distributed to unmarried women, divorcees, widows or persons with contraindications. There are some limitations on persons under 18.	IUDs are inserted by physicians only. National Family Planning Board provides both IUDs and insertions.
Advertising and Publicity	Advertising is only allowed to the medical profession. Government limits advertisements because of religious, political, and social sensitivities.		
		Instruction on use of pills given at clinics.	
Use of Mails	There is no restriction on use of mails and it is used for transmission of contraceptives. Post Office law contains a Government prohibition of obscene articles in mail, but this is not applied to contraceptives.		

41. MALI

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted. The Minister of Public Health and Population is instructed to establish a Medical Council to prepare a list of authorized contraceptive methods (other than abortion) and products. This has not yet been prepared (Ordinance of 1972).		
Manufacture	Manufacture is permitted. The Minister of Public Health and Population is instructed to establish a Medical Council to prepare a list of authorized contraceptive methods (other than abortion) and products. This has not yet been prepared (Ordinance of 1972).		
Sale and Distribution	Condoms may be sold.	Pills may be sold.	IUDs may be sold.
Advertising and Publicity	Publicity for family planning is allowed. Contraceptive information and education is authorized.		
Use of Mails			

Miscellaneous: Infraction of the 1972 Ordinance is punishable under the Penal Code.

42. MEXICO

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Permission to import is required from Ministries of Health and Industry and Commerce. Standards of quality for import are set by Ministry of Health. Rates are lower for raw materials than for finished products. Duty on condoms is 50 pesos, plus 110% of value.		Duty on IUDs is 110% of value, plus fees.
Manufacture	A new manufacturer must be 51% Mexican-owned, and have less than 5% foreign staff. Standards are set by Ministry of Health, and are similar to standards of U.S. Food and Drug Administration		
		Local production is favored by sales tax exemption	
Sale and Distribution	Social Security Centers and the Government Workers' Organization will provide condoms, pills, and IUDs free to members		
	Condoms are sold in pharmacies only. The Ministry of Industry and Commerce establishes commercial price of condoms. The Ministry of Health plans to provide full service by 1974 to the rest of the population.	Pills are sold in pharmacies on prescription only. Information on contraindications must be included with the pills	IUDs are inserted by medical personnel with gynecological experience. Paramedical personnel are being trained by Ministry of Health. Ministry of Industry and Commerce fixes price for insertion.
Advertising and Publicity	Commercial advertisement of condoms, pills, and IUDs permitted only to medical personnel and must contain information on contraindications as required by the Ministry of Health. Samples to doctors only. The dissemination of family planning information is permitted and sex education is specifically authorized in the new Sanitary Code. Under the new General Population Law of 1974 provisions have been made for family planning through the educational and public health services. Contraceptives may be displayed on pharmacy counters.		
Use of Mails	Samples of condoms are barred from the mail.	Samples of pills are barred from the mail.	Samples of IUDs are barred from the mail.

43. THE NETHERLANDS

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted. No special license or registration is required.	Imports are permitted. No special license or registration is required.	Imports are permitted. No special license or registration is required.
Manufacture	Manufacture is permitted. No special license or registration is required.		
Sale and Distribution	Condoms are sold in a variety of shops and in vending machines. Sale of contraceptives from vending machines is allowed in hotels, restaurants, cafes.	Pills are sold in pharmacies on prescription only.	IUDs are inserted by physicians only.
Advertising and Publicity	In 1969, Parliament repealed a provision of the Penal Code which prohibited the display and sale of contraceptives to minors under 18 years. Instead the municipalities were given the right to issue ordinances prohibiting public sale of contraceptives. Some municipalities have used this right to restrict vending machine sales. Previously the Penal Code had provided that showing means for prevention of pregnancy, offering them for sale or even showing that they were available was punishable. This was also repealed in 1969. There are now no penal provisions on advertising contraceptives.		
Use of Mails	Pills and IUDs are advertised only to physicians and pharmacists under agreement between the national associations of newspaper proprietors and the pharmaceutical industry providing that the mass media will accept no advertisement for medical products available only on prescription or from pharmacies.		

44. NIGER

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import of contraceptives is prohibited.	Import of contraceptives is prohibited	Import of contraceptives is prohibited
Manufacture	Manufacture of contraceptives is prohibited	Manufacture of contraceptives is prohibited	Manufacture of contraceptives is prohibited
Sale and Distribution	Interpretation of French Law of 1920 against contraceptive propaganda was construed as banning contraceptives themselves		
	Condoms are available in pharmacies as protection against venereal disease.	Pills are forbidden as contraceptives, but are available in pharmacies on physician's prescription only for health reasons. Few physicians are available.	IUDs are prohibited
Advertising and Publicity	Commercial advertising is prohibited	Commercial advertising is prohibited	Commercial advertising is prohibited.
Use of Advertis			

Miscellaneous: Strong penal provisions are available to enforce the restrictions

45. NIGERIA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted, although foreign exchange is limited. Family Planning Council and Family Planning Unit of Ibadan University receive contraceptives from abroad without restriction. Government accepts standards of country of manufacture. Certificate of analysis must be presented to pharmacy inspectors at ports. Contraceptives are usually allowed exemptions from duties.		
Manufacture	Manufacture permitted since 1968, but no local manufacturing exists since local consumption is still low. Decree of 1972 requires 40% of shares of local company to be held by Nigerians and provides tax advantages. Ministry of Health established a Federal Quality Controller in 1974.		
Sale and Distribution	Wholesale chemists give discounts on contraceptives to hospitals and family planning clinics.		
	Condoms are apparently unpopular. They are available in pharmacies, patent medicine stores and general stores. There is little official distribution.	<i>De jure</i> , Pills are available in pharmacies or recognized family planning centers on prescription only. There are very few physicians. <i>De facto</i> , Pills can be purchased without prescription. Sale of pills has increased 50% during years 1969-1974. The Family Planning Council and the Family Planning Unit of Ibadan University subsidize low prices at pharmacies.	IUDs are available at clinics. IUDs are apparently expensive through private physicians.
Advertising and Publicity	Advertisement of contraceptives is subject to regulations of the Nigerian Pharmacists Society and to the federal obscenity law and may only be carried in professional journals. Contraceptives may be displayed in pharmacies. The Family Planning Council circulates films, leaflets, and "comic" publications and has placed radio and TV spots, and billboard ads.		
Use of Mails			

46. PAKISTAN

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted. Registration and license of importer required by Customs Department and fee is required. No duties. Foreign exchange is made available.		
	All condoms are imported.	One brand of pill is imported. Ingredients of some locally made pills are imported.	
Manufacture		Most pills are compounded locally since home production of pills is favored. All packaging and some ingredients of pills are local.	
Sale and Distribution	Condoms are sold in pharmacies and other shops, but most are distributed through Government channels. There is official distribution. There are price controls, but the price varies.	Pills are sold in pharmacies only. State-owned pharmacies are to be set up—1 per 50,000 people. Prescription is no longer required (Ministry of Health Decree of 1973 rescinds prescription requirement but fails to rescind requirement that pills be sold in pharmacies only). Price controls exist. Prices are low. Government subsidized pills are sold through private channels. Official distribution exists, but most pills are supplied through private channels. Brand name sales of all drugs prohibited as of 1973, except patented brand names. Only pills based on specifications in National Formula are permitted.	IUDs are inserted by physicians and "matrons." Official IUD program is being deemphasized.
Advertising and Publicity	Contraceptives are being advertised to physicians and pharmacists. Advertisement Prohibition Act of 1963 which has never been invoked.	Advertisement to general public is permitted but is seldom attempted. There has never been any limitation on publicity.	No real impediment exists except custom and Indecent
Use of Mails			

47. PERU

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are not prohibited.	Imports are not prohibited.	Imports are not prohibited.
Manufacture	Condoms are manufactured.	Manufacture is permitted.	Manufacture is permitted.
Sale and Distribution	Condoms are not considered contraceptives but a prophylactic against venereal disease and are available in pharmacies without a medical prescription. Condoms are not available through the clinics of the family planning association or the Christian Family Movement	Pills and IUDs cannot be sold without a medical prescription and must be used under the control of a physician. (Sanitary Code of 1969). Prescription of contraceptives is forbidden to minors without consent of parents or guardians, and to married persons without consent of spouse Pills were distributed free by the family planning association and the Christian Family Movement. In January 1974 the Government ordered the association to cease operations	IUDs were inserted at family planning association clinics. However, in January 1974, the Government ordered the association to cease operations
Advertising and Publicity	Commercial advertisement of contraceptives is not prohibited by law; however, it is prevented by the Ministry of Health. Publicity for family planning is not prohibited. Clinics offer education and information programs. Family planning is discussed in the press.		
Use of Mails			

48. PHILIPPINES

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Until recently there was a ban on import of contraceptives. Ban was not always enforced and has been repealed by Presidential Decree of 1972. Import of raw materials is encouraged. All importers of pharmaceutical products must register annually with Food and Drug Administration which must also approve all drugs. Importers are required to set aside 50% of price in advance. All pharmaceutical products pay 30% duty which may be cut to 5% if product is not manufactured locally or is found to be in short supply. Sales tax of 7% on all products. Only 10% duty on raw materials for drugs. Duty on condoms is 20%.		
Manufacture	All pharmaceutical products must be approved by Food and Drug Administration and manufacturers must register annually. Drug regulations are issued by Department of Health. No condoms manufactured.	Several local firms (tablets) and package pills. No other manufacturing of pills.	
Sale and Distribution	Under Presidential Decree of 1972 POPCOM (Population Commission) ordered the training of paraprofessionals to dispense and administer all acceptable methods.		
	Condoms are sold in drug stores and by street vendors. Few condoms are dispensed in official or non-commercial clinics. Commercial price is high.	Pills are sold only in licensed drug stores and by pharmaceutical companies. There are few drug stores in rural areas. Until 1973 pill sales required the prescription of a qualified medical practitioner. This was not always enforced. Pill prices are high in commercial channels. Government and private clinics distribute pills free.	IUDs may only be distributed or dispensed by a licensed drug store or pharmaceutical company and with the prescription of a qualified medical practitioner. Nurses and midwives are being trained (especially by POPCOM (Population Commission) and licensed to insert (1972). Most IUDs are being dispensed through official and non-commercial clinics at little or no cost.
Advertising and Publicity	Government favors maximum publicity. Presidential Order of 1972 requires all mass media to promote the concept of family planning. Country-wide program of sex education has recently been organized. Commercial advertisement of condoms is not prohibited by law but it is not actually practiced.	Advertisement of pills to physicians and medical personnel is permitted.	Advertisement of IUDs to physicians and medical personnel is permitted.
Use of Mails	Before December 1972, use of mails was prohibited for contraceptives, preventing newspaper advertising of contraceptives, except for condoms. 1973 Letter of Instruction orders the Postmaster General to help in disseminating family planning information. All inconsistent acts repealed. Revised Penal Code regarding obscene publications makes no specific reference to contraceptives.		

*The requirement of a prescription was widely ignored (A. D. Little 1972)

*Advertisement has, in the past, been limited owing to concern with reaction from Catholic Church and other sectors, and owing to restrictive law on the use of mails.

49. POLAND

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted, but only by specially licensed state enterprises of foreign trade. Import for personal use requires permission from the Ministry of Health and Social Welfare. This is not enforced in practice.		
		Pills may be imported if included in the official list of medicines and with special permission from Ministry of Health and Social Welfare which must be provided with data on composition and quality of product.	
Manufacture	A medicine may be produced only if included in the official list of medicines published by Ministry of Health and Social Welfare, whose permission is required for manufacture.		
Sale and Distribution	Condoms are sold in pharmacies, drug stores, and in booths selling newspapers, cigarettes, etc. They are easily accessible and very inexpensive. Condoms are sold by distribution centers of Public Health Service institutions.	Pills are sold in pharmacies on medical prescription only. Prices reduced to 30% of retail value for persons entitled to social health service. Official distribution is concentrated in the distribution centers of Public Health Service.	IUDs are inserted only by gynecologists and by specially trained nurses. Official distribution is concentrated in distribution centers of Public Health Service.
Advertising and Publicity	Mechanical contraceptives may be advertised to general public. Where an abortion is authorized, the physician has legal duty to instruct the woman on contraception.		
		Pills may be advertised only in professional, medical or pharmaceutical periodicals, or in pamphlets distributed directly and exclusively to physicians or pharmacists.	
Use of Mails			

50. PORTUGAL

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	PIPs	IUDs
Imports	Apparently not prohibited.	Apparently not prohibited	Apparently not prohibited
Manufacture	Apparently not prohibited.	Apparently not prohibited	Apparently not prohibited.
Sale and Distribution	All contraceptives are considered medicaments and require prescription.		
Advertising and Publicity	The advertising of contraceptives is prohibited, even in the medical press. Pharmacists may not advise on contraception.		
Use of Mails			

51. ROMANIA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Condoms are imported officially from other socialist countries.	Pills and IUDs are not imported, except personally and unofficially.	
Manufacture	Some condoms are manufactured.	Pills and IUDs are not manufactured.	
Sale and Distribution	Condoms are available in stores. Condoms are officially considered to be "without danger to health."	Pills and IUDs are not generally available, but some can be found on an unofficial basis, having been imported from other socialist countries.	
Advertising and Publicity	Advertising of contraceptives officially discontinued in 1966. Official family institute gives contraceptive advice only to multi-parous women or to women with precarious health.		
Use of Media			

52. SENEGAL

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted.	Imports are permitted.	Imports are permitted.
Manufacture			
Sale and Distribution	Condoms are available in pharmacies presumably as prophylactics.	A private clinic operating with official toleration dispenses pills and inserts IUDs using midwives as well as physicians for insertions. Pills are available in pharmacies.	
Advertising and Publicity	Advertisement and publicity are limited. There was a short-lived family planning association, the establishment of a new organization is under consideration.		
Use of Mails			

Miscellaneous: President Senghor in March 1971 declared in Parliament that his Government favored family planning. However, the authors are informed that as of March 1973, restrictions on import, sale, and advertisement of contraceptives still exist as the French Law of 1920 is still theoretically in effect, although it is not enforced.

53. SINGAPORE

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted, but the Singapore Family Planning and Population Board can control all activities in the family planning field.		
Manufacture	Manufacture is permitted under the Singapore Family Planning and Population Board control.		
Sale and Distribution	Singapore Family Planning and Population Board controls all activities of sale and distribution of contraceptives.		
	Condoms are sold in pharmacies and by street vendors.	Pills are sold in pharmacies.	IUDs are inserted at government-sponsored clinics for a small fee.
Advertising and Publicity	It is assumed that commercial advertising is permitted. Singapore Family Planning and Population Board is the official agency for promoting and disseminating information on family planning.		
Use of Mails			

54. SPAIN

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import of contraceptives for personal use is not prohibited.	Import of contraceptives for personal use is not prohibited.	Import of contraceptives for personal use is not prohibited.
Manufacture	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited.
Sale and Distribution	Sale of all kinds of contraceptives is prohibited.	Sale of all kinds of contraceptives is prohibited. Pills are sold in pharmacies on medical prescription, but not as contraceptives.	Sale of all kinds of contraceptives is prohibited.
Advertising and Publicity	Under Penal Code, it is a criminal offense to advertise contraceptive medicaments, substances, objects, to display the above objects, medicaments, etc. in public; and to carry out anti-conceptionalist propaganda.		
Use of Mails			

Miscellaneous: Offenses under the Penal Code, which prohibits the manufacture, sale and advertising of contraceptives, are punishable by fines.

55. SRI LANKA (CEYLON)*

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Most contraceptives are imported as gifts. Commercial importers must receive allocation of foreign exchange from Import Controller, but no other restrictions are set by State Pharmaceutical Corporation which controls import and manufacture of drugs. No duty on gift contraceptives. ^a		
		State Pharmaceutical Corporation plans to reduce to four the number of brands of pills imported	
Manufacture	State Pharmaceutical Corporation has power to control manufacture of drugs. No quality control exists since most contraceptives are imported.		
	Only one company produces condoms domestically.		
Sale and Distribution	Condoms are sold in pharmacies at a low subsidized price. No vending machines exist. Condoms are widely available in government-supported cooperatives. Public health and voluntary family planning association midwives distribute condoms at subsidized prices or at no cost.	Pills are sold in pharmacies only as a matter of practice, not law. A prescription is not required by statute but a Price Control Order under Control of Prices Act forbids sale without prescription. Pills are distributed by public health midwives at clinics. ^b Pills are free at Family Planning Association clinics and centers. As a matter of practice, pills are distributed with instructions and labelling in a local language.	IUDs are inserted by physicians only as a matter of practice, not law. Public Health and Family Planning Association clinics provide this service free. Private physicians charge for insertions.
Advertising and Publicity	Commercial advertising aimed at the general public is allowed under <i>medical heading</i> . Representative of Association Newspaper Group refused to accept advertisements; however, this attitude appears to have been liberalized and newspapers and cinemas have carried ads. Radio Broadcasting Corporation has refused but this is being contested by Family Planning Association. Products may be displayed in stores.		
Use of Mails	As a matter of practice, contraceptives are not sold through the mails.	As a matter of practice, contraceptives are not sold through the mails.	As a matter of practice, contraceptives are not sold through the mails.

*No legislation on contraceptives exists.

^aAs of the Fall of 1972, the State Pharmaceutical Corporation of Ceylon, which controls import of drugs, gave the Family Planning Association a monopoly as importer of pills, condoms, and IUDs. (This is in addition to the gifts of contraceptives from Swedish aid to the government). The government has agreed to impose no duty on condoms, provided that they are sold with maximum of 15% mark-up to cover expenses, and that any noncomplying store is struck from list of distributors. Government also requires Foreign Exchange Entitlement Certificates (F.E.E.C.) as a form of tax on importers and to conserve foreign exchange. These certificates cost an additional 65% of the value of the import and are thus an additional duty payable by any private importer of any goods, including contraceptives. The F.E.E.C.s are not required for gift contraceptives to the government or to the Family Planning Association.

^bIPPF recommended that the prescription requirement be rescinded and pointed out that midwives are now distributing pills. However, the Deputy Minister of Health refused to remove the requirement and the matter will be considered at a special conference in 1974.

56. SWEDEN

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Only contraceptives approved by the Royal Medical Board may be imported. Requirements for import set by the Royal Medical Board.		
Manufacture	Quality control is established by the National Board of Health and Welfare. Quality control of condoms is based on testing samples; minimum requirements established (thickness, etc.)	Quality control is established by the National Board of Health and Welfare	
Sale and Distribution	Permission for sale, both wholesale and retail, must be obtained from the police authorities where the sales are to be conducted. Products to be sold must be approved by the Royal Medical Society. Since 1946, all pharmacies must sell contraceptives. Condoms are sold in various shops, pharmacies, and vending machines.	Since 1946, all pharmacies must sell contraceptives. Pills are sold in pharmacies on prescription only.	Since 1946, all pharmacies must sell contraceptives. IUDs require a prescription, may be inserted by trained midwives.
Advertising and Publicity	Compulsory sex education including contraceptive advice, has been included in schools since 1957. Presence of contraceptives in vending machines must not be offensive.		
Use of Mails			

57. THAILAND

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Contraceptives may be imported. Personal supply may be imported without duty. Importer must employ a pharmacist.		
	An open license for import of condoms is required with yearly renewal necessary. Duty on condoms is 50% of c.i.f.* plus 7.7% sales tax, plus 2.3% clearing charge.	An open general license for import of pills is required with yearly renewal necessary. Duty on pills is 10% of c.i.f.* plus 7.7% sales tax.	
Manufacture	Only condoms are manufactured locally.	Production of pills would require a license with yearly renewal. Status of local compounding of pills is unclear.	
Sale and Distribution	Condoms are sold in drug stores, tobacco booths and other small shops. Vending machines are not forbidden, but not used. Condoms are available at health institutions. The National Family Planning Project supplies them to clients.	Pills are sold in licensed pharmacies theoretically on prescription only. In fact, pills are available without prescription and in 1970, Ministry of Public Health ruled that auxiliary midwives could prescribe pills. Pill price is flexible and relatively inexpensive. There is free distribution of pills in health clinics under the Family Planning Project, but donation is requested.	There are no regulations on IUDs; they are inserted by both physicians and nurses. In practice, IUDs are not available except from private physicians and hospitals and health stations which cooperate with the National Family Planning Project.
Advertising and Publicity	Advertising is monitored by the Drug Control Division of the Ministry of Public Health. Publicity for family planning has been allowed since 1970 when the Government began to promote family planning. Advertising of condoms is permitted if wording is acceptable.	Advertising of the pill is only allowed to physicians; gift samples are not permitted.	IUDs are promoted in mass media by the National Family Planning Project.
Use of Mails			

Miscellaneous: Unlicensed production, sale, or import of pills carries a penalty of imprisonment of up to 5 years and a fine; illegal advertisement carries a penalty of up to 6 months and a fine.

*Cost, insurance and freight.

58. TUNISIA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import of contraceptive products and medicaments is subject to the regulation of pharmaceutical products (1961). A license is required from the Ministry of Health for any medicine which has not already been authorized in France. The Central Pharmacy of Tunisia has a monopoly on the import of foreign pharmaceutical specialties (Decree of 1971).		
Manufacture	License from the Ministry of Health is necessary before a medicine is admitted for sale (Decree of 1942).		
Sale and Distribution	Physician may sell medicines, including contraceptives, only when there is no pharmacy within a radius of 15 km. Pills are sold in pharmacies on medical prescription only. There is official distribution through the public health organization.		
Advertising and Publicity	Commercial advertisement of medicines to the general public is allowed with previous approval by the public health authority. Commercial advertisement to physicians and pharmacists is permitted if name and ingredients of the product and name of the producer are given. Publicity for family planning is encouraged.		
Use of Mails			

59. TURKEY

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Government accepts gift contraceptives from foreign organizations for government health services. Allocation of foreign exchange and official approval of price is required for all commercial imports. Importers must obtain a license. Some materials subject to quota and prices paid need government approval. All condoms are imported. Customs, port duties and other taxes on condoms are about 75% of c.i.f.* warehouse and transport costs are an additional 80%.	No pills are imported, even for personal use. Import charge on raw materials for pills is about 40% of c.i.f.*	
Manufacture		Manufacture of pills specifically permitted but a license is required from Ministry of Health. Foreign firms may apply. Requirements are detailed and a fee is required. Ministry of Health also supervises the processing of the pill. Full instructions are required with the package.	
Sale and Distribution	Condoms are sold in pharmacies and by street peddlers. Condom prices vary according to supply, demand, and taxes.	Pills are available commercially through pharmacies only (or doctors' drug chests in small towns). There is a prescription requirement but it is not enforced. Physicians are scarce outside cities. Pills are distributed free by official services. Pill prices are controlled by the Government.	IUDs are permitted. Private physicians charge for insertion. Ministry of Health clinics insert IUDs free but few physicians are available.
Advertising and Publicity	Contraceptives may be exhibited in pharmacies. Short announcements of availability of prescription drugs are allowed with Ministry of Health approval. Population matters and family planning are covered in TV and radio broadcasts; the various methods are explained and state-supported services are advertised. Contraceptive information and supplies are available to the Armed Forces.		
Use of Units			

Miscellaneous Criminal penalties provided for production, import, or distribution of contraceptives which do not have Government approval (1965).

*Cost, insurance and freight.

60. UNION OF SOVIET SOCIALIST REPUBLICS

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	No prohibition. Imports are determined by economic planning and carried out by public enterprises.		
Manufacture	No prohibition. Production is determined by economic planning and carried out by public enterprises.		Production of Soviet-made IUDs started a few years ago.
Sale and Distribution	Sale of contraceptives has been organized directly at women's consultation centers and pharmacies. Supplies of contraceptives are limited.		
	Condoms are sold in various shops and pharmacies, and can be displayed. Condoms are the prevalent form of contraception.	Pills still considered experimental in 1972. No limitations other than on medical grounds and supply.	IUDs are inserted by physicians
Advertising and Publicity	Exhibition of contraceptives has been organized directly at women's consultation centers and pharmacies. No prohibitions on advertisement, however, advertisement is rare as supply is limited. Display at the point of sale is allowed and practiced. Official publicity seems to be in an initial phase. Contraception is preferred to fully liberalized abortion. Family planning advice is available at women's consultation clinics.		
Use of Mails			

61. UNITED ARAB REPUBLIC (EGYPT)

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are encouraged. The government does not tax imported drugs or contraceptives.		
Manufacture	Domestic production of contraceptives faces no difficulty at present. Pharmaceutical companies are able to meet local demand for the various drugs and contraceptives. Foreign firms are not prevented from manufacturing locally and some contraceptives are manufactured by joint foreign and local efforts. The government facilitates the import of raw materials needed for local production. Condoms are not manufactured locally.		
Sale and Distribution	The Government seeks to facilitate the abundant availability of all contraceptives. The contraceptives are usually channelled through the National Company for the distribution of pharmaceutical products. All contraceptives are distributed by the government to family planning centers free-of-charge. The centers in turn distribute to the consumers free; if contraceptives are bought from a pharmacy, there is a charge. A doctor's prescription is not necessary for any contraceptive. Condoms are sold in pharmacies and in shops.	Pills are sold in medical centers and pharmacies in every Egyptian town as well as some villages.	IUDs are available in clinics and family planning centers free-of-charge.
Advertising and Publicity	The Government considers advertising to be essential for the promotion of family planning policies and especially the use of contraceptives. Special budgets are allotted to the Ministry of National Guidance for the enhancement of birth control advertisement. In addition, there is within the Executive Organization for Family Planning, a committee responsible for advertising, which includes representatives from the different ministries concerned with family planning, the government departments concerned with advertising and mass media, experts from the university, and other members representing women's associations, the Arab Socialist Union, and the religious sector.		
Use of Mails	Contraceptives may be mailed to any part of the country.	Contraceptives may be mailed to any part of the country.	Contraceptives may be mailed to any part of the country.

Miscellaneous The Government is chiefly concerned with changing popular attitudes at all levels. Incentives are used. Employees in family planning centers are given financial rewards for promoting acceptance, and a person accompanying an acceptor to the centers receives money. Awards are given to mid-wives, social workers, husbands of acceptors.

62. UNITED KINGDOM

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted for both commercial and private use. No specific duties for contraceptives. General duties on inorganic and organic chemicals, rubber and synthetic rubber products, medical and surgical instruments and apparatus.		
		Import license required for pills	
Manufacture		Manufacturer of pill needs license issued by Secretary of State for Social Services. Product licenses required for any type of p.	
Sale and Distribution	The National Health Service Reorganization Act (1973) made contraceptives available to all starting April 1974. The government ordered that family planning advice, as well as supplies, be free to all N.H.S. clinics and hospitals.		
	Condoms are sold in pharmacies, drug stores, various small shops, barber shops, even some supermarkets. Although there are no legal limitations, local by-laws in many areas prohibit sale from vending machines in public places.	Until agreement can be reached between the government and physicians, women who purchase pills from their physicians will be charged for prescription, as well as for the supplies.	Only physicians insert, as a matter of practice, IUDs will be distributed as part of National Health Service Family Planning Program.
Advertising and Publicity	No specific limitation on advertisement of contraceptives. Medical law of 1968 prohibits false and misleading advertisements. Ministry of Health has power to prohibit, by regulation, advertisements of a specified class of medicines; this power has not been used. Publication of obscene matter "with a tendency to deprave and corrupt those likely to read it" is banned (Obscene Publications Act of 1959). Pharmaceutical Society has a voluntary code of advertising practice. There may be in practice a ban on brand-specific advertising in some media (television). Health Education Council has run television campaigns in various parts of the country. Local authorities have at various times objected to specific advertisements.		
Use of Mails	It is a criminal offense to send through the mails unsolicited printed matter describing sexual techniques.		
		The Family Planning Association makes it a practice to send pills through the mail only by recorded delivery.	

Miscellaneous. Whether the supply of contraceptives to a person under 16 ("the age of relevant consent") is a criminal offense has not been tested in court.

63. UNITED STATES OF AMERICA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted. A foreign manufacturer of drugs must be registered and approved.		
	Duty on condoms is 6%.	Duty on pills is 5%	Duty on IUDs is 18%.
Manufacture	A license to manufacture is required if a new drug is introduced into interstate commerce. The manufacturer must register with Department of Health, Education, and Welfare. Adequate directions and warning of side effects and contraindications for drugs and devices must be marked on package.		
	Federal Government (and some states) controls quality, purity packaging, and labelling of condoms.	Pill instructions must contain warning of side effects	IUDs containing copper or a drug is considered a drug and subject to Food and Drug Administration regulations.
Sale and Distribution	Eighteen states have public agencies which provide contraceptive information and supplies, including condoms, pills, and IUDs.		
	Sale of condoms is permitted in pharmacies. Majority of states permit vending machines with certain limitations, some states restrict sales of condoms to pharmacies.	Pills are sold in pharmacies on prescription only. A few states prohibit distribution to minors. The trend is to liberalize	The majority of states have no restrictions on IUDs; other states have various mild limitations. The law as to who may insert differs among various states. A few states prohibit distribution to minors. The trend is to liberalize
Advertising and Publicity	Programs supported by the Federal Government offer a choice of methods, including condoms, pills, and IUDs. Eighteen states in 1971 had adopted legislation authorizing state agencies to administer family planning programs. Advertisements for prescription drugs are required by Federal law to show side effects and contraindications. The majority of states have no limitation on advertising or display; some states allow advertising of contraceptives only in medical or pharmaceutical publications, or in literature enclosed with packages. Federal law permits family planning publicity. Three states appear to forbid all dissemination of contraceptive information. These laws are almost never invoked and are probably unconstitutional.		
	Some states restrict the advertising and display of condoms.		
Use of Mails	Unsolicited contraceptives and contraceptive advertisements may not be sent through the mail except to physicians, pharmacists, hospitals, etc.; violation of this law carries penal provisions.		

64. UPPER VOLTA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import of contraceptives is prohibited.	Import of contraceptives is prohibited	Import of contraceptives is prohibited
Manufacture	Manufacture of contraceptives is prohibited.	Manufacture of contraceptives is prohibited	Manufacture of contraceptives is prohibited
Sale and Distribution	Interpretation of French Law of 1920 against contraceptive propaganda was construed as banning contraceptives themselves		
	Condoms are available in pharmacies as protection against venereal disease.	Pills are forbidden as contraceptives, but are available in pharmacies on physician's prescription only for health reasons. Few physicians are available	IUDs are prohibited
Advertising and Publicity	Commercial advertising is prohibited.	Commercial advertising is prohibited	Commercial advertising is prohibited
Use of Mails			

Miscellaneous: Strong penal provisions are available to enforce the restrictions.

65. VENEZUELA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted, if medicine is registered. Private import for personal use requires a medical prescription to be enclosed. For commercial imports, a license is required from the Ministry of Development. License is easy to obtain. Low tariffs on imported raw materials. Duty on condoms is 20%	Duty on pills is 15%	
Manufacture	Authorization from Pharmaceutical Department to manufacture is necessary. National production is not subsidized by government. Testing of medical products is performed in Instituto Nacional de Higiene	One type of pill (Norlestrin) is now compounded locally	
Sale and Distribution	There is official distribution of contraceptives in Caracas in the <i>Maternidad Concepcion Palacios</i> and at family planning clinics. <i>De jure</i> : Condoms can only be sold in pharmacies. <i>De facto</i> : 90% are sold by vendors. The commercial price of condoms is not controlled.	Every prescription drug requires a health permit if sold commercially. Considerable delay is involved. Pills are legally sold in pharmacies with a prescription. In practice, pills can be obtained without prescription since almost half of practicing physicians are in Caracas. Prices are controlled by government	
Advertising and Publicity		Although there is no legal prohibition on commercial advertisement of prescription drugs, none is done. Commercial advertising requires approval of Administration of Pharmacies; requests have always been refused.	
Use of Mails			

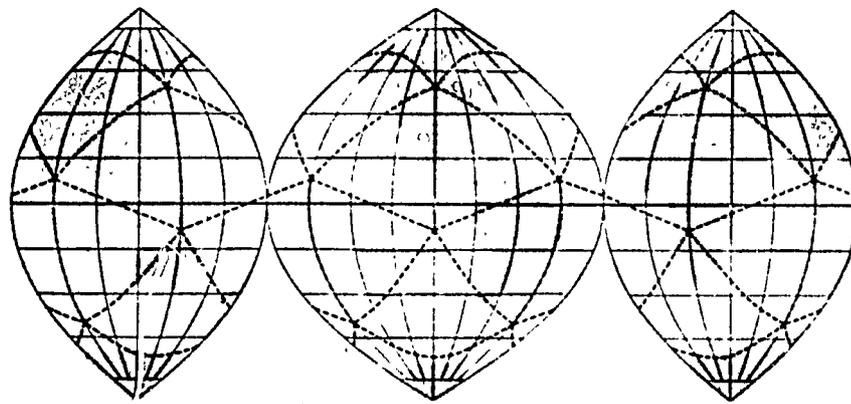
66. YUGOSLAVIA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Imports are permitted but domestic production is encouraged.	Imports of pills and IUDs are governed by laws on medicines. Government sets standards.	
Manufacture	License is required. Domestic production is favored and factories are encouraged to obtain foreign licenses. Licenses and registrations issued on republic (not federal) level by republics' Institutes for Medicine Control.		
Sale and Distribution	<p>Contraception is part of so-called obligatory medical security, which also includes treatment for tuberculosis and cancerous diseases, delivery, etc. All costs, except for a nominal charge, covered by Social Security. Law on Sale of Medicaments (1965) imposes fines for various violations of provisions.</p> <p>Condoms are not regulated by law and are sold in pharmacies, drug stores, and small shops. Government encourages family planning.</p>	<p>Pills and IUDs are exclusively distributed by the Social Security Organization on a commercial but not a professional basis.</p> <p>Pills are sold in pharmacies on prescription only. In some republics, there was a practice that a gynecologist's prescription was required, this seems to be changing. Federal authorities recommend that general practitioners be authorized to prescribe pills. Government encourages family planning.</p>	<p>No legal provisions on IUDs. Only gynecologists can insert, as a matter of practice. IUDs are imported from United Kingdom and are controlled by Institutes of the separate republics. No official distribution.</p>
Advertising and Publicity	<p>Law on Distribution of Medicaments (1973) states: "Enterprises which produce, import or distribute medicaments can advertise in the professional, medical, pharmaceutical press." Attention must be drawn to the indications and contraindications. Medicaments can not be advertised by the mass media and in areas or shop windows of the health institutions or other enterprises. It is forbidden to advertise medicaments of which the sale has not been authorized or to distribute samples. These provisions do not seem to be strictly followed, however, contraceptives are never displayed in public. Federal Government Resolution on Family Planning (1969) states: "Careful attention to the promotion of contraception and stimulation of activity in this direction has proved the most expedient way to foster family planning." Physicians are required to explain to couples the advantages and methods of contraception as opposed to abortion.</p>		
Use of Mails			

67. ZAIRE

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
Imports	Import of medicines needs authorization by health authorities. Import and transport of birth control pamphlets is prohibited if for trade or free distribution.		
Manufacture			
Sale and Distribution	Free distribution of contraceptives is prohibited.	Free distribution of contraceptives is prohibited. Pills can be sold in pharmacies. Where there is no pharmacy within 15 km., physicians may sell pills.	Free distribution of contraceptives is prohibited.
Advertising and Publicity	Display of contraceptives is prohibited. Advertising contraceptives or distributing contraceptive information is prohibited by the Penal Code of 1940.* Advice for non-commercial purpose is not prohibited.		
Use of Mails			

*Section 178, paragraphs 3-5 of the Penal Code are modeled on Section 383, paragraphs 7-8 of the Belgian Code as amended in 1923 except that the upper limit on penalties has been doubled. Belgium has since liberalized its code in this regard.



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