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The World's Laws on Contraceptives

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and
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THE WORLD'S LAWS ON CONTRACEPTIVES

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TABLE OF CONTENTS

FOREWORD	v
I. INTRODUCTION	1
II. THE RATIONALES ON WHICH LAWS AFFECTING CONTRACEPTIVES ARE BASED	3
A. <i>The Older Rationales</i>	3
(1) List of Principal Rationales Prior to World War II	3
(2) The Public Morals Rationale	3
B. <i>Modern Rationales</i>	5
(1) The Human Right of Family Planning	6
(2) Public Health and Welfare	7
(3) Excessive Rate of Population Growth	7
(4) Medical Considerations	7
(5) Economic and Commercial Considerations	8
III. REGIONAL APPROACHES TO CONTRACEPTION	11
A. <i>North Africa and Asia</i>	11
B. <i>Latin America</i>	11
C. <i>Tropical Africa</i>	12
D. <i>The European Countries</i>	12
E. <i>North America</i>	13
F. <i>The People's Republic of China</i>	13
G. <i>Conclusions as to Regional Approaches</i>	14
IV. SPECIFIC FIELDS OF REGULATION	15
A. <i>Provisions Relating to Imports</i>	15
B. <i>Provisions Relating to Manufacture</i>	16
C. <i>Sale and Distribution</i>	16
(1) Provisions dealing with sale of contraceptives generally	16
(2) Special Provisions on Condoms	17
(3) Special Provisions on Pills	18
(4) Special Provisions on Intra-Uterine Devices	20
D. <i>Advertising and Publicity</i>	22
(1) Origin of Restrictions	22
(2) Principal Types of Restriction	22
(3) General Comment on the Advertising Limitations	23
E. <i>Use of the Mails</i>	23

V. TYPES OF LEGISLATION AND THE PENAL LAW APPROACH	27
VI. CONCLUSIONS	29
VII. TABULATION OF COUNTRIES	31
SELECTIVE BIBLIOGRAPHY ON CONTRACEPTION	93
Appendix I — The Distribution and Supervision of Oral Contraceptives: Statement by IPPF Central Medical Committee	101
Appendix II — Yugoslav Resolution on Family Planning	103

FOREWORD

In 1971 the World Health Organization issued, in the *International Digest of Health Legislation*, a major survey of current world legislation on abortion, entitled *Abortion Laws*. Since that time, several other comparative law works have been published in this field, including Law and Population Monographs Nos. 14 and 16. In 1972 these authors brought out a study on *The World's Laws on Voluntary Sterilization* (Law and Population Monograph No. 8), published in early 1973. However, up to the present, there has been no reasonably full compilation of the legal situation in various countries covering the most important procedure for family planning, namely contraception. This paper is an attempt to review and analyze the laws, regulations, and decisions in this field in an effort to fill the gap.

The subject is unusually complex. The texts of laws, regulations and decisions affecting contraceptives are rarely available in convenient and current form. The question is further complicated by the state-federal systems in a number of countries. In addition, the rules affecting contraceptives appear in the laws covering many fields, including public health, pharmacy, medical ethics, and other medical fields; commerce and industry; foreign tariffs, and education, among others. It is surprising how often governments have attempted to regulate the field through the criminal laws.

It will be noted that there are many gaps in the tabulation. This simply means that there was no information available to us on that subject on a particular country. It does not necessarily mean that there is no law on that point, although this may, in fact, be true.

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, medical associations or medical insurance regulations as to malpractice suits, etc.

We have tried to cover sixty or more countries, which are listed at the front of the tabulation section. These were selected because enough material was available, and, in some cases, because there were features of special interest. The omission of a country was not because the country was not considered to be important but because the authors felt that the material they had was inadequate.

We have attempted to give the principal citations to the legal texts in the tabulation and assume that readers will look there first. Other citations, not appearing in the tabulation, will be found in the footnotes, either to the main text or to the tabulation.

* * *

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often relied on the extensive data collected in the various publications of the International Planned Parenthood Federation.

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* * *

The authors express herewith the hope that any reader finding materials in this publication which he considers incorrect as to his or her country, or finding any important omissions, will be kind enough to write to us, so that we may correct our material in any later editions which may be pub-

lished. We should also appreciate news of any changes in the laws of any country in this field.

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INTRODUCTION

Until as recently as the middle of this century nations all over the world encouraged fertility, as mankind had been doing since its origin. Any interference with procreation as the natural and proper result of love and sexual partnership was thought of as immoral, sinful and unnatural. The laws of most countries reflected this basic attitude, either consciously or unconsciously. With unprecedented speed, a great many fundamental changes in public attitudes towards the subject have occurred over the past twenty years, particularly during the 1960's. As a result of the changed situation, many existing laws affecting fertility have been rendered more or less obsolete.

A list of the basic changes which have occurred since World War II will help to explain the need to review the world's laws. These include:

- (1) the precipitous *fall of the death rate*, particularly in the developing countries, together with the dramatic increase in the rate of population growth and with the growing realization on the part of most responsible people that this is occurring;
- (2) a spread in the general understanding of the danger both to mothers and children caused by *malnutrition and the health hazard of large families* in developing countries;
- (3) the revolutionary change in the *position of women* in almost all developed countries, and increasingly in the developing countries. Women are gaining equality not only in political and economic life, but also in domestic and sexual life. They regard unwanted pregnancies as a limitation of their new rights;

(4) the increasing recognition of *problem-wanted children*, including emotional disturbance in the parent-child relationship to juvenile delinquency, etc.

(5) the fact that as economic development progresses, people necessarily want to have more children, which leads to *illegal abortions* performed under the worst possible conditions, and finally being recognized, with the realization that contraception is better than all.

(6) the change in general concepts of *immorality and obscenity*. There is a growing willingness to discuss openly such matters as contraception. Sex education is beginning to be accepted in school curricula;

(7) the *new and more reliable contraceptive methods*, the intra-uterine device and the oral contraceptive technique have been developed or improved and the contraceptive technique has been rendered safe, effective and more acceptable;

(8) the concept of *responsible parenthood* has been accepted by all religions;

(9) the *acceptance of family planning as a man's right at the international level*. The recently accepted Teheran Proclamation and the U.N. Declaration on Social Progress and Development issued by the General Assembly the next year were the decisive documents at the international level.

Law, by its nature, is conservative and slow-moving. In view of the suddenness of these fundamental changes, it is not surprising that in most countries laws in the field of contraception have not kept up with social and economic necessities with the changes in public opinion. Quite ne-

among nations with different legal, economic and cultural backgrounds, diverse laws on contraception can be found, varying 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 accepted policy has not yet been reflected in the law, which is still under the influence of the old policy. Occasionally, even new statutes or regulations may be contrary to the newly accepted attitudes. A glance at the tabulations contained in this study will show the frequency of such discrepancies. That such laws are often ignored in practice, or not enforced, may be an indication that they are out-of-date.

The purpose of this monograph is to present the mass of heterogeneous provisions which exist in most countries with regard to contraceptives in the hope of providing a clear perception of existing discrepancies. The authors also hope to provide a convenient reference book to simplify the work of people interested in promoting contraception both as family planning and as a human right.

* * *

The first part of the study (Chapter II) describes some typical and recurring motivations, rationales, and factors which seem to have influenced the law as it now exists in various countries. Both the "old" and restrictive, and the "modern" liberal rationales are examined, since the existing law is a fermenting mixture of old and new.

The next part (Chapter III) will try to give a picture of the general situation in the major geographic areas. This is followed (in Chapter IV) by a description and analysis of typical or otherwise important legal provisions affecting contraceptives.

Chapter V attempts to draw a few tentative conclusions. Whereas we have felt that the facts speak for themselves in most cases, it may be useful to review some of the most frequent types of restrictions in the light of present-day policies and contemporary criteria. We also hope that interested authorities may wish to check the laws of their own countries against what may be the situation in other countries of their regions.

The tabulation section of this paper attempts to summarize the legal situation in about sixty countries. The footnotes to the tabulation explain the background in particular cases. (This information is incomplete, but it represents the best data available to the authors.)

In the effort to keep the study within reasonable bounds of size and complexity, we deal only with three types of contraceptives: the condom, the modern oral hormonal contraceptive (for which the word "pill" will usually be used throughout the study) and the intra-uterine device ("IUD"). These are the three kinds of contraceptives which at present and probably for the next few years are likely to be most frequently used in the world at large. We did not attempt to cover all the many fields of law and regulation which may affect the availability of contraceptives, having concentrated on those fields which, in most countries, appear to have the greatest bearing on the matter.

THE RATIONALES ON WHICH LAWS AFFECTING CONTRACEPTIVES ARE BASED

An understanding of the basic rationales influencing legal regulation of contraceptives is a necessary prerequisite to the understanding of the laws and regulations themselves. It is also required if we are to consider the possibility of improvement of these laws. Owing to the overwhelming change in public attitudes during the last decades which was referred to in Chapter I, two distinct groups of legal rationales exist in the field: the "old," restrictive ones, and the "modern," liberal ones.

A. The Older Rationales

1. List of Principal Rationales Prior to World War II

The rationales, some of which are still influential today, and which lie behind the older restrictive and pro-natalist laws, may be listed as follows:

- (a) The instinct to provide for *human survival*, which was a vital factor and a felt need from the origin of mankind until very recent times. Even today this factor can be sensed in areas like tropical Africa where there is a high rate of child mortality.
- (b) *Nationalism*, which is expressed 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 (e.g., 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;¹ Honduras and El Salvador at present);²

fear of imperialism at the world level which leads people in a number of developing countries to mistrust efforts to spread family planning as "genocide" directed by the Western Europeans and North Americans (who have largely overcome their tendency to explosive growth) at the people of the developing countries (who have not yet overcome the tendency).³

- (c) Doctrinaire confusion of the family planning issue with *Malthusianism* (or "neo-Malthusianism") by some leaders of the radical left.
- (d) The principles, or what were assumed to be the *principles, of some religions*. There was a tendency in the past for some Christian and Moslem leaders to oppose contraception along with abortion and voluntary sterilization. However, unlike 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. The other great religions do not offer any opposition.
- (e) The desire to protect *public morals*. This rationale had, for more than a hundred years, a very strong and direct effect on laws concerning contraceptives in many countries.

2. The Public Morals Rationale

The existence and nature of most of the above rationales is generally well understood and covered in contemporary literature.⁴ However, the public morals rationale has been a particularly important factor in this field and does require a few com-

ments. This rationale breaks down into three distinct aspects:

- (1) The emotional taboo on all matters connected with sex as obscene, immoral or indecent;
- (2) the idea that publicity on contraception is indecent in itself;
- (3) the fear that accessibility to contraceptives will lead to promiscuity.

(a) *The emotional taboo on sex*

In the United States, the so-called Comstock era of the 1870's and 1880's marked a high point in the widespread puritanical opinion that anything to do with sex was obscene and sinful. During this period, the Federal Congress adopted laws which, in sweeping language, prohibited the use of the mails for, and the interstate transportation of, any material concerned with contraception. Most of the states adopted, in their jurisdictions, strict prohibition on sales, distribution, advertisement, and even use (Connecticut) of contraceptives. The federal punishment for mail and transportation offenses was imprisonment for up to 5 years for the first such offense and up to 10 years for each subsequent offense, plus a fine. Although these laws now appear foolish and a matter of history only, it was only in 1965 and 1972, respectively, that the Supreme Court declared some of the remnants of those laws to be unconstitutional.⁵ Only in December 1970 did the U.S. Congress repeal the federal prohibitions of the 19th century.

The strong moralistic taboos of the Victorian period were not confined to the United States. It may seem surprising that there have never been any laws in the United Kingdom directed specifically against the use or provision of contraceptives with the exception of obscenity laws, under which reputable medical publications were prosecuted.⁶ However, the language and mentality of the contemporary English judges which was revealed in well-known trials was fully Victorian. The provision against contraceptives in the 1923 amendment to the Belgian Penal Code—still in force, even if not enforced—is placed under the heading "Public Offenses Against Morals." 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" As late as 1967, during the French As-

sembly debates on the law on contraception, emotional statements in favor of the taboo were heard as follows:

. . . 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

. . . When a woman with no medical or even social pretext . . . asks for a prescription for contraceptives . . . there is a moral degradation of the medical act.⁸

b. *Publicity on Contraception as "Indecent"*

Since the time when contraception became an issue, there has been a question as to whether the public sale, public display, or advertisement of contraceptives are a public nuisance from the viewpoint of obscenity. The logical answer should be that the normal obscenity laws which protect the public against such things as pornography should apply in the same way as they apply to the sale, display, or advertisement of other articles. However, a separate legal fiction has frequently been applied to contraceptives under which they are considered as obscene *per se*.

This is sometimes set forth in specific language, as in some of older laws of the United States, or in the 1933 Press Ordinance of Malta, which in Section 11 proclaims that divulging the means or explaining the methods of preventing procreation, "shall be deemed to injure public morals." As recently as 1969, the Australian state of New South Wales enacted that: "Any advertisement in relation to contraception or contraceptives shall be deemed to be an indecent advertisement."⁹ More often the identification of contraceptives with indecency is done by implication. Thus, several laws (as, for example, the former French law of 1920) place contraception, abortion, obscenity and vice in the same category. The laws of Brazil and Peru, among others, put contraception and abortion in the same category. As late as 1960, every one of the thirty states of the United States which had any law dealing with contraception included a provision forbidding advertisement of contraceptives in some form.

This "immorality" or "indecent," rationale was applied so broadly until comparatively recently that not only contraceptive objects, but family planning itself was deemed to be immoral *per se* as something offensive to public decency, which should be discussed, if at all, under cover of secrecy. It was stated by an Australian judge in *ex parte Collins* that it "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. . . ."¹⁰

Eighty years later, this concept can still be traced in some countries in the legislative approach to the sale of contraceptives through vending machines. Such a sale, in spite of its inconspicuousness, is sometimes held to be dangerous to public decency, or to the morals of the young. The issue and the arguments arising out of it are illustrated by the controversy in West Germany described in Chapter IV below. The emotionalism involved 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. . . .¹¹

The rationale described in this section which seeks to shroud family planning in secrecy may not only be out of date, but it may also have unexpected and undesirable results, both from the moral as well as the mental and public health viewpoints. The consequences of forcing contraceptives into secrecy instead of treating them like something natural must excite young people's sexual interest and confuse healthy and normal contraception with the old, unhealthy image of illicit love. Some recent writers call for a different approach—stripping contraceptives of their "illicit" image. The couple who use contraceptives should be made to feel that they are acting in a normal, rational way, without any feeling of guilt.¹²

c. *Fear of Promiscuity*

The third aspect of the immorality rationale is, in essence, based on a theory of deterrence. It has some impact on legislation, since its reasoning is simple and it appeals to common sense. It is assumed that the probability of pregnancy and the birth of an unwanted child is, to a young woman, an important deterrent against extra-marital sex. Should efficient and simple contraceptives become easily available, the inhibition of possible pregnancy would be removed, and this would result in the increase of extramarital relations, of "sexual promiscuity," or even of prostitution. Thus, it is implied, and sometimes even frankly stated, that the present lack of available contraception is somehow desirable. Examples of this are:

Why should the poor woman have to be taught to sin without conceiving?

or

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 proposed liberal law] the medical prescription which will justify them and protect appearances.¹³

The concept of deterrence is a well known aspect of criminal law. Most legislators believe that the expectation that punishment will certainly follow a crime will deter people from committing it. However, the validity of this concept has become controversial even among criminologists. Experience seems to show that acts motivated by strong emotions are not apt to be deterred by the threat of punishment. Thus, when applied to the purely emotional and non-criminal field of sex relations, the theory that fear of possible pregnancy will deter lovers, is probably unsound. A glance at the quantity of abortions and of illegitimate births which occur yearly in countries where contraceptives are hard to obtain may be persuasive evidence.

What seems to have been forgotten is the element of humanity, as well as the amount of harm to health, family harmony, and general welfare, which result from this attitude. The idea that an unwanted birth and the burden of bringing up an unwanted child will function as punishment for the "illicit love" of the mother—often a young girl—is less acceptable today than it was formerly. Modern sociology stresses the importance of "wanted only" childbirth as the prerequisite for a healthy and harmonious family life and for the undisturbed growth of a young individual. To accept the deterrent idea as preferable to preventive contraception means that we prefer the adverse psychological effects of unwanted pregnancies on young women, large numbers of induced abortions, forced early marriages of immature couples; and the birth of illegitimate or otherwise unwanted children.¹⁴

B. Modern Rationale^a

Over the past twenty years world attitudes with regard to contraception and the consequent rationales behind more recent legislation in the field have changed fundamentally. New considerations have attained general acceptance in relation to contraceptives and family planning. These may be listed as follows:

1. the human right of family planning;

2. the requirements of public health and welfare;
3. excessive population growth in many developing countries;
4. medical considerations;
5. economic or commercial considerations.

Two of the above (1 and 2) must now be regarded as the leading, most relevant, and nearly universally accepted criteria for legislative action in this field. The fourth and fifth derive from modern medical and commercial practices. The third factor is believed by some not to be relevant for all countries, but it is certainly of critical importance for many of the developing countries.

1. The Human Right of Family Planning

That the right of couples to decide on the number and spacing of their children is a basic human right was established by a unanimous vote of the United Nations Conference on Human Rights at Teheran in 1968.¹⁵ That this includes the right of access to the knowledge and means necessary for the exercise of the right was resolved the next year by the General Assembly.¹⁶ That this should be put into effect by 1980 was urged by the Economic and Social Council in 1971.¹⁷

As recently pointed out by Symonds and Carder, this represents a 180° change of viewpoint from the position of the League of Nations which referred to "birth control" as "abhorrent" and a "social menace."¹⁸ As the history of hard striving to gain general acceptance of the new position may be assumed to be fairly well known, the authors refer only to some of the recent works dealing with this development.¹⁹

Whether the recently established right is that of "parents," or of "couples," or of "women" is not essential to the present discussion. The efforts of women to improve their status had a lot to do with getting the right generally recognized. The idea that a woman has the right to decide on her own pregnancy and motherhood has been the basis for family planning in the socialist countries which have accepted it from the beginning, owing to Lenin's pro-feminist (although anti-Malthusian) approach.

Now that the right has been accepted on the international level, it should follow that the Member States of the United Nations will take steps to reflect the new doctrine in their domestic legislation and even in their constitutions. Although a large number of countries have, over the past twenty

many of the changes were probably motivated more by fear of excessive growth and desire to enhance family welfare than by human rights considerations. No constitutional amendments specifically reflecting the newly recognized human right have yet been put into effect since Teheran, so far as the authors know, except in the Philippines.

However, the courts in at least three countries (Eire, Italy and the United States) have taken action on constitutional grounds 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" and the Constitutional Court in 1971 struck down, on grounds of free speech, some Mussolini-period restrictive laws forbidding information about contraception.²⁰ In the United States, the Supreme Court developed the right of privacy in matters of sex and the family by implication from the "Bill of Rights" amendments to the Constitution.²¹ The Irish Supreme Court decided on December 19, 1973 in the *McGee* case that the ban on imports of contraceptives for private use is unconstitutional. The decision in the case was founded on the interpretation of Article 41 of the Constitution relating to the protection of the "family, in its constitution and authority." Although the courts did not refer to the Teheran Declaration, they were reflecting this trend in world thinking.

Another specific consequence of the general acceptance of the human right of family planning and, in particular, the ancillary right to have access to the necessary knowledge and means, is the effect it has on the old-fashioned ideas of obscenity referred to above. Neither legislatures nor courts can now maintain that contraceptives or information about them are immoral *per se*. An outstanding 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.²²

It is not the purpose of this paper to study at length the full scope and effect of the new human rights within each country. The General Assembly in 1966 recognized the sovereign right of each government to formulate and pursue its own population policy, "with due regard to the principle that the size of the family should be the free choice of each individual family."²³ Thus, it seems clear that a government cannot under the U.N. resolution either deprive its citizens of family planning or

force it upon them.²⁴ What is also clear is that the effect which a law may have in limiting accessibility to contraceptives on the part of the bulk of the population is one of the basic criteria, if not *the* basic criterion, as to its consistency with United Nations principles.

Finally, the putting into effect of this human right automatically means acceptance of the "wanted children only" principle which is basic to the subject of the next section—public health and welfare.

2. Public Health and Welfare

The second modern rationale, which supports liberal contraceptive laws, is the importance now being given the requirements of public health and welfare, and a full recognition of the damaging effect of unwanted pregnancies in this field. They are now known to endanger physical as well as mental health and the whole family environment.

The ill effects of such pregnancies include: the increase in infant and maternal mortality after the fourth pregnancy; the poverty and malnutrition prevalent in excessively large families which result in permanent damage to the children;²⁵ 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, finally, the extremely high number of abortions, usually under the worst conditions.²⁶

The problem of illegal abortions may be among the most serious consequences of the non-accessibility of contraception.²⁷ Legislators in the latter half of the 19th and first half of the 20th centuries have tried to stop this by strict legislation but, despite this, abortion became, during this period, the most common form of birth control. A number of Latin American countries found that a large proportion of the hospital beds available for maternity-connected illnesses were taken up by women suffering from the consequences of "botched" abortions. They drew the obvious conclusion that contraception is essential for the solution to the problem.

The problem of the unwanted child goes further than the parents themselves. A child who feels unwanted by his parents has been shown to run a higher risk of emotional instability and juvenile delinquency²⁸ than a normal (wanted) child. Thus, problems of general social welfare, as well as family welfare, are involved.

3. Excessive Rate of Population Growth

There has not yet been a general consensus among all countries as to the importance or economic impact of the "population explosion" which has occurred in the developing countries since World War II. As Chapter III points out, the North African, Asian 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 agree.²⁹

For purposes of this study, if a government has recognized that the danger exists in its case, then this creates a third important criterion against which limitations on contraceptives must be judged.³⁰

4. Medical Considerations

Among the factors of a medical nature which are frequently reflected in the legislation, and which must be taken into consideration in judging the appropriateness of a given provision of law, are the following:

- (i) the requirement that the contraceptives used must be safe, acceptable to the population and of good quality;
- (ii) the requirement that the contraceptives must be made safely available to all classes under the conditions of medical care actually existent in the country;
- (iii) the rules of medical ethics and medical practice prevalent in the country, including the question of what use can be made of para-medical ("non-doctoral") health personnel, and the degree to which medical duties may be delegated in each country;
- (iv) the degree to which public advertising of certain drugs may lead to harmful self-medication;
- (v) the quasi-monopolistic interest of some physicians or pharmacists in the preservation of certain existing rules or practices which, in fact, impede the spread of contraceptives under the conditions which exist in some developing countries.

The first four of these considerations, if applied fairly and in good faith, are clearly legitimate and in the public interest. However, regulations in each of these fields, if administered in a manner which is unreasonable under the circumstances of the country, or if abused by a pronatalist administration,

may become serious impediments to the availability of family planning. Thus,

- (i) requirements of quality tests for new drugs or materials, or of registration for manufacturers or importers, can be so administered as to constitute a heavy burden on the introduction of new methods, or to block them completely;
- (ii) the requirement (and the enforcement of the requirement) of a physician's prescription in connection with the dissemination of the pill, when applied in a country with few physicians (usually concentrated in the cities) in effect eliminates the pill for the majority of the population of most developing countries;
- (iii) the rule of medical practice which excludes the use of trained midwives and nurses for the insertion of the IUD effectively excludes the use of this technique in many countries where doctors are scarce, and which frequently suffer from population pressures;
- (iv) an over-careful approach to the advertising of "ethical" or other drugs, based on a fear that ignorant people will be misled, can effectively prevent needed publicity for an effective contraceptive.

The basic problem is, of course, to find the right balance between the interests of the society in, and the rights of the individual to, easily available and efficient contraception on one hand, and the possible dangers which might occur should any particular method be used improperly. These factors have to be balanced in the light of the situation within each country, and the decisions must be reached in the light of the expertise and viewpoints of the diverse disciplines involved.

5. Economic and Commercial Considerations

There are a number of purely economic or commercial considerations which give rise in some countries to serious limitations on the general availability of contraceptives. The two principle considerations of this nature are:

- (i) the need to protect local industries, and particularly an infant industry;
- (ii) the need to conserve scarce foreign exchange.

The nature of the regulations which result from these rationales, and the effect which they have on the availability of contraceptives are discussed in Section 1 of Chapter IV of this paper.

Footnotes

¹Striking examples are given by J. Pagès, *Le Contrôle des Naissances en France et à l'Étranger*, Paris, 1971, pp. 165 and 166.

²IPPF *Population Report, Honduras*, May 1973, p. 3: "Over the past two years, opposition to family planning has grown, following the war with El Salvador and the concern for a larger population for the Army and national defense."

³J. M. Stycos, "Opposition to Family Planning in Latin America: Conservative Nationalism," *Demography*, Vol. 5, No. 2 (1968), p. 846, with ample literature; J. Waterbury, "Land, Man and Development in Algeria, Part II: Population, Employment and Emigration," *Field Staff Report*, Vol. XVII, No. 2, *North Africa Series*, 1973, Hanover, N.H. The emotional force and outspokenness of "genocidal" suspicions has been summarized by Waterbury for Northern Africa as follows: (p. 19)

... conviction that family planning is essentially a Western, imperialist gimmick to distract the Third World nations from the real problems ... belief that Western donor nations, the international family planning establishment, and the personnel of various United Nations agencies, all harbor a sort of "yellow peril" complex and advocate birth control to keep down the non-Caucasian hordes ...

⁴As some of the most recent sources of general information on law in the family planning area, the following may be listed in chronological order:

Special issue of *Demography*, Vol. 5, 1968, No. 2: *Progress and Problems of Fertility Control Around the World*, including 44 essays;

L. T. Lee, A. Larson, *Population and Law*, Leiden/Durham, N.C., (1971), (hereinafter cited as "Lee/Larson");

J. Pagès, *supra* note 1.

U.N. Department of Economic and Social Affairs, *Measures, Policies and Programmes Affecting Fertility, with Particular Reference to National Family Planning Programmes*, New York, (1972).

C. T. Dienes, *Law, Politics and Birth Control*, Urbana, (1972).

IPPF, Europe Region, *A Survey of the Legal Status of Contraception, Sterilisation and Abortion in European Countries*, London, (March 1973).

R. Symonds, M. Carder, *The United Nations and the Population Question 1945-1970*, London, 1973.

D. G. Partan, *Population in the United Nations System*, Leiden/Durham, 1973. (Law and Population Book Series, No. 3).

Plotrow, P. T., *World Population Crisis. The United States Response*, New York, Washington, London, (1973). (Law and Population Book Series, No. 4).

Commission on Population Growth and the American Future, Research Reports, Vol. VI, *Aspects of Population Growth Policy*, edited by Robert Parke Jr., and Charles F. Westoff. Washington, 1973; See in particular, Chapter 2, "Legal Obstacles to Freedom of Choice in the Areas of Con-

trapection, Abortion and Voluntary Sterilization in the United States."

⁵*Griswold v. Connecticut*, 381 U.S. 479 (1965); *Eisenstadt v. Baird*, 405 U.S. 438 (1972).

⁶D. M. Kloss, B. L. Raisbeck, *Law and Population Growth in the United Kingdom*, (Law and Population Monograph, No. 11) Medford, (1972), p. 9, 13.

⁷*Journal Officiel, Débats, Assemblée Nationale*, July 1, 1965, p. 2569.

⁸*ibid.*, p. 2568.

⁹*The Obscene and Indecent Publications Act 1901-1969*, Sec. 3, para. 1-The authors are obliged for this, as well as for most of their other information on laws of Australia, to the outstanding manuscript of a forthcoming study by H. A. Finlay and Sandra Glasbeek, *Family Planning and Law in Australia* (1973), p. 17.

¹⁰*Ex parte Collins*, (1888) 9 L.R. (N.S.W.) 497; (cited by Finlay, Glasbeek, *supra* note 9, p. XIV).

¹¹G. Willms, "Ist 41a GewO n.F. verfassungswidrig?" *Ehe und Familie*, Vol. 7 (1960).

¹²P. Nijs, *Psychosomatische Aspekte der oralen Antikonzeption*, Stuttgart 1972, p. 81 ff.

¹³First quotation: J. M. Stycos, *supra* note 3, p. 852, quoting N. V. Altamirano; Second quotation: M. Georges in the discussion in French Parliament, *Journal Officiel, Débats, Assemblée Nationale*, July 1, 1967, p. 2577.

¹⁴This argument was fully accepted by both Houses of the British Parliament in discussing the "National Health Service Reorganization Act of 1973." "The choice was between contraception and abortion," and "unwanted pregnancies (had to be) reduced." *The Times*, June 26, 1973, p. 8, col. 1.

¹⁵*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, with 7 abstentions.

¹⁶*Declaration on Social Progress and Development: General Assembly Resolution 2542 (XXIV)* of December 11, 1969, adopted by a vote of 119 in favor, none opposed, with 2 abstentions.

¹⁷The Economic and Social Council, *Resolution 1672 (LII) on Population and Development* (1971).

¹⁸R. Symonds, M. Carder, *supra* note 4, pp. 1, 23.

¹⁹R. Symonds, M. Carder, D. G. Partan, *supra* note 4; J. W. Halderman, *Programs of the United Nations and Associated Organizations*, Lee/Larson, pp. 387 ff; L. T. Lee, "Law, Human Rights and Population: A Strategy for Action," *Virginia Journal of International Law*, Vol. 12 (1972), p. 309.

²⁰As late as 1965, the Italian Constitutional Court upheld the constitutionality of Sec. 553 of the Penal Code which prohibited contraceptive propaganda as far as it was directed toward the protection of morals. This was overruled by the decision of the Italian Constitutional Court of March 16, 1971, No. 49 reflecting the change in world thinking. The Court, in the 1971 decision, 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 the 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 that the provisions, cited in the decision, were inconsistent with basic freedom of speech.

²¹Citations in note 5 above. The *Griswold v. Connecticut* decision of the U.S. Supreme Court in 1965 found that a statute of the State of Connecticut forbidding the use of contraceptives unconstitutionally intrudes upon the right of privacy of husband and wife. Following this decision, the State of Massachusetts in 1966 tried to uphold the prohibitiveness of its own law by adding an amendment enabling married people to obtain contraceptives from physicians or, upon prescription, from pharmacies. In 1972 the U.S. Supreme Court, in the *Eisenstadt v. Baird* decision,

struck down this legislative attempt also as unconstitutional and extended the protection of privacy to the unmarried:

The Equal Protection Clause of the (Fourteenth) Amendment does ... deny to States the power to legislate that different treatment be accorded to persons ... on the basis of criteria wholly unrelated to the objective of ... statute (p. 1035) ... whatever the rights of the individual to access to contraceptives may be, the rights must be the same for the unmarried and the married alike ... If under *Griswold* the distribution of contraceptives to married persons cannot be prohibited, a ban on distribution to unmarried persons would be equally impermissible (p. 1038).

²²F. Bauer, *Vom kommenden Strafrecht*, Karlsruhe 1969, p. 84.

²³*Resolution 2211 (XXI) on Population Growth and Economic Development* adopted December 17, 1966.

²⁴D. G. Partan, *supra* note 4, pp. 14, 21, 212.

²⁵The desire for too large families may be one of the key demographic problems in some undeveloped areas, as in India, Pakistan and Africa. Among motivations for this attitude are: high mortality of children; the belief in rural areas that sons are "economically valuable" as they share the burden of work; and the belief that children represent provision for old age. Often there is a fatalistic attitude with the underlying belief that the size of a family is a "matter for God" and that "each time that God creates a mouth, he creates at the same time the food which must feed it." B. Wolf, *Anti-Contraception Laws in Sub-Saharan Francophone Africa: Sources and Ramifications*, p. 4, Law and Population Monograph No. 15, Medford, (1973); J. C. Caldwell, "The Control of Family Size in Tropical Africa," *Demography*, *supra*, note 4, p. 598.

²⁶In developed countries a leading cause for support of family planning is the effort to reduce unwanted pregnancies. In England, "discussion has moved away from theorizing about morals and has concentrated on the practical problem of reducing the numbers of unwanted pregnancies." (*British Medical Journal*, January 20, 1973). This was clearly visible in parliamentary discussions preceding the 1973 Reorganization Act, *supra* note 14. "It has been estimated that one quarter of the pregnancies in England and Wales are unwanted; of these some 100,000 were aborted." (*Population Crisis and Policies in Economically Advanced Countries*, Report of a Conference at Ditchley Park, England, 1972, p. 12). Similarly, the American Commission on Population Growth recommended "a national policy and voluntary program to reduce unwanted fertility." (*Population and the American Future: The Report of the Commission on Population Growth and the American Future*, Washington 1972, p. 107). Illegitimacy represents a special concern (Crellin *et al*, *Born Illegitimate*, London (1971).

²⁷Induced 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." (U.N. Advisory Committee on the Application of Science and Technology to Development, New York 1971; U.N. Doc. ST/ECA/138, p. 49).

The number of statistically established induced abortions in England and Wales for 1971 was 126,000. This, in relation to the number of births, 783,000, is considerably lower than in many European countries, both Western and Eastern, including Austria, France, Hungary, Yugoslavia, etc.

²⁸"One Hundred and Twenty Children Born After Application for Therapeutic Abortion Refused," Forssman and Thuwe, *Acta Psychiatrica Scandinavica* Vol. 42, (1966), pp. 71-88.

²⁹A complete picture and a detailed history of the conflict of attitudes in the U.N. forum, now lasting for 25 years, is the subject of R. Symond's and M. Carder's book on population and the United Nations, *supra*, note 4.

³⁰The overwhelming importance attributed to the overpopulation problem in China (with a population estimated between 750 and 850 million) has been reported by A. Faundes and T. Luukkainen in "Health and Family Planning Services in the Chinese People's Republic," *Studies in Family Planning*, Vol. 3, No. 7, Supplement, (July 1972) and in abstracts and articles in Vol. 4, No. 8, (August 1973).

The extent of concern with the problem in the second largest country, India, can be felt from the opening paragraphs (by A. B. Mukerjee) of the Family Planning Number of the *Journal of the Indian Medical Association*, Vol. 59, No. 8, (1972):

The fifth Five Year Plan . . . population . . . is expected to reach the colossal figure of 600 millions . . . this, unfortunately, is the achievement . . . after more than 20 years of active propaganda

and enormous expenditure . . . the apparent failure, partial if not complete, of the endeavours made in curbing what is now commonly described as 'population explosion' . . . (p. 315);

. . . it would be tragic if primitive religions, taboos, irrational political dogmas, biological illiteracy and political expediency should conspire to prevent or delay a rational solution of this problem. (p. 316).

III.

REGIONAL APPROACHES TO CONTRACEPTION

In certain regions of the world it is possible to trace some common approaches to family planning and to contraception in particular which are characteristic for the area. These common regional factors and similarities in the legal or factual situation developed for reasons peculiar to the regions and their histories.

Naturally, any regional picture in a field as interwoven with various motivations as this can be attempted only in very rough outline and with a caveat that many omitted details may differ from the general picture.

A. North Africa and Asia

On a broad strip from North Africa through the Near East to South and East Asia the pressure of the demographic situation in a majority of the countries is compelling the governments to support or, in a few cases, at least to tolerate active family planning programs. Tunisia, Egypt, and Iran have government programs dating from the mid-1960's. A change away from a former negative policy can be seen in Turkey and possibly in Lebanon. India, whose population problem is perhaps the most serious among the large countries, was the first country to start an energetic official program as far back as 1952. Demographic pressure and governmental reaction have been similar in Pakistan. A policy in favor of family planning has been officially accepted in Sri Lanka, Thailand, Malaysia, Singapore and, since 1968, in Indonesia. Extensive programs have been developed in the Philippines (recently), Taiwan, Hong Kong, and South Korea. After ten years of changing positions, a nationally organized official effort to ensure efficient family planning is under way in China, on an unprece-

dent scale. Because of the size of the nation and of the unique scope and methods of the program, the situation in China will be described at the end of this chapter.

Common to the countries named is a growing recognition by the governments that, because of the demographic situation, some sort of voluntary fertility control is necessary and that government-sponsored family planning programs must be undertaken. In this area, as compared to Latin America or Tropical Africa, nationalist and religious attitudes do not generally form as serious an obstacle as traditions, customs and, in some countries, illiteracy. Despite the above, in many of these countries, various obsolete laws are still on the books. The failure to repeal these antiquated provisions may be a question of legislative expediency, or of failure, so far, to undertake a legislative "clean-up" process, or even of vested medical or professional interests,¹ rather than of a confrontation with cultural or religious concepts. Such laws are frequently ignored in practice.

B. Latin America

In Latin America, the unprecedented growth of population during recent decades is recognized as an acute problem only in some of the countries. While some governments either officially sponsor or financially support family planning projects (such as Costa Rica, Dominican Republic, Venezuela and recently Mexico) there are other countries where family planning is still officially opposed (Argentina, Brazil, Uruguay). Among the relevant factors influencing law in Latin America are: the influence of the Catholic Church; the conservative approach to women's status, character-

istic of Iberian cultures; and illiteracy. Also important are the old feelings of nationalism and rivalry, complicated by suspicions of the intentions of West European countries and especially of the United States. Due to these factors, 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.

C. Tropical Africa

The division of Africa south of the Sahara into its French and English-speaking parts highlights the strong contrast between the two, which stems from the peculiar hold of the French colonial heritage. The francophone countries are, with a few exceptions, opposed to family planning and have pronatalist views (although in the last two years there has been evidence of change in some of them). Most of these countries have retained the restrictions against contraception contained in the old French law of 1920, which was originally designed to deal with the situation in "metropolitan" France and which has been abandoned in that country since 1967. In the former Belgian parts of Africa, Zaïre is taking a "new look" at the problem, Rwanda and Burundi, despite the fact that they are suffering from population pressures, still oppose family planning. Tribal rivalries sometimes play a part.

In the former British parts of tropical Africa, although attitudes towards family planning vary, recognition of the population problem is clearer than in the francophone area. Ghana, Nigeria and Kenya—all countries with a 3 plus percent population growth rate—have enacted or announced official family planning programs, although they still retain some "colonial" laws limiting distribution and even information about contraceptives.

Among the demographic features of tropical Africa are 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 particularly low. Among the overwhelmingly rural population—approximately 90 per cent of its inhabitants—an unprecedented migration to cities is now taking place, causing unemployment and worsened living conditions there.

In view of the political and ethnic ferment among many of the nations in Africa and in view of the alarming drought and famine conditions which have developed and may again develop in the area,

changes of policies may occur more easily than in any other part of the world. Despite the growth rate of the African population as a whole, the future development of family planning policies on this continent is harder to predict than in any other region.

D. The European Countries²

Three trends are visible among the developed countries of Europe. The first group includes Great Britain, Scandinavia and the Netherlands. In these countries contraception has been regulated, but in a markedly non-prohibitive way. Although the birth rate is generally lower than in Southern Europe, contraception is nevertheless supported on the grounds of welfare, (the "wanted children only" principle) and human rights. Recently, West Germany also started to move in this direction although until the 1960's the trend there was neutral, with a tendency to official conservatism in the area of morals.

The second group in Europe has maintained the opposite position with strict restriction, even prohibition of contraceptives. These are the predominantly Catholic and, with the exception of Ireland, Latin countries: Spain, Portugal and Ireland. Until very 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 Mussolini-period statute prohibiting contraceptive information and, at least in practice and in the absence of specific laws, contraceptives are now presumably legally available in the country. Belgium retains some legal limitations on contraceptives, which originated in the 1920's, although they are apparently not strictly enforced. In a few remaining countries of Western Europe (especially in Austria and Switzerland) there are no significant provisions specifically governing contraceptives and the issue is not a basis for much discussion.

As to these two groups it 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."

The third European group consists of the countries of socialist Eastern Europe, including the USSR and Yugoslavia. These share a characteristically socialist, positive approach to individually-motivated family planning. In spite of the declining

birth rate in the European part of the USSR and of the disparity between its natality rate and that of the Asian part, and in spite of the roughly zero rate of natural increase in Eastern Germany and Hungary, few pro-natalist policies are visible in eastern laws or official attitudes.³ Such policies are, however, strong in Romania.

Ideologically, the position follows the classics of Marxism and is therefore strictly anti-Malthusian, on one hand, but, on the other, it ignores old moral and religious taboos and fully liberates women from their subordinate status. This results in a reserved policy towards organizing foreign help to reduce fertility in developing countries. As far as domestic policy is concerned, the 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.⁴

It seems that in the family planning theory of the Communist states, the right of *women* to decide as to their motherhood is even more stressed than the right of *couples*. The growing use of abortion has actually strengthened the official interest in contraception. However, until the present time, the issue of population and family planning has not been considered to be of special importance, and 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 a document unique in Europe, *The Resolution on Family Planning*. (See Appendix II).

E. North America

The legal situation in the United States of America, described in several literary sources,⁵ has shifted comparatively recently from a former attitude of intolerance based on moral grounds to the present official support for family planning by the federal and some state governments. The shift has largely been the result of welfare and human rights thinking, although there has very recently been a general recognition that growth is not, in and of itself, a good thing.⁶

At the state level, there has been a basic liberalizing change since 1960. The sixteen states which had had restrictions on contraceptives laws have given them up except for certain minor restrictions. Distribution of contraceptives and of information about them is now legal in all states, and an increasing number of states has been organizing state-supported services and sex education. There remain, however, certain limitations in some states on advertising, sale to minors, insertion of the IUD, etc. The trend is, it seems, for these to disappear.

At the federal level, the President declared in 1969 that "we should establish as a national goal the provision of adequate family planning services . . . to all those who want them but cannot afford them."⁷ A recently established Commission on Population Growth and the American Future, concluded in 1972 *inter alia* that a national goal should be to "enable individuals to avoid unwanted childbearing," and the liberalization of access to the means of fertility control. Congress, meanwhile, repealed the 19th century law preventing the use of the mails for transportation of contraceptives and has appropriated increasing amounts of money for domestic family planning services (\$180,000,000 in the year ending June 30, 1973). In 1965 the Supreme Court found in *Griswold v. Connecticut* that the "right of privacy," as a part of the Constitution, covers the right to decide "whether and when to bear or beget a child."⁸

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

F. 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 at 850 million. A high-level state organization, with the Ministry of Health Family Planning Council at the top, promotes family planning in such a way as to reach every couple. The present movement seems to amount to an organized mobilization of the whole of Chinese society to limit its fertility. The program is ideologically motivated and effective, and disciplined family planning is presented to the people as a party task and a national duty. Pregnancies and births, both planned and unplanned, are discussed at neighborhood meetings. Auxiliary medical workers visit families, give advice and deliver contraceptives. Pills, IUD's, vasectomies, as well as abortions, are among the methods used.⁹

G. Conclusions as to Regional Approaches

Certain general conclusions can be drawn from the above review of regional approaches. These are:

1. As between the developed countries, on one hand, and the developing countries which have accepted contraception, on the other, the former group approaches the problem from the point of view of human rights and family welfare, the latter group is additionally influenced by the damaging effect of swift population growth on the process of economic development.

2. In Europe, the liberal group of Western countries and the socialist Eastern countries share a basically positive attitude toward family planning

through contraception. The public health and human rights aspects give motivation to both regions, in spite of ideologically different attitudes towards the problem of the world's population growth.

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

4. There is still, as might be expected, a marked difference 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, or in countries influenced by French cultural heritage.

Footnotes

¹Dr. Mahler, the new Director General of the World Health Organization, in discussing the WHO's role in family planning, referred to the "vested interest of the medical profession which still hangs as a cloud over many of the things we do." See *People*, Vol. 1, No. 1 (Oct. 1973), p. 12.

²In this section the authors followed, with slight variations, the classification of countries in the so far unpublished speech made by Professor Livi Bacci, of the University of Florence, Chairman of the Special European Committee of the International Union for the Scientific Study of Population at the Population Association of America's Conference in New Orleans in 1973, entitled: "Population Policy in Western Europe." The Consultative Assembly of the Council of Europe voted to invite its member governments to "authorize the sale of contraceptives" on October 18, 1972.

³It would be a mistake to draw an opposite conclusion from the text of several constitutions under which government support is promised to large families (the Constitutions of the USSR of 1936, Sec. 122, para. 2 and of Czechoslovakia of 1960, Sec. 26, para. 2), or even to "families with many children" (Polish Constitution of 1952, Sec. 67, para. 1). The laws of the countries named 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 introduced by the opening language: "as necessary for the protection of the health of women and for the improvement of population development . . ." (Regulations No. 71/1973 and 72/1973 of Czechoslovak Collection of Laws).

⁴E. A. Sadvokasova, *Sovetskoe zdavookraneni*, 1966, No. 12, p. 71.

⁵Among others: by C. T. Dienes (footnote 4, Chap. II, above); H. F. Pilpel, N. F. Wechsler, "Birth Control, Teen-Agers, and the Law: A New Look," 1971, *Family Planning Perspectives*, Vol. 3, No. 3 (July 1971); *Population and the American Future*, supra, Chap. II, note 26. The continuously changing legal situation in the United States is reported in the Legislative Record in *Family Planning Population Reporter*, e.g., Vol. 2, No. 3 (June 1973) p. 60 ff.

⁶*Population and the American Future*, supra, Chap. II, note 26, p. 98 ff.

⁷*Presidential Message on Population, Population Crisis Committee*, Washington (1969), p. 20.

⁸See supra, Chap. II, note 5.

⁹See A. Faundes, T. Luukkainen, supra, Chap II, note 30.

IV.

SPECIFIC FIELDS OF REGULATION

There are five main types of law which limit or regulate the availability of contraceptives. These are laws which affect imports, manufacture, sales and distribution, advertising and publicity, and the use of the mails. Most of these provisions are typical, occurring frequently. We shall attempt to give examples of, and explain the reasoning behind, these five types of law.

A. Provisions Relating to Imports

A few countries which disapprove of contraceptives simply forbid the import of contraceptives. These include Brazil and some francophone West African countries, such as Gabon (until Dec. 1973, see Tabulation), where the influence of the old French Law of 1920 is very strong. Lebanon has such a law (presumably inherited from the French mandate period) but does not enforce it. Romania's socialist government, which has a monopoly on importations, apparently does not import contraceptives. Spain prohibits commercial imports, but not import for personal use.¹

Most countries forbid the importation of any drug that does not meet local standards of quality and safety. There is the added provision in some countries (e.g., Jamaica) that drugs which are not authorized for general use in their country of origin may not be imported. This is to prevent experimentation on local population by foreign drug companies. Jamaica goes on to forbid the importation of any drug which is not registered in the United States, the United Kingdom or Canada. (See Tabulation note 55).

As stated in Chapter II, a number of countries, usually developing countries, limit imports for two

reasons: to protect infant industries or to conserve scarce foreign exchange.

As to the *protection of local industries*, a number of countries which give strong official support to family planning (including Iran, Mexico, Pakistan, South Korea and Yugoslavia) limit imports in order to aid in the establishment of local industries for the manufacture, or at least compounding or packaging, of contraceptives. To do this they either levy high customs tariffs or impose other import barriers such as landing or brokerage fees or difficult formalities in connection with imports.

Although in some cases this policy seems to have been successful in building up a strong local contraceptives industry (South Korea now exports condoms), in some cases it appears either that inadequate attention has been given to the effect of the barriers on the availability of contraceptives, or that the barriers are an inadvertent hold-over 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 study² 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 per cent on oral pills and by over 60 per cent on condoms."³ It has been pointed out that even a low tariff is a serious barrier since the need to arrange for the payment can give rise to delay and provide opportunities for extra-legal demands in some countries where duty-free products are normally cleared promptly.

As to the *conservation of foreign exchange*, this is a serious problem in a number of developing

countries which place restrictions on all foreign purchases, including contraceptives (e.g., India, Sri Lanka, and Turkey). The restrictions may take the form of requiring special permits to obtain foreign exchange, or a requirement for advance payment by the importer of a large part of the purchase price. These countries allow gift contraceptives to be imported freely since they usually support family planning and gifts do not cause any harm to foreign exchange reserves.

It is possible that, as applied to contraceptives, the amount of foreign exchange saved may be small in comparison to the damage done to the contraceptive supply. It has been reported⁴ that in Colombia the barriers to the legal importation of condoms are so great that virtually all condoms available to the public are smuggled. The fact that the Indian Government appears to tolerate the public sale of imported condoms which have apparently been imported illegally seems to indicate a recognition of this fact. In the case of import restrictions based on economic or commercial motives it is possible that the significant harm apparently done by these barriers might be such as to lead governments to consider making an exception in favor of contraceptives.

B. Provisions Relating to Manufacture

Almost all countries now permit the manufacture of contraceptives subject to the protection of public health by testing or registration provisions. The various protective provisions are listed in the tabulation.

There are, of course, the exceptional countries, referred to in the preceding section, which forbid the manufacture (as well as the import) of contraceptives. These include Spain and many of the francophone African countries. The Romanian Government apparently does not manufacture contraceptives, and since they are not imported they are hard to obtain.

There is little evidence that existing limitations on manufacture which, for obvious reasons, are more frequent in the developed countries but are not confined to them, constitute a severe or unreasonable hindrance to the spread of contraceptives. This may be because most governments favor and assist local industry, or it may be because the limitations are not always strictly enforced. In any case, the Westinghouse Population Center which made a study of this question in eight developing countries did not find that these restrictions are a serious problem.

C. Sale and Distribution

1. Provisions dealing with sale of contraceptives generally

Most modern laws do not deal with the sale or distribution of contraceptives generally (as distinguished from laws dealing specifically with condoms, the pill, or the IUD). In former times, however many countries adopted *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 about the same.⁵

Best known, and important because of its impact on the former French colonies, is the French law prohibiting contraception which lasted from July 31, 1920 until 1967. It may be noted that this law merely contained a general prohibition of abortifacients and prohibited contraceptives only when sold for the purpose of anti-conception propaganda ("*dans un but de propagande anticonceptionnelle*"). The expansion of the general prohibition was the result of an interpretation of this text by the French Supreme Court which held, despite the language of the law, that whoever sells contraceptives acts "necessarily" with the purpose of "*propagande anticonceptionnelle*."⁶

However, the general practice in most of these countries was (and is) to circumvent the prohibition. Contraceptives are sold not as contraceptives, but as articles needed on medical grounds. Condoms are sold as a means to prevent venereal disease. Pills are prescribed on "medical grounds," for cycle regulation and not as a means to prevent pregnancy. This situation is reported as common from Spain, Italy (even before the 1971 decision of the Constitutional Court), Latin American countries, francophone Africa, Lebanon, etc. It seems that legislation designed to prohibit the sale of contraceptives, in addition to being contrary to contemporary thinking, has been shown by experience to be more or less ineffective.

Another way of limiting contraceptives generally is seen in the new French legislation of 1967, which provides that the sale of contraceptives can take place "*exclusively in pharmacies*." Similar provisions have been tried in several other countries such as Brazil, Venezuela, Greece, Cameroon, Chad, Gabon, etc., where it has had its significance particularly in relation to condoms (see below). Its

rationale appears to be—as in the French case—the wish to control and probably to limit the sale even of non-medical contraceptives. 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 on the part of pharmaceutical interests.⁷

Another frequent way of restricting contraceptives in general is to *prohibit display* of contraceptives offered for sale. In some Australian states it is forbidden to sell contraceptives in a "public place." Sometimes a state forbids offering or exposing for sale or "hawking from house to house."⁸ 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 Netherlands prohibits the public showing of contraceptive devices, but this provision is apparently not enforced.

It is clear that the rationale behind these provisions is that contraceptives are still considered, by some authorities, to be something indecent in and of themselves. This is clearly shown in the West German law which, as amended in 1960, still prohibits sale of contraceptives through vending machines along public roads or in public places. (The German case is discussed in Chapter II and in the next section of this Chapter).

An approach entirely opposite to the above provisions which are designed to limit the sales of contraceptives in general, is the *policy of ensuring an adequate supply of contraceptives*, which has appeared since World War II, starting in the Scandinavian countries. Although Sweden, in the first decades of this century, had a negative policy toward contraception, this 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."⁹ In Denmark, condoms may now be sold in any shop, or from outdoor or indoor vending machines. Finland has a similar provision.

2. Special Provisions on Condoms

In the previous section we dealt *inter alia* with the question of where contraceptives may be sold and, in particular, with the question of the visibility or publicity of such sales. These questions are particularly significant in connection with laws affecting condom sales, possibly because condoms are

frequently associated with illicit sex and venereal disease.

Two basic types of approach seem to exist. On one hand, in countries with a liberal attitude toward contraception, condoms may usually be sold in many types of stores (subject to generally applicable trade regulations), by vending machines or by mail. This is the case of the United Kingdom, Scandinavia and most of the European Socialist countries.

On the other hand, in countries with restrictive policies towards contraception, condoms may be sold in pharmacies only (as prophylactics against venereal disease). This includes Spain, the francophone African countries, Portugal, Brazil and Venezuela. (Surprisingly, the sale of condoms is limited to pharmacies only in some countries with pro-family planning policies, such as South Korea and Ghana, despite the limited number of pharmacies in those countries).

The problem of publicity, that is, of public display of condoms for sale, has centered around the question of the conditions under which condoms may be sold in public vending machines. (See discussion on that point in Chapter II above). Some countries have laws forbidding sale of condoms by vending machines in public places (e.g., several states of the U.S.A., the Australian states, Greece, Switzerland, Hungary and, by a specific provision enacted as late as 1960, West Germany). In some other countries (Great Britain, the Netherlands, Denmark) the law delegates to municipalities the power to regulate sale of condoms from vending machines.

The confrontation between the former and the modern approach to condom sales is illustrated by the West German judicial and legislative history during the 1960's. One of the highest courts, the *Bundesgerichtshof*, decided in 1959 that the 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, the *Verwaltungsgerichtshof*, reached the opposite conclusion, adding that the sale by vending machines, even in public places, is more discreet and less offensive than a sale in a shop. In 1970 the *Bundesgerichtshof* accepted the second position and overruled its former decision.¹⁰ Although there still is a provision in the administrative law of West Germany prohibiting sale of condoms from vending machines "at" 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.¹¹

3. Special Provisions on the Pill

In the 1960's 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, so that its use involves medical problems which had not yet been entirely solved and, secondly, because it is the most efficient of known contraceptives and relatively easy to use.

The three types of legal restrictions which have been applied to the pill are: the general laws against contraception, the requirement that sales of pills be made in pharmacies only, and the requirement of a medical prescription.

As to the first type, it is clear that the *countries which are opposed to contraceptives in general prohibit sale of the pill*. However, even here a natural back door has been found in practice. It would be 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 monthly cycle. The countries where this approach has developed are, among others, Brazil,¹² Eire, Spain, and Argentina. This was also the situation in France before 1967. This approach has enabled a substantial amount of illegal contraceptive sales, but this 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 found in almost all countries.¹³ In some countries (Costa Rica, Australia) 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. Physicians have nearly everywhere retained their old right to dispense medicines directly to patients, and this includes the pill. Similarly, in most countries the "centres" or other institutions of official governmental family planning programs, or in some cases non-governmental family planning associations, furnish their clients, under medical supervision, with oral contraceptives. A notable exception to this is France, where even under the new law such centres have been expressly forbidden to dispense any contraceptives.

The primary motivation of the pharmacy monopoly is the argument that only a professional with a certain level of formal education has the knowledge required to deal with the increasingly complicated drugs of today. A second reason, used very fre-

quently as an argument in favor of this restriction, is that pills, as "ethical" drugs, are almost always sold on prescription only, (see below) and the requirement that they be dispensed in pharmacies only helps to enforce this control. In addition, there is also the tradition in most countries that medications be sold exclusively in pharmacies and there is clearly a certain amount of professional commercial interest in maintaining the monopoly.

Whether or not these arguments are valid, the Summary Report of the Westinghouse Population Center, which made an in-depth study of pill distribution in eight countries, concluded:

The single greatest impediment to increase distribution of contraceptives is the lack of availability of oral pills . . . outside of pharmacies.¹⁴

If accessibility of contraceptives has been accepted as a human right and if, as in most developing countries, pharmacies are available only to a minority of the population, it seems logical that the alleged justifications of a (strict) pharmacy monopoly must be subject to some reconsideration.

The *requirement of medical prescription* for sale of oral contraceptives has been enacted virtually everywhere. It exists in all developed countries, including continental Europe, the United Kingdom, the United States, Canada and Australia. In most of these countries the availability of physicians and the general standard of living does not make the requirement of doctor's prescription too difficult. However, similar and sometimes identical provisions also exist in many developing countries, where, although the situation is quite different, the provisions seem to have been copied without change. Lack of physicians, virtual impossibility of transportation, as well as the increase in the cost of contraception caused by the requirement of a doctor's fee amount to practical exclusion of the pill as a contraceptive. It is surprising how frequently laws regulating the sale of the pill fail to reflect, through some degree of flexibility, either the basic factor of inaccessibility of physicians or urgent demographic pressures. Thus, the law is virtually the same in West Germany and in Nigeria where, in a 61 million population, one physician must take care of 40,000 people.¹⁵

The practical solution of such a situation is simple: in numerous 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 our tabulation, nevertheless, surveys or studies on the following countries indicate that the pill may, in fact, be available without

medical prescription (sometimes in pharmacies and sometimes also in other places) in Indonesia, Malaysia, Lebanon, Pakistan, Philippines, Taiwan, Thailand, and Turkey; in Egypt, Ghana, and the Ivory Coast; in Brazil, Jamaica, Mexico, Panama, and Venezuela, among others.¹⁶

In a few developed countries provisions may be found which limit the distribution of the pill even more narrowly. Thus, older regulations in some of the constituent republics of Yugoslavia reserved the right to prescribe pills to gynecologists. A similar trend can be found in other socialist countries owing to existing specialization of work inside the national health systems. Exceptionally strict regulations exist in Hungary where pills may be prescribed only by specialists in local health institutions after the patient undergoes tests. In case of continuous use, the woman is subject to regular checks, free of charge to those entitled to social security, and there is a register for every woman taking pills. Pills may be prescribed only for six months and are sold by specially chosen pharmacies.¹⁷ As the country's policy is unlimited sale of adequate contraceptives at a reduced price, it may be assumed that the rationale underlying the above regulations was of a strictly medical nature.

This is not the reason for the strict restrictions on the distribution of pills under the new French law, as the legislative history shows.¹⁸ The new French limitations were justified only partly on medical grounds. There was a clear intent to restrict access to efficient contraceptives on the part of young and unmarried people. The prescription is regulated in the same manner as the prescription of narcotics. The physician must fill in a counterfoil book, where the counterfoil must indicate the person for whom the contraceptive is intended. Other French limitations (mentioned elsewhere in this study) include the prohibition against prescribing pills without the written consent of the parents to young unmarried persons under 21,¹⁹ and the prohibition against the distribution of any contraceptives to clients in family planning centres. The conservative, post-World War I French attitude has influenced some francophone African countries.²⁰

A draft bill of a law expressly dealing with the prerequisites for the sale of oral contraceptives was submitted to the Italian Parliament on August 2, 1972 by Mr. Alessandrini and other representatives. Under Section 4 the sale of medicaments "with a progestative function" would be allowed only upon medical prescription, valid only for one "administration" of the drug and expiring in six months. The administration of the pill would have to be effectuated under the direct control of a

physician and under his responsibility.²¹ (The present legal, as well as factual, situation in regard to contraceptives in Italy seems to be unsettled).

Loosening of the laws on the prescription requirement has, so far, been infrequent. It has occurred in Pakistan and Thailand, and in South Korea for women who can "pass medical screening."²² Also in Israel there appears to be no legal text which bans sale of hormonal contraceptives without medical prescription. In some of the countries under maximum population pressure (e.g., Bangladesh and Sri Lanka) it has been suggested that oral contraceptives be removed from the list of "prescription only" drugs.

The idea of "medical screening" may perhaps indicate one of several possible lines toward a more practical means of regulation. It might be possible, instead of requiring a medical prescription for each individual sale, to ascertain, through preliminary examination, those women for whom the use of pills is not contraindicated, and to provide them with a certificate to that effect. Whether such a concept could make access to pills easier and less expensive would depend mostly on one point: for how long a time an examination could show that a particular woman could take the pill without serious risk.²³ Some specialists are of the opinion that physician supervision may not be a key variable in reducing undesirable results which are difficult to predict.

We are caught between the natural desire of physicians to see adequate safeguards established to give protection against relatively new drugs, on one hand, and the not less natural desire for those authorities (including many physicians) who are concerned with family welfare and with family planning as a human right, to see maximum use of the most effective contraceptive technique yet invented. In most countries, the laws have been motivated by the first factor, with very little relevance given to the second. As a prominent group of British physicians and officials stated in May 1973:

It is perhaps unfortunate and confuses the issue, that the most reliable methods of female contraception need medical supervision . . . Wider social implications than even those of preventive medicine . . . are involved.²⁴

In this situation—as long as the "ideal contraceptive" has not yet been discovered—a correct balance between both aspects must be sought. Naturally, the result will be quite different in different countries. The degree of availability of medical services,

as well as the need of the population for family planning, must be taken into account among the decisive factors. The fact that the pill is no longer so "new" and that safer forms of it are being developed is another factor. Mechanically to restrict access to oral contraceptives by the "prescription only" rule is in some countries tantamount to actual prohibition of family planning. The number of deaths and health hazards resulting from unwanted pregnancies would, naturally, be incomparably greater than that resulting from unlimited access to the pill.

In developing countries, where maternal mortality may exceed 1,000 deaths per 100,000 live births, the hazard to life for young women may be *hundreds of times greater* from unwanted pregnancy than from use of oral contraceptives.²⁵

In 1970, an official medical body specially appointed for the assessment of this problem cautioned against the prevalent one-sided approach to pill legislation. The Report of the Special Committee Appointed by the Minister of National Health and Welfare in Canada stated:

It would be irrational to emphasize rare, serious complications and possible, but largely unproven, dangers to which only a few might be exposed, and to neglect the enormous and socio-economic benefit which oral contraceptives have conferred upon millions of people.²⁶

The Report recommended that the Food and Drug Directorate facilitate the availability of oral contraceptives containing the lowest dose of each component compatible with maximum effectiveness.

In April 1973, after long deliberation, the IPPF Central Medical Committee came to the conclusion that

responsible, simple methods of non-medical distribution of oral contraceptives can and should be devised . . . (See the full text in Appendix I).

It may be of basic importance for the evaluation of the laws requiring a prescription as an indispensable health safeguard that, in the opinion of the Committee

. . . the complications that do occur are difficult to predict by examination prior to use, and . . . routine examination contributes little to reducing the risk because it is rarely possible to identify susceptible women.

The U.N. Regional Seminar on the Status of Women and Family Planning in Jogjakarta in June 1973 made a recommendation to the same effect.²⁷ This also appears to be the point of view of the new Director General of the World Health Organization.²⁸

The above considerations are, of course, applicable principally in developing countries where physicians' services are frequently not available. However, there are other legal considerations which are beginning to arise in developed countries involving the liability of manufacturers of pills, and malpractice suits against prescribing physicians. The Scandinavian countries and the United States are now developing case law in this relatively new and very complex area.²⁹

4. Special Provisions on Intra-Uterine Devices

This method of contraception, although heavily relied upon in some national family planning programs, has not in most countries been regulated by law, or it has been covered only marginally. The relative lack of legal 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. Therefore, its distribution is, as a practical matter, automatically under the control of medical or para-medical personnel.

In countries where the law generally prohibits sale and distribution of contraceptive "appliances, instruments . . . or things" (Eire) or ". . . objects, instruments, apparatuses" (Spain), this includes the IUD.

Until recently there was a rather exceptional provision in the Austrian law which forbade not only the manufacture, importation and sale, but also the insertion of "intra-uterine pessaries of all kinds as well as sterilettes."³⁰ It was repealed by a decree of December 19, 1972.

Most restrictions on the use of the IUD are based not on laws regulating contraceptives, but on other kinds of law or regulation dealing with medical practice (e.g., codes of medical ethics, especially in Latin America). It would appear that authorization to insert IUD's should be regarded as a practical question which depends upon the circumstances of each country rather than on the law.

Logically, intra-uterine devices are not "medicaments" or "drugs" under pharmaceutical laws.³¹ However, when the device contains copper it is classified in several countries (e.g., in the U.S. [by the Food and Drug Administration], Great Britain, Canada, Australia) as a medication,

not as a device. Thus, its availability is bound, especially in the U.S., by the controls required for drugs.

In nearly all European countries, and in many others, the generally accepted practice is to have the IUD inserted by a physician. In most countries there is no specific legal provision on this, and the rule is based on the laws which regulate the medical profession and give it a monopoly in the administration of medical care.

At the present time two trends away from this general rule can be discerned: one, in some developed countries, towards a stricter control, and the other, in developing countries, toward more relaxed requirements.

In some developed countries the authorization to insert IUD's is restricted to gynecologists—for example, in Finland³² and especially in several European socialist countries. As medical care in Eastern Europe is administered mostly in state health institutions, this restriction of IUD's to gynecologists is a matter of the organization of the health centers and of the division of work among their several departments rather than a provision of law.

A detailed legal directive on IUD's can be found in Hungary.³³ There the device may be inserted in women who already have had one or more births, independently of age, and in women over 18 years whose pregnancy is unwanted for reason of temporary or permanent illness or for other health considerations. The directive regulates the time of inserting the device and requires regular checking every six months. The insertion of the device and the checking are free of charge, but the device itself must be paid for.

Another detailed regulation of the insertion of IUD's exists in France, enacted by Law 67-1176 and its implementing provisions.³⁴ The regulation, as translated into English in WHO, *International Digest of Health Legislation*, is as follows:

Intra-uterine contraceptives may be inserted by a physician only in a hospital establishment, an approved treatment centre, or in conformity with conditions to be determined by public administrative regulations. (Sec. 3, para. 2, Law No. 67-1176).

Insertion of IUD's may not be performed in a public or private hospital establishment unless it has a gynecology or maternity department or a genetic counseling service specialized in this field and provides evidence that it possesses the installations and equipment to be listed by an order of the minister responsible for public health. (Conditions for the approval to the centers mentioned in Section 3

of the Law 67-1176 have been formulated in an analogous way).

Physicians may not undertake the insertion of IUD's other than in the above-mentioned establishments unless they notify the departmental medical inspector of health that they intend to perform such procedures and provide evidence that they possess the installations and equipment listed by an order of the minister responsible for public health. (Decree No. 72-180 of March 7, 1972).

Order of April 2, 1972 of the Minister of Public Health and Social Security lays down the technical requirements to be fulfilled by medical establishments and consulting rooms for the insertion of IUD's.

The regulation has been given here in some detail to illustrate an existing, though isolated, type of restrictive provision in a highly developed country.³⁵ It is clear that legal regulations of this kind would effectively prevent the establishment of the necessary services in any country where the network of medical personnel might be less adequate than in France.

On the other hand, in several developing countries where there is population pressure and where methods of family planning must be easily accessible to the public, the trend is in the opposite direction and to entrust trained para-medical personnel (midwives, specially trained nurses, etc.), with the insertion responsibility. This is the situation, most conspicuously, in several Asian countries (Pakistan, Thailand, Philippines, South Korea).³⁶ In the Philippines, Mexico and South Korea there are special authorities to "train para-medicals" for insertion work. On the other hand, in Brazil mid-wives have been restricted by a special provision from "applying pessaries in the uterus, whether empty or full."³⁷ Another apparent limitation is the rule, in some Asian countries (e.g. Indonesia) that the consent of the husband is necessary before insertion of the IUD.³⁸

A situation of a completely different dimension remains to be described: namely, the practice of IUD insertion in the People's Republic of China. IUD's were "the first contraceptive method introduced in China on a large scale."³⁹ In rural areas it seems to be the most frequently used contraceptive, although "relatively low effectiveness" of the device is mentioned in the Faundes-Luukkainen Report. Insertion is done mainly by trained nurses or midwives and in some places by "barefoot doctors" who have received an elementary, or middle (*i.e.*, five to eight years) schooling and a six-months training in health services.

D. Advertising and Publicity

1. Origin of Restrictions

The restrictive and sometimes prohibitive provisions in this field are both the oldest, most frequent, and possibly the most damaging of the laws concerning family planning. They deal both with the advertisement of contraceptives and with publicity for contraception and family planning. The reason for their prevalence appears to be that parliaments have been motivated both by their historical attitude of pro-natalism including their emotional feeling that contraception is immoral and, in addition, by the totally separate, current medical rationale (in connection with the pill) that "prescription only" medicines should not be advertised to the public.

The origins of the anti-obscenity-motivated laws date back to the English Obscene Publications Act of 1857 and the Indecent Advertisement Act of 1889⁴⁰ (which influenced the countries of the former British Empire); to the French Law of 1920 (which influenced former French colonies and mandates), and to the Comstock era laws of the United States. The same attitude also prevailed in the Catholic countries of Latin America.⁴¹ (The anti-obscenity and pro-natalist rationales are discussed in Chapter II).

The rationale behind laws restricting advertisement of medicines derives from an effort to regulate 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 that they prevent misleading and "quack" advertising, and stop possible unsolicited harassment in the intimate area of sex life.

2. Principal Types of Restriction

a. *The total prohibition of all information on, and propaganda for, contraception in the very conservative countries* (Eire, Spain, Brazil, etc.) naturally includes commercial advertising. This was true in Italy before 1971 and is apparently the case in Lebanon and francophone Africa. In Romania since 1966 all advertising of contraceptives seems to have been discontinued. In the Philippines until December 1972 the law prohibited mail advertising even to the medical profession.⁴²

b. *Advertising of contraceptives is permitted to the medical profession but only with official authorization and is prohibited to the public.* In France, a special implementing decree (No. 69-105, Sec. 5) under the 1967 law provides that commer-

cial 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").

c. *Advertising of all contraceptives is permitted to the medical profession but not to the public* in some Latin American countries and in most Australian states. This ban covers even non-medical contraceptives and thus seems antiquated. However, the factual situation in some of the countries under (a) above may not be too different, since the total ban forbidding even advertisement (of medications) to physicians and pharmacists, appears to be too extreme.

d. *Advertising of "prescription" drugs is confined to the medical profession, but non-prescription drugs, including contraceptives may be advertised generally.* This is the typical, most frequent rule to be found not only in all Western developed countries, but in a large majority of the developing countries also. It has been enacted into law only in 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 solved in an administrative way. Even in a country with a family planning program as intensive as South 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 of advertising to the public was expressly extended to the IUD.

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

f. *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 United Kingdom⁴³ and West Germany.⁴⁴ Canada specifically forbids the publication for purposes of advertisement of any statement regarding efficacy which is not based on adequate testing.⁴⁵ Free delivery of "sample" of medicines, including contraceptives as a form of advertisement to physicians, is prohibited in Thailand. In West Germany sending of medicine samples to physicians is restricted to cases where the physician specifically requests it, and only for the purpose of testing. The quantity sent must be commensurate with this purpose.⁴⁶ Considerations of public health cause some countries to provide that advertisements for prescription drugs, which occur largely in the pro-

fessional press, must show *side effects, contra-indications, etc.*, (e.g., Malaysia, U.S.A. and Yugoslavia).⁴⁷

g. Some countries have *no legal restriction on certain aspects of advertising, but limit it in practice*. These include the Netherlands and Sri Lanka. In the Netherlands there is an agreement between the pharmaceutical industry and the national association of newspaper proprietors against the advertising of prescription drugs. This agreement is accepted generally by the mass media. In Sri Lanka, the Radio Broadcasting Corporation refused even an inoffensive advertisement of condoms.

3. General Comments on Advertising Limitations

On examination of the laws on advertising and publicity on contraceptives in a large number of countries, three conclusions become clear. First, certain similar provisions appear in the laws of many countries which are themselves dissimilar and at different stages of economic and demographic development. It appears that there is some sort of widespread reluctance to permit the public promotion of contraceptive articles in general, and of prescription pills in particular. Second, despite the difficulties which the restrictions on advertising create for the spread of contraceptives, they seem to be generally observed and the difference between *de jure* and *de facto* situations is not as great as it is in the case of sale. The reason may be that illegal advertising is so visible. Third, advertising is an area where old ideas of "decency" and "indecent" seem to have retained a lot of their old appeal.

There is a major policy dilemma involved, particularly with regard to the pill. On one hand, public health authorities argue that the use of a drug should not be encouraged until all possible is known about all of its side effects and that self-medication should be discouraged. A West German medical authority has even argued⁴⁸ that advertising of medicines may become illogical since no society should encourage a larger consumption of drugs than necessary (a surprising argument in a country with a major drug industry).

On the other hand, the pill appears to be the most effective contraceptive now available, if taken properly. The use of the pill in most underdeveloped countries involves a far smaller health risk than the risk of pregnancy (see preceding section). The restriction of advertising may, as a practical matter, become inconsistent with the human right to full information on the best method of family planning. The Westinghouse study⁴⁹ points out

that the inability to advertise is a major problem in making the pill available through commercial channels which are an essential auxiliary to government programs. A recent view on this was expressed at the June 1973 U.N. Regional Seminar on the Status of Women and Family Planning in Jogjakarta which recommended (Recommendation 18 (a)):

... that governments which have not already done so remove legal and other restrictions on the dissemination of information on contraception and review legal and other restrictions on the sale and distribution of contraceptives so as to make them supportive of family planning programs.

Under the circumstances, a balance must be reached which may differ depending on the situation in each country. If the need for the spread of contraceptives is urgent, the barriers to advertising might be relaxed. It should be pointed out in this connection that, in most countries, and in the light of the wording of most laws, if the pill is taken off the list of "prescription only" drugs, the ban on advertising may fall automatically.

E. Use of the Mails

Provisions restricting the use of the mails in connection with contraceptives have historically originated in Common Law countries. A special situation existed in the United States where one hundred years ago the Congress used its constitutional powers in postal matters to enact severe provisions against the sending of contraceptive matter through the mails (see Chapter II above). The law was repealed only in 1970, but a vestige of the old law still remains which prohibits the use of the mail for unsolicited advertising in this field and for samples. Mexico excludes samples of pills, IUD's and condoms from the mails.

A peculiar situation existed until 1973 in the Philippines which is typical of the kind of "remnant" or vestige of an out-moded law which tends to persist long after the official policy and attitude toward contraception has changed. The Revised Administrative Code of that 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 information on family planning. This presumably repeals the restrictive provision.

Existing mail restrictions on contraceptive materials lack any logical basis. Nothing in the nat-

ure of contraceptive deliveries can endanger or disturb the regular postal process. The only exception to this might conceivably be the mailing of unsolicited harassing or embarrassing articles and, if necessary, this could be dealt with through nar-

rowly drawn provisions. Where there is a legislative intent to restrict the distribution of contraceptives or dissemination of contraceptive information, lawmakers should do so overtly, with clear language to this effect.

Footnotes

¹See IPPF Survey, Spain.

²Summary Report Part One of the Survey of Global Patterns of Contraceptive Distribution in the Private Sector in Selected Developing Countries. The Study was prepared for the Agency for International Development by Westinghouse Population Center (Project Manager, R. H. Smith). It consists of a Summary Report and special reports on Iran, Jamaica, South Korea, Panama, The Philippines, Thailand, Turkey and Venezuela (Columbia, Maryland, 1972). It is being expanded.

³Ibid., p. 7. In considering the appropriateness of attempting to establish a local pill manufacturing industry in a developing country it should be realized that the manufacture of the component elements and the compounding of the pill are capital-intensive processes which employ a minimum of labor, and which involve significant economies of scale. Thus this process may be uneconomic when done on a one-country basis. On the other hand, the packaging process, involving local languages and more labor, may account for half the retail price, and may well be economically feasible in many developing countries.

⁴"Commercial Distribution of Contraceptives in Colombia, Iran and the Philippines," *Reports on Population/Family Planning*, No. 11 (Mar. 1972), p. 8. In the Colombian case, it is possible that the government may be maintaining legal import barriers in order to protect the Andean Market arrangements and give a favored position to Peruvian condoms.

⁵In Brazil the strict prohibition of sale appears to be limited to "contraceptive medicines" (Decree No. 20.377 of September 8, 1931, Art. 120).

⁶*Cour de Cassation, Chambre Criminelle*, Crim. Dec. 10, 1925, D. P. 1926.1.97, note Nast. As the prohibition of commercial (as distinguished from contraception-promoting) sales of contraceptives may not actually be covered under the text of the 1920 French law, it follows that in those African countries which inherited this text the commercial sale of contraceptives as such may not be legally forbidden.

⁷The legislative attempt of the State of Massachusetts to limit accessibility to contraceptives, by restricting the sale of all contraceptives to medical prescription and to pharmacies, has been analyzed and rejected by the U.S. Supreme Court in *Eisenstadt v. Baird*, *supra*, Chap. II, note 21.

⁸H. A. Finlay, S. Glasbeek, *supra*, Chap. II, note 9, p. 3 ff.

⁹Lee/Larson, p. 182. As a recent example of a fully positive approach to contraception the regulation of the East German Ministry of Health of March 9, 1972 (Sec. 8) may be quoted:

Every woman has the right to medical advice and aid in matters of prevention of pregnancy, including the right to have ovarian contraceptives prescribed, provided no medical contraindication exists.

¹⁰Decisions of the *Bundesgerichtshof*: BGHSt 13, 16 (1959); BGHSt 23,241 (1970) (overruling). Decision of the *Bundesverwaltungsgerichtshof*: BVerwG 10, 164 (1960).

¹¹Entwurf eines Fuenften Gesetzes zur Reform des Strafrechts (5 Str RG) (*Gezetzenentwurf der Bundesregierung*). Deutscher Bundestag, 6. Wahlperiode, Drucksache VI/3434, p. 7.

¹²A 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.

¹³See, e.g., the IPPF Survey.

¹⁴Summary Report, *supra*, note 2, p. 5.

¹⁵According to WHO data for 1969, as reproduced in *Africa Contemporary Record 1969-70*, p. C-293.

¹⁶For sources of this information see footnotes to tabulations.

¹⁷Decree Eü.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.

¹⁸*Journal Officiel, Débats, Assemblée Nationale* July 1 and December 14, 1967; *Sénat*, December 5 and 15, 1967.

¹⁹Whoever 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 WHO, *IDHL*, Vol. 22 (1971), p. 466 ff.

²⁰Special 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.

²¹Draft No. 646 of *Regulation on Anticonceptive Propaganda and on the Sale and Use of Progestative Contraceptives*.

²²In Pakistan, see Decree of May 4, 1973, of Ministry of Health which fails to rescind sale-in-pharmacies requirement. In Thailand, it was tried experimentally with good results (Rosenfield; "Auxiliary Midwife Prescription of Oral Contraceptives," *American Journal of Obstetrics and Gynecology*, Vol. 114, No. 7, p. 942. (1972). For South Korea, see Lee/Larson, p. 46, and *Westinghouse Population Center Study*, p. 14. Fiji and Antigua have repealed the requirement.

²³Under the French Law of 1967 (No. 67-1176), Sec. 3, para. 2, oral contraceptives require either a medical prescription or a "medical certificate of non-contraindication." Its function is not clear, as the implementing decree (No. 69-105 of February 3, 1969, Sec. 3) provides that the "certificate of absence of contraindication" must state the quantity of medicine to be supplied. The explanation can be found in the legislative history of Law 67-1176; the reason why the certificate was introduced was not to relax the requirement of a prescription, but to furnish an escape to a physician who would, on moral grounds, hesitate to "prescribe" the use of contraceptive pills. (*Journal Officiel, Débats, Sénat*, December 5, 1967, p. 2357 ff). See also the discussion at the *XXXIe Congrès internationale de langue française de médecine sociale* in 1966 in Montpellier in *Annales de médecine légale*, Vol. 47 (1967), pp. 481-489.

²⁴*The Times* (London) May 2, 1973, p. 19, col. 5.

²⁵Ravenholt, Plotrow and Speldel, "Use of Oral Contraceptives," *International Journal of Gynaecology and Obstetrics*, Vol. 8, No. 6, Part 2, pp. 941, 945 (1970). Italics in original. For full accounts of the successful experiment in the use of paramedical personnel in Thailand, see Allan G. Rosenfield; *supra*

note 22, p. 948, and Rosenfield, "Family Planning Programs: Can More Be Done?", *Studies in Family Planning*, Vol. 5, No. 4, pp. 115-122 (1974).

²⁶*RX Bulletin, Food and Drug Directorate (Canada)*, December 1970, p. 1 ff.

²⁷*Report of U.N. Regional Seminar on the Status of Women and Family Planning, Jogjakarta, June 20-30, 1973*, Recommendation 18 (a) p. 7. The recommendations quoted in the text represent, to be sure, the viewpoint of one part of medical thinking (viewing the matter from the point of view of family planning) rather than a general consensus. Thus, a resolution of the Union Professionnelle Internationale des Gynécologues et Obstétriciens of January 30, 1972, proclaims the necessity of medical prescription and control of hormonal contraceptives and warns against the "tendency to free sale." It may, however, be symptomatic that the resolution specifically refers to the situation in European countries. (*Therapeutische Umschau*, Vol. 29, May 1972, p. 280).

²⁸*People, supra*, Chap. III, note 1, p. 12. For another examination of the problem, see Potts, "Cabbages and Condoms," *People*, p. 18 ff.

²⁹The case referred to in Scandinavia was brought against the Astra-Syntex Co. by the heirs of Margaretha Andersson in the Trolhättan District Court. (Citation not available.) For a collection of U.S. cases, see note in *Hastings Law Journal*, Vol. 23, No. 5, p. 1526 (1972). See also Oregon case, cited in *Intercom* (newsletter), Vol. 1, No. 1 (August 1973).

³⁰Order of the Federal Ministry of Social Administration of June 26, 1953, No. 120, BGB1. The rationale of this regulation was protection of health, not a desire to limit family planning, although its history goes back to the period of Nazi Germany in 1941.

³¹Thus, under the West German Medicine Law of 1961, Sec. 1 (2) (1), the IUD is included in a special class of medical items ("objects inserted into human body . . ."), as a rule governed by less strict provisions than drugs.

³²The information is several years old from K. Turpeinen, "Social Aspects of Family Planning in Finland," in: M.N.G. Dikes ed., *A Round Table Conference at Scheveningen*, May 1966, p. 15.

³³Eü. M. directive No. 40/1971, Eü. K. 22.

³⁴See WHO, *IDHL*, Vol. 23, p. 732.

³⁵During the discussions in the French Parliament in 1967 some voices were hostile towards the use of the IUD as a method of contraception, e.g., calling it "permanent abortifacient." (*Journal Officiel, Débats, Assemblée Nationale*, July 1, 1967, p. 2566; *Sénat*, December 5, 1967, p. 2036). The standard French encyclopedia, Dalloz' *Répertoire de droit pénal et de procédure pénale, Mise à jour 1973*, p. 49, locates the provisions on IUD, cited above, under the heading "Abortion."

³⁶On Pakistan see: Use of Medical—Paramedical Personnel and Traditional Midwives in the Pakistan Family Planning Program, *Demography, supra*, Chap. II, note 4, p. 66.

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

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 of May 28, 1973, implementing the law above, provides that designated persons, mentioned in Sec. 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, "Eye-witness," *People, supra*, Chap. III, note 1, p. 20.

³⁷Decree 50.387 of March 28, 1961, Sec. 16 (f).

³⁸This information was supplied by an Indonesian delegate at the I.P.P.F. 21st Anniversary Conference in Brighton, 1973. Whether this is a law or merely a custom is not clear.

³⁹A. Faundes, T. Luukkainen, *supra*, Chap. II, note 30, p. 173 ff.

⁴⁰R. Fox, *The Concept of Obscenity*, Law Book Co. 1967, as cited by Finlay-Glasbeek, *supra*, Chap. II, note 9, p. XII.

⁴¹As an example illustrating the kind of official hostility towards family planning, the following may be quoted from a Brazilian legal commentary, written by an appeal judge (J. Duarte, *Commentarios a Lei das Contravenções Penais*, Rio de Janeiro, 1944, p. 308; the text refers to Sec. 20 of the Law on Contraventions of 1941, which prohibits sales promotion of contraceptives):

. . . 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 sordid 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.

⁴²The Australian state of New South Wales as late as 1969 forbade all advertisement of contraceptives—including advertisement to professionals—under the legal fiction of obscenity: ". . . any advertisement in relation to contraception or contraceptives shall be deemed to be an indecent advertisement." (Obscene and Indecent Publications Act 1901-1969, Sec. 3, para. 1). In modern legislative practice this seems to be an isolated occurrence. In Eire two family planning groups were recently cleared of charges of violating the Criminal Law Amendment Act of 1935 and the Censorship of Publications Act of 1929 for selling and distributing contraceptives and information when a Dublin District Court held that there were not sales and that the booklet in question "did not advocate the unnatural prevention of conception, and as such [the judge] could not hold that it was illegal." *The Times*, Feb. 20, 1974, p. 2, col. 1.

⁴³Medicines Act of 1968, Sec. 93.

⁴⁴Medicine Advertising Law of July 11, 1965, BGBl. I. S. 604, Sec. 9.

⁴⁵Criminal Code, Sec. 306, para. 2

⁴⁶Law on Medicines of May 16, 1961, BGBl. I. S. 533. Sec. 34, para. 3.

⁴⁷Among different restrictions, the prohibition of unsolicited, harassing or embarrassing advertisement should be mentioned. It may appear as a part of the general laws on advertising (or of laws governing the mail) rather than as a special provision on contraception.

A certain uneasiness is felt in family planning bodies in England as to the Unsolicited Goods and Services Act of 1971, which provides in Section 4 that it shall be a criminal offense to send an unsolicited book, magazine, or leaflet which describes or illustrates human sexual techniques. (D. M. Kloss, B. L. Raisbeck, *supra*, Chap. II, note 6, p. 13).

⁴⁸A. Kernd'l, K. Marcetus, *Heilmittelwerbegesetz*, Stuttgart 1965, p. 66. The pill, however, is not "curative" in the usual sense.

⁴⁹See *Summary Report, supra*, note 2, p. 7. Problems of pharmaceutical advertising are dealt with in detail in "Pharmaceutical Advertising", *IDHL* Vol. 19 (1968) p. 458 ff.

TYPES OF LEGISLATION AND THE PENAL LAW APPROACH

An analysis of the situation in the various countries shows four types of legislative approaches. These are:

1. The jurisdictions where there is a *comprehensive set of laws* aimed directly at contraception, sometimes with ministerial regulations. Since this is a relatively recent development, there are only a few such jurisdictions. These include France and a few of the states of the United States.
2. At the opposite extreme are jurisdictions where there is *virtually no law* directly dealing with contraception and the question is dealt with by regulation or by custom. Sri Lanka is such a country.
3. The third category is the jurisdictions which establish by law *a far reaching and general policy without going into detail*. (This law may be implemented by regulations). These jurisdictions are usually wholly favorable, such as in the United Kingdom or some Scandinavian countries, or wholly negative, such as in Ireland or Spain.
4. The most frequent type is a *piecemeal, often inconsistent mixture of obsolete and recent laws, usually scattered throughout the various codes and fields of law, e.g., criminal or penal codes, public health laws (health codes, pharmaceutical laws, codes of medical ethics), press laws, postal laws, laws regulating imports, etc.*

As to categories 3 and 4, two observations may be made. First, there are laws in many countries which are widely ignored in practice. This typically occurs in two areas: penal sanctions and laws re-

quiring medical prescription for the pill, as we saw in Chapter IV, tend to be ignored in countries where they have the practical effect of excluding the pill as a general contraceptive. In the latter case, the cause of the malfunction of the law is its one-sidedness. The distribution of the pill is being regulated solely from the pharmaceutical viewpoint, without regard to the welfare need for it to be made widely accessible.

The second observation is that there is a *heavy reliance on penal or criminal law* in many countries to regulate contraception. This reliance is particularly marked in the countries which have or have had a negative attitude toward family planning (e.g., Spain, Ireland, France, Belgium, Italy). However, this approach is not confined to these countries and still appears in some new legislation in the family planning field.¹ It is not surprising that these laws are ignored in practice, giving rise to what Professor Morris Ploscowe ten years ago called the "myth of enforcement." It may be indicative that over a period of many years whenever American advocates of family planning needed to get clarification of a basic legal issue from a court, they had to commit a flagrant violation of the criminal law so as to force the authorities to prosecute. The *Baird* case is a recent example of this.²

The concept of regulating matters of contraceptives and family planning through the criminal law is increasingly being recognized as faulty. The overwhelming modern trend is toward "decriminalization." Moreover, an area of highly personal, private family relations is especially unsuitable for criminal law. The old sexual taboos may explain the criminal sanctions of former times, but now that there is far less general consensus in a society as to what is grossly immoral and what is not, the system becomes unworkable. It is impossible for one part of

the population to impose its own beliefs on all the inhabitants of a country as a legal norm under criminal law sanctions.³

Nearly ten years ago, in August 1964, the topic of "birth control" in criminal law was on the agenda of the Ninth International Congress of Penal Law in The Hague. After a broad confrontation between the more conservative minority and the liberally minded majority, the following resolution was adopted ("by the great majority of the section"):⁴

The distribution of birth control information and means of preventing conception should only be deemed infractions of the penal law if it violates

legal prohibitions against pornography or obscenity, or is contrary to the necessities of protecting youth.

The resolution expressed the consensus of opinion among experts on criminal law as it already was ten years ago. At that time the impact of population in several countries had already begun to be felt, but the human rights aspect of the matter did not emerge until the second half of the sixties. In the light of the development of international thinking during the last ten years, The Hague Resolution is all the more appropriate, (although its final clause on the protection of youth may need some modification).

Footnotes

¹A bill submitted in 1972 by the West German Government provides a detailed, modern-minded regulation of voluntary sterilization as an amendment to the German Criminal Code (Deutscher Bundestag, 6. Wahlperiode, Drucksache BI 3434).

²*Supra*, Chap. II, note 5.

³"[T]hey would like to force their opinions on morality on the rest of the population and enforce them by criminal law." Nelson A.F.A., *Ninth International Congress of Penal Law*, The Hague, 1964, p. 156. For an exploration of the appropriateness

of using the criminal law under modern conditions in the control of sex conduct, see an as yet unpublished paper by Professor Ralph Slovenko of the Wayne State University Law School (Detroit, Michigan) delivered at the SIECUS Symposium on "Sex: The Law and the Citizen," New York City, October 1973.

⁴Nelson *supra*, p. 481 (Section 2, Resolution 3). See for discussion on family planning in criminal law pp. 165-170, 230-231, 410-411.

VI.

CONCLUSIONS

An examination and analysis of the laws of almost sixty countries and of the rationales which lie behind these laws lead to the following conclusions:

- 1. If family planning is a human right and if governments have a basic concern with public health and social welfare, then the principal objective of laws dealing with contraceptives should be to make safe, effective, acceptable, and cheap contraceptives available to all groups of the population. The means of achievement of this objective would, of course, have to depend on the circumstances in each country.*
- 2. Only compelling reasons would appear to justify limitations on the easy and equal accessibility of contraceptives. Existing laws which limit this access should be reviewed to see whether they are necessary under today's conditions.*
- 3. In a number of countries which have adopted liberal policies toward family planning there are inconsistent vestiges of former policies still on the statute books. In many countries there are laws affecting contraceptives which are rarely, if ever, enforced. In a number of former colonial countries there are laws which reflect the former conditions and policies of the metropolitan countries regardless of their appropriateness under modern conditions.*
- 4. The use of the criminal law for the control of contraceptives should be minimized.*
- 5. The following are the types of law which appear frequently to offer the most serious barriers to general access to contraception:*

a. Barriers to imports

Since many of the developing countries do not manufacture contraceptives and yet stand in the greatest need of them, the desirability of high customs duties and onerous import formalities imposed against contraceptives of proven safety would seem to require reexamination in such countries.

b. Requirement of a prescription in sales of the pill

In many developing countries access to a physician is, as a practical matter, often out of the question for the average woman, and yet the relative risk of using the pill is less than the risk resulting from pregnancy. In these countries ways to liberalize the rule should be investigated, possibly through special training of para-medical personnel.

c. Requirement that pill sales be in pharmacies only

In countries where pharmacies are few and concentrated in the cities, this rule appears effectively to bar contraception by use of the pill without any apparent compensating justification. If the prescription requirement is liberalized, the rule would lose whatever validity it may have.

d. Restrictions on the condom

Since the condom involves no health risk (and is, in fact, a prophylactic), there can be little justification for limiting access to it, for example by requiring its sale to be in pharmacies only.

e. Restriction of IUD insertion to physicians

This rule, which appears to be losing force, is subject to particular question in countries with few doctors. Special training programs for para-medical personnel in many countries are a desirable new development.

f. Restrictions on advertisement and publicity

These rules are, in many cases, based on obsolete concepts of obscenity and immorality and are frequently inconsistent with U.N. principles on access to information. They might be replaced by a reliance on the general rules governing obscenity and, in case of the pill, by a clear and simple warning on the package.

g. Restrictions on use of mail

There appears to be no justification for the use of mail restrictions as a means of controlling con-

traceptives. It is inconsistent with freedom of information.

6. In many developing countries access to contraceptives cannot be assured by reliance on commercial channels alone and, under present-day thinking, the matter should no longer be left to chance. Therefore, positive official action should be considered.

The tabulation shows that a very great number of countries are now trying programs for official free distribution or for subsidized prices. Governments might wish to consider schemes along these lines specially adapted to the conditions of their countries.

VII.

LIST OF COUNTRIES IN THE TABULATION

(By Reference Numbers)

EUROPE

- 1) Austria
- 2) Belgium
- 3) Czechoslovakia
- 4) Denmark
- 5) Eire
- 6) Finland
- 7) France
- 8) Germany, Democratic Rep.
- 9) Germany, Federal Rep.
- 10) Hungary
- 11) Italy
- 12) The Netherlands
- 13) Poland
- 14) Portugal
- 15) Romania
- 16) Spain
- 17) Sweden
- 18) USSR
- 19) United Kingdom
- 20) Yugoslavia

21) AUSTRALIA

ASIA

- 22) China
- 23) India
- 24) Indonesia
- 25) Iran
- 26) Israel
- 27) Japan
- 28) Lebanon
- 29) Malaysia
- 30) Pakistan
- 31) Philippines
- 32) Singapore
- 33) South Korea
- 34) Sri Lanka (Ceylon)
- 35) Thailand
- 36) Turkey

AFRICA

- 37) Algeria
- 38) Burundi and Zaïre
- 39) Cameroon, Chad, Congo, People's Rep.
(Brazzaville), Central African Rep., Guinea,
Niger, Upper Volta
- 40) Dahomey
- 41) Egypt
- 42) Gabon
- 43) Ghana
- 44) Ivory Coast
- 45) Kenya
- 46) Mali
- 47) Nigeria
- 48) Senegal
- 49) Tunisia

The AMERICAS

- 50) Argentina
- 51) Brazil
- 52) Canada
- 53) Chile
- 54) Colombia
- 55) Costa Rica
- 56) Jamaica
- 57) Mexico
- 58) Peru
- 59) United States of America
- 60) Venezuela

*In the footnotes to the tabulation certain publications are referred to as follows:

International Planned Parenthood Federation, Europe Region, *Survey of the Legal Status of Contraception, Sterilization and Abortion in European Countries*, London (1973), as "IPPF Survey."

International Planned Parenthood Federation, *Relationships between Governments and Voluntary Family Planning Associations* (1973) as "IPPF Relationships."

International Union for the Scientific Study of Population, *Study of Legislation Directly or Indirectly Influencing Fertility in Europe* as "IUSSP Study."

World Health Organization, *International Digest of Health Legislation* as "IDHL."

L. T. Lee and A. Larson, *Population and Law*, Leiden/Durham, N.C. (1971) as "Lee/Larson."

AUSTRIA (1)

- A. **Imports—General** No specific restriction. For commercial import of pre-packed pharmaceutical products "attestation of conformity" is necessary. (Law of June 17, 1970, BGBl. 179/1970; IDHL, Vol. 23 (1973).
- B. **Imports—Duties**
- C. **Manufacture** Manufacture of contraceptives injurious to health is prohibited. (Decree of June 26, 1953, BGBl. 120/1953).
- D. **Condoms—General** No restrictions; sold in various shops and in vending machines.
- E. **Condoms—Price and Official Distribution**
- F. **Pills—Pharmacy and Prescription Requirements** Sold in pharmacies on medical prescription only. (Regulation on Specialties, BGBl. 112/1948, as amended).
- G. **Pills—Prices and Official Distribution** Price of a monthly cycle equal to approx. 2-3 average hourly wages. (Medical advice free under National Insurance scheme; pills have to paid for).
- H. **Pills—Other**
- I. **IUD** A ministerial order of 1953, prohibiting certain contraceptives as detrimental to health, including IUD's, was repealed in 1972. (BGBl. 128/1953; 55/1957).
- J. **Commercial Advertising** Advertising of contraceptives was prohibited by Order of September 29, 1941, Section 6/1/c during the Nazi era. This was repealed in 1952. No restriction now.
- K. **Publicity for Family Planning** Federal government is drafting a bill to promote family counselling.
- L. **Government Policy** Cautious in view of the delicate balance of power between the Conservative Party and the Social Democratic Party. Family Planning Association, existing since 1969, concentrates on information and education for which the government provides funds.
- M. **Miscellaneous**

BELGIUM (2)

- A. **Imports—General** "No law prohibits the private import of contraceptives for personal use." (IPPF Survey).
- B. **Imports—Duties**
- C. **Manufacture** "No law prohibits the manufacture of any contraceptive." (IPPF Survey).
- D. **Condoms—General** Sold in pharmacies and other shops. Prohibition of sale or distribution to persons younger than 18 years of "indecent objects, the nature of which would incite their imagination." (Penal Code, Sec. 386 bis).^a
- E. **Condoms—Price and Official Distribution**
- F. **Pills—Pharmacy and Prescription Requirements** Sold in pharmacies on prescription only.
- G. **Pills—Prices and Official Distribution**
- H. **Pills—Other** See line D above.
- I. **IUD**
- J. **Commercial Advertising** Paragraphs 7, 8 and 9 of Section 383 of Penal Code, which prohibited advertising of contraceptives, repealed by the Law of July 9, 1973.^a Advertisement occurs in the medical press. (IPPF Survey).
- K. **Publicity for Family Planning** Until July 9, 1973, production importation, transportation (distribution), delivery to a transportation agent, or advertisement of birth control publications prohibited, if for purpose of trade or distribution. Government now sponsoring official program of contraceptive information.^a
- L. **Government Policy** After World War I some pro-natalist voices could be heard in legislature. Present programme of the government has legalized dissemination of information on contraceptives. *De facto* situation: broad practice of contraception. Family planning association recognized by a Royal Decree in 1970. Family Planning Association is represented on the High Council for the Family, which is affiliated with the Ministry of Family Affairs.
- M. **Miscellaneous**

(a) Information from Professor L. P. Suetens of the Catholic University of Louvain, Institute of Administrative Law. (See Law of July 9, 1973, *Moniteur Belge* of August 9, 1973, p. 9132).

CZECHOSLOVAKIA (3)

- A. **Imports—General** Public enterprises have exclusive right to trade with foreign countries. Import of private supply of pharmaceutical contraceptives permitted, if the attending physician issues a certificate. (Min. of Health Instruction No. 13, June 3, 1968).^a
- B. **Imports—Duties**
- C. **Manufacture** Manufacture by State enterprises exclusively. (Law of December 19, 1949, No. 271/1949, Sec. 2).
- D. **Condoms—General** In pharmacies, "drogueries" and elsewhere. No legal restrictions for indoor or outdoor vending machines (very rare).^a
- E. **Condoms—Price and Official Distribution** Price considered low. No official distribution.
- F. **Pills—Pharmacy and Prescription Requirements** Sold in pharmacies only on medical prescription. (Law No. 271/1949, Sec. 5. Regulation of June 13, 1966, No. 42/1966, Sec. 32).
- G. **Pills—Prices and Official Distribution** Regulated by Ministry of Health (Reg. No. 4/1967 Věstn. MZd.). At present a new regulation is being drafted, widening the number of women to whom contraceptives should be provided free of charge.^b
- H. **Pills—Other**
- I. **IUD** Inserted only by gynecologists in gynecological clinics or departments.^a
- J. **Commercial Advertising** No limitation on advertising. Only enterprises of a public character can trade in pharmaceutical products, thus no problems arise in connection with advertising.
- K. **Publicity for Family Planning** No restrictions on publicity.
- L. **Government Policy** Fully positive governmental attitude towards contraception is motivated by (i) recognition of woman's right to responsible motherhood, and thus of the human right to planned parenthood; (ii) attempts to substitute contraceptive methods for abortion as a widely used method of birth control.^c However, no broad governmental family planning programme has been launched up to the present time. According to *People* (Vol. 1, No. 3 (IPPF, 1974), p. 41), Government has started an advertising campaign urging couples to adopt contraception as a family planning technique rather than rely on abortion.
- M. **Miscellaneous**

(a) IPPF Survey.

(b) IUSSP Study, p. 301.

(c) V. Kliment, *Plánované rodičovstvo* (The Planned Parenthood). *Československá gynekologie*, 1972, p. 466 ff.

DENMARK (4)

- A. **Imports—General** Importation of pills must be approved by National Health Service. Detailed Regulation by Order No. 185 of National Health Service of May 23, 1972; IDHL, Vol. 23, p. 699.^a
- B. **Imports—Duties**
- C. **Manufacture** Contraceptive products may be sold only if they have been approved by the National Health Service. (Law No. 120 of March 24, 1970, Sec. 9; IDHL, Vol. 21, p. 575). Any manufactured hormonal contraceptive must be approved by the National Health Service. See line A. Approval granted only after completion of Pharmacological, toxicological, and clinical studies. (Order No. 185 of May 23, 1972, See line A).
- D. **Condoms—General** No limitation. Condoms of normal type may be sold in any shop or vending machine, even in public. (Order No. 185 of May 23, 1972) (But see line F below).
- E. **Condoms—Price and Official Distribution**
- F. **Pills—Pharmacy and Prescription Requirements** Sold in pharmacies only on medical prescription. (Order No. 185 of May 23, 1972, of National Health Service, which covers labelling also). Under abortion law, Law No. 350 of June 13, 1973, National Health Service must approve contraceptives before they can be sold. Contraceptives may be sold in pharmacies or in places approved by the competent medical officer in consultation with the police.
- G. **Pills—Prices and Official Distribution**
- H. **Pills—Other** On labelling, see Order No. 185 of May 23, 1972. (See line A).
- I. **IUD** On medical prescription only. (See line F).
- J. **Commercial Advertising** Condoms may be advertised to the general public; pills only to physicians and pharmacists or in professional journals of these professions.
- K. **Publicity for Family Planning** No restriction. After delivery or abortion, a physician was obliged to advise the woman concerned on contraception. (Law No. 200 of June 8, 1966, IDHL, Vol. 18, p. 581). The new abortion law (Law No. 350 of June 13, 1973) omits this provision.
- L. **Government Policy** Contraception encouraged as a means to avoid abortion. Denmark joined the International Planned Parenthood Federation in 1955. Clinics are partly subsidized by state. Family planning is included in health and social services, and sex education is on the school curricula.
- M. **Miscellaneous**

(a) The Directives of the National Health Service of July 15, 1966; IDHL, Vol. 18 (1967) p. 583, have been superseded by the National Health Service Order No. 185 of May 23, 1972; IDHL, Vol. 23, p. 699, and by Section 13 of the law on abortion, No. 350, of June 13, 1973.

EIRE (5)

- A. **Imports—General** Prohibited for commercial purposes.^a (Criminal Law Amendment Act 1935, Sec. 17). The Irish Supreme Court decided on Dec. 19, 1973 in the McGee case that the ban on imports of contraceptives for private purposes is unconstitutional, and thus *pro tanto* invalidated subsection 3 of Sec. 17 (*The Times*, Dec. 20, 1973, p. 4, col. 1).
- B. **Imports—Duties**
- C. **Manufacture** Section 17, cited in line A, does not restrict manufacture, but forbids "keeping for sale any contraceptive."
- D. **Condoms—General** Sale broadly prohibited ("to sell, or expose, offer, advertise, or keep for sale . . . any contraceptive," Sec. 17, para. 1, Criminal Law Amendment Act, 1935.
- E. **Condoms—Price and Official Distribution**
- F. **Pills—Pharmacy and Prescription Requirements** Oral contraceptives may not be sold as such, but may be sold in pharmacies on medical prescription for purpose of cycle control.^b
- G. **Pills—Price and Official Distribution**
- H. **Pills—Other** See Line D.
- I. **IUD** Prohibited.
- J. **Commercial Advertising** Prohibited to "offer, advertise" contraceptives (Sec. 17, See line A). The censorship laws prohibit advocacy or advertising of all forms of contraception (Secs. 16 and 17 (1) of the Censorship of Publications Act. of 1929, and Secs. 7(B) and 9(B) of the Censorship of Publications Act of 1946).^c
- K. **Publicity for Family Planning** See Line L.
- L. **Government Policy** Strictly negative, though the law does not prohibit the practice of contraception or giving advice on contraception, or even discreet propaganda for birth control. Two clinics are run in Dublin by a private family planning association. A bill to repeal the law is now in the Senate. The first attempt to pass legislation to allow chemists to sell contraceptives was recently defeated in the Dublin Senate. *The Times* (London), Mar. 28, 1974, at 4, col. 7. There is presently pending before the senate another bill sponsored by the government, which would permit sale of contraceptives to married couples, but impose high fines for sales to unmarried.
- M. **Miscellaneous** Criminal Law Amendment Act No. 6, 1935 ("An Act to Make Further and Better Provision for the Protection of Young Girls and the Suppression of Brothels and Prostitution, and for those and Other Purposes to Amend the Law Relating to Sexual Offences") declares in Section 17 that it is an offense (punishable by imprisonment up to 6 months and/or fine) "to sell, or expose, offer, advertise, or keep for sale or to import or attempt to import into Saorstát Eireanu for sale, any contraceptive."^c

(a) For a full account of the McGee case, see *London Times* of Dec. 20, 1973. The decision in the case was based on Article 41 of the Constitution on the protection of the "family, in its constitution and authority."

(b) *IFFP Survey*.

(c) Two family planning groups have recently been acquitted of charges of violating these laws by a Dublin District Court. The charges stemmed from the mailing of a booklet on family planning and contracep-

tives to two young girls who had requested information. The court found that these mailings were not sales and therefore did not fall within the purview of the 1935 law, and that the booklet was not illegal as it "did not advocate the unnatural prevention of conception." *The Times*, Feb. 20, 1974, p. 2, col. 1. According to press reports, dated February 22, 1974, the Government plans to remove legislation which bans the sale of contraceptives. But see line L above.

FINLAND (6)

- A. *Imports*—General Both commercial and private importation of contraceptives permitted.
- B. *Imports*—Duties
- C. *Manufacture* Manufacture of oral contraceptives requires permission of the Ministry of Social Affairs and Health (Act on Pharmaceutical Articles, No. 374 of Dec. 12, 1935, Sec. 3).^a Distribution of pills allowed only after each product has been authorized by the National Board of Health. (Law on Pharmaceutical Articles, Sec. 10, para. a).
- D. *Condoms*—General In various shops. No legal limitation. (Condom supposed to be most used contraceptive).^b
- E. *Condoms*—Price and Official Distribution
- F. *Pills*—Pharmacy and Prescription Requirements Sold in pharmacies and health centers on medical prescription only.
- G. *Pills*—Prices and Official Distribution
- H. *Pills*—Other
- I. *IUD* Insertion by gynecologists only.^c
- J. *Commercial Advertising* No law prohibits advertisement of contraceptives.
- K. *Publicity for Family Planning* A Public Health Law, No. 66 of Jan. 28, 1972, provides that every local community has to arrange free guidance on contraception. Before the end of this decade health centers will operate to full extent. They distribute pills and insert IUD's. Advice on contraception must be given to women after abortion. (Law on Interruption of Pregnancy, Sec. 7, para. 2). From 1965 on, a booklet, *Birth Control Guide*, distributed to every woman visiting a maternity clinic.
- L. *Government Policy* Supports contraception as means of preventing abortion. The Ministry of Social Affairs and Health is represented in the family planning association, which receives some financial support from Government.
- M. *Miscellaneous*

(a) IPPF Survey

(b) IUSSP Study, p. 39.

(c) Kaisa Turpeinen, *Social Aspects of Family Planning in Finland*, in *Scheveningen Round Table*, May 1966, p. 15.

FRANCE (7)

- A. Imports—General** Condoms and IUD's may be imported only by firms authorized, if they present "necessary guarantees." (Sec. 1, para. 2 of Decree No. 69-104 of 3 Feb. 1969, implementing Sec. 2 of Law 67-1176 of 28 Dec. 1967). Legal prohibitions on import of pills do not distinguish between commercial importation and import for private use. Under Section 7, paragraph 1 of Law 67-1176 punishment of up to 2 years of imprisonment and/or fine for whoever imports contraceptives "in whatever way."
- B. Imports—Duties**
- C. Manufacture** Pills may be manufactured only by firms authorized under the conditions prescribed in Section 598 of Public Health Code; IUD's and condoms by firms authorized by the Minister of Social Affairs. (Law 69-104, Sec. 2). Manufacturers must declare in advance the categories of products they plan to manufacture or import (same section). Control of conditions of manufacture and consignments of contraceptives carried out by pharmaceutical inspection (Law 69-104, Sec. 3). Sale of all contraceptives including condoms is subject to granting of marketing license, issued for 5 years (same section).
- D. Condoms—General** Only in pharmacies. (Law 67-1176, Sec. 3). Sale (or other furnishing) of a condom to a person under 18 years "in any way whatever" prohibited and punished by up to 4 years in prison, except when (i) a minor is married, divorced, or widowed, or (ii) written consent of one of parents has been submitted. (Law 67-1176, Sec. 3, para. 5; Sec. 7/II (1a)). In practice condoms sold as "prophylactics" against venereal diseases.
- E. Condoms—Price and Official Distribution** No official distribution. Centres of family planning are prohibited from furnishing contraceptives to clients (punishable up to six months and/or fine). (Law 67-1176, Sec. 4, para. 2; Sec. 7/II (2)).
- F. Pills—Pharmacy and Prescription Requirements** Sold in pharmacies only on medical prescription, limited to 1 year and as to quantity. A coupon from a counterfoil book has to be attached; the counterfoil must indicate the person for whom pills intended (regulation similar to regulation on narcotics). (Law 67-1176, Sec. 3, para. 2,3; Law 69-105, Sec. 1-3).
- G. Pills—Prices and Official Distribution** Sale or other furnishing "in any way whatever" of oral contraceptives to a person under 21 years prohibited and punishable by up to 4 years imprisonment, except when (i) the minor is married, divorced, or widowed, or (ii) written consent of one of parents has been submitted. (Law 67-1176, Sec. 3, para. 5 and Sec. 7/II (1a), (1b)).
- H. Pills—Other** See line E.
- I. IUD** Only physicians may insert in (i) a specialized hospital establishment, or (ii) in their offices, if they "generally notify" this kind of treatment to be performed and if they have been screened. (Decree No. 72-180 of March 7, 1972).
- J. Commercial Advertising** "All direct or indirect propaganda or commercial advertising for medicaments, products, or articles for purposes of contraception, or for contraceptive techniques, shall be prohibited, other than in publications intended solely for physicians and pharmacists." (Law 67-1176, Sec. 5) "All direct or indirect propaganda and commercial advertising in publications intended solely for physicians and pharmacists and designed to publicize or promote the prescribing or purchase of contraceptives or to propagate contraceptive methods must first have been granted special authorization by the Minister of Social Affairs, after having consulted the Board provided for in Section R.5047 of the Public Health Code, a gynecologist being added to the Board." (Decree No. 69-105 of 3 Feb. 1969, Sec. 5).
- K. Publicity for Family Planning** "All anti-natalist propaganda is forbidden." (Law 67-1176, Sec. 5) (But see note a). Centres for family planning and education can carry out any activities only after prior administrative approval has been given by the Ministry of Public Health and Social Security. Only such centres may be approved which, *inter alia*, engage concurrently in all three kinds of following activities: (i) family education, (ii) information on methods of birth control, (iii) facilitating control of natality. (Decree No. 72-318 of April 24, 1972; *arrêt* of Min. of Health of April 2, 1972). See line L and M.
- L. Government Policy** Since the total prohibition of family planning, which was the intent of the old law of 31 July 1920, proved impossible to enforce, the new policy is to limit it as tightly as possible. The Government is still strongly pro-natalist for metropolitan France. For overseas departments Law 67-1176 and the Ministry of Public Health Decree of January 5, 1974 provide for free distribution of contraceptives by Family Planning and Education Centers.^b
- M. Miscellaneous** Penal sanctions (some for as much as four years imprisonment) have been concentrated in Section 7 of Law No. 67-1176 of 28 December 1967. Law No. 73-639 of July 11, 1973 established a High Council on Sex Information. Among its duties is the development of measures for the sexual education of youth. The Ministry of Education Circular No. 73-299 of July 23, 1973 provides for education on human reproduction in high school. This education is to be voluntary, and it is not clear whether it will contain information on contraception. The program is not expected to be in full effect until the end of 1974.

(a) An interesting recent development occurs in the draft of a new abortion law presented by the Government to the French Parliament in 1973. Under Article L 182-4, a woman who has an abortion must be informed as to the means of family planning.

(b) The Ministry of Public Health Decree of January 5, 1974, implementing Section 6 of Law 67-1176 for the three departments of overseas France provides very liberal regulations for centers of family planning and education which may give out contraceptives free of charge.

GERMANY, DEMOCRATIC REPUBLIC (8)

- A. **Imports—General** Private import of contraceptives for personal use prohibited. (Law on Import of Medical Goods).
- B. **Imports—Duties**
- C. **Manufacture** Medicaments may be distributed only after they have been "sufficiently researched." (Law on Medicaments of May 5, 1964, GBI. Part I, p. 101).
- D. **Condoms—General** Pharmacies, drug stores, shops dealing in stationery, hygienic articles. (Regulation of February 22, 1968, GBI. Part I, p. 109). Also indoor vending machines.
- E. **Condoms—Price and Official Distribution**
- F. **Pills—Pharmacy and Prescription Requirements** Sold in pharmacies only on medical prescription.
- G. **Pills—Price and Official Distribution** Women on Social Security—i.e., overwhelming majority of women—receive pills or other contraceptives, prescribed by physicians, without charge. (Law of March 9, 1972, GBI. Part I, p. 89, Sec. 4, para 2).
- H. **Pills—Other**
- I. **IUD**
- J. **Commercial Advertising** No legal provisions on advertising of contraceptives.
- K. **Publicity for Family Planning** After abortion has been performed, the woman must be given information on "efficient use" of contraceptives. (Regulation of March 9, 1972, GBI. Part I, p. 149, Sec. 4, para. 2).
- L. **Government Policy** Contraception is encouraged as an acceptable birth control method as distinguished from both abortion and sterilization. The right of a woman to decide on her motherhood has been underlined even in connection with abortion. Section 1, paragraph 1 of Law on Interruption of Pregnancy of March 9, 1972 (GBI. Part I, p. 39) states: "In addition to the existing possibilities of contraception, a woman shall have the right to decide on the interruption of her pregnancy on her own responsibility, so as to be able to control the number, time, and spacing of births." (A woman is entitled to abortion during the first twelve weeks of pregnancy by medical intervention). Family planning is included in health and social services. Ministry of Health established central family planning committee to develop contraceptive facilities.
- M. **Miscellaneous**

GERMANY, FEDERAL REPUBLIC (9)

- A. **Imports—General** No import restriction. The producer must prove that he possesses a production permit valid for his own country. (Law on Medicines of 1961, BGBl. Part I, p. 533, Sec. 21, para. 3). For medical specialties a production permit is necessary. (Law on Medicines of 1961, Sec. 12, para. 1). Product as imported must be labelled with the name of the producer. (Sec. 11).
- B. **Imports—Duties** See footnote a.
- C. **Manufacture** License is necessary to produce medicaments commercially. (Law on Medicines, Sec. 12, para. 1). Must declare production of IUD's. (Law on Medicines, Sec. 18). Pills must be registered with the Federal Health Office before they are sold. (Law on Medicines, Sec. 20). Inspectors of quality control must visit producers and other enterprises, as a rule once in two years. (Law on Medicines, Sec. 40).
- D. **Condoms—General** In pharmacies, drug stores, sex shops, etc. No special prohibitions. Display in public places, if immoral or indecent, prohibited. (Penal Code, Sec. 184, para. 3a). The display of condoms is discreet. Sale in vending machines forbidden "at" the streets and public places. (Law of Feb. 5, 1960, BGBl. Part I, p. 61).
- E. **Condoms—Price and Official Distribution** No Government control of price. No official distribution.
- F. **Pills—Pharmacy and Prescription Requirements** Pharmacies only. (Law on Medicines, Sec. 28). Prescription only (Sec. 35). *De facto* prescribed, if no contraindication, to any woman asking for "a pill," even to young people.
- G. **Pills—Prices and Official Distribution** No government control of price. No official distribution. National Health Insurance does not reimburse for contraceptives ("means which only serve for contraception").
- H. **Pills—Other** Prescription medicines must be sold with an instruction enclosed indicating amount and frequency of doses (Order of Aug. 7, 1968, Sec. 3/1/2). Labelling requirements. (Law on Medicines, Sec. 9). Registration requirement (Law on Medicines, Sec. 20).
- I. **IUD** Only physicians may insert. No official distribution.
- J. **Commercial Advertising** Advertisement must not be contrary to morals or decency. (Penal Code Sec. 184/1/3a). Pills (as medicaments to be sold only on medical prescription) cannot be advertised to the general public for commercial purposes. (Law on Advertisement of Medicines of July 11, 1965, BGBl. Part I, Sec. 604). Section 9 lists 14 prohibitions of various kinds of advertisement of other medicaments to the general public; for example, by non-requested samples. (Even to physicians samples of medical specialties may be delivered only on request and in an amount not disproportionate for testing a new medicine. Law on Medicines of 1961, Sec. 34, para. 3).
- K. **Publicity for Family Planning** No restriction. Sex education is obligatory in schools, with family planning included.
- L. **Government Policy** As yet, no official government family program. The *Pro Familia* Organization, established in 1952, received its first government subsidies in 1968. In 1971 the subsidy amounted to around DM 117,000. The National Health Insurance does not reimburse for contraceptives. On January 18, 1973 an extensive family planning "build-up" (*Ausbau der Familienplanung*) was announced in the program of the second Brandt Government. Legislative amendments are planned to make contraceptives more easily accessible. In the Ministry for Youth, Families, and Health legislative measures are being drafted which would enable selling contraceptives (where medical prescription is not required) by means of self-service, including vending machines, and marketing non-prescription drugs as well.
- M. **Miscellaneous** Contraceptives must be mailed closely packed. This excludes the possibility of mailing "samples" as such, since samples must be mailed unsealed. In addition to Penal Code, Section 184/3a, breaches of various provisions of the law on medicines to be punished in more serious cases by court (imprisonment or fine), minor offenses by administrative authorities. (Law on Medicines, Sec. 44, 52). Thus, sale of pills outside pharmacies or without prescription is a misdemeanor punishable by prison up to 6 months and/or fine, if intentional, and prison up to 3 months or fine, if negligent. (Law on Medicines, Sec. 45/1, No. 6,8; 45/2).

(a) Contraceptives are subject to different tariffs according to their contents and the country of export as follows:

	"Old" member countries of the European Community	"New" member countries	Other Countries
Pill			
not for retail trade	duty free	6.2 p.c.	2.3-7.8 p.c.
for retail trade	duty free	8.3 p.c.	10.4 p.c.
Condoms	duty free	6.0 p.c.	10.0 p.c.
IUD's	duty free	14.0 p.c.	17.6 p.c.

All contraceptives including material from "old" member countries of the European Community are subject to tax. (Source: Dr. Schubnell, Federal Institute for Population Research, Wiesbaden and Mrs. S. Rupp).

(b) When introduced by the Federal Government, the draft of the law on advertisement of medicines proposed a *general* prohibition on advertising medicaments "through film, radio, or television." This was successfully opposed by the Health Committee of the Bundestag on constitutional grounds. (A. Kernd'l, K. Marcetius, *Heilmittel Werbegesetz. Kommentar*, Stuttgart 1965, p. 74.)

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

HUNGARY (10)

- A. **Imports—General**
- B. **Imports—Duties**
- C. **Manufacture**
- D. **Condoms—General** Pharmacies, other shops, indoor vending machines.
- E. **Condoms—Price and Official Distribution**
- F. **Pills—Pharmacy and Prescription Requirements** In specified pharmacies. Regulated by decree of Ministry of Health No. 36/1966/Eü.K.13 (on Infecundin and Bisecurin): Prescription by a specialist in the local health institution after tests. In case of continuous use, regular checks every 6 months (free of charge for those under Social Security). Prescribed for only 6 months in advance. Registry of women taking the preparations.
- G. **Pills—Price and Official Distribution**
- H. **Pills—Other**
- I. **IUD** Regulated by Ministry of Health Directive No. 40/1971/Eü.K.22; may be inserted only in specialized health institutions. Only for women who have already had births or are older than 16 years, if pregnancy unwanted or on health considerations. Regular checks every 6 months. Insertion check free of charge. IUD must be paid for.
- J. **Commercial Advertising** No restrictions.
- K. **Publicity for Family Planning** Sex education, including contraceptive information, is provided in schools, and at the time of obtaining a marriage license. (Decision No. 1040/1973/X.18 of the Council of Ministers, *Magyar Közlöny*, Budapest, Oct. 18, 1973, No. 71, Sec. II/A, para. 1; Sec. III, paras. 1-6.
- L. **Government Policy** "Contraceptive medicines and devices should be made available for the population in appropriate quantity, quality and assortment." Council of Ministers Decision, *supra*, Sec. II/A, para. 3. This policy was adopted in order to discourage excessive recourse to abortion.
- M. **Miscellaneous**

ITALY (11)

- A. **Imports—General** Importation not prohibited,^a but no medical specialty may be distributed before being registered (*Testo Unico degli Leggi Sanitarie*, Sec. 162).
- B. **Imports—Duties**
- C. **Manufacture** Manufacture of medical specialties requires authorization by Ministry of Health. Mandatory Govt. testing of all medicaments (*Testo Unico*, Sec. 161).
- D. **Condoms—General**
- E. **Condoms—Price and Official Distribution** Sold in various kinds of shops, by vending machines and through mails. State Employees' National Health Service supplies its members with contraceptives. (See L below).
- F. **Pills—Pharmacy and Prescription Requirements** Prescription required on "medical grounds." Sold in pharmacies only.^b
- G. **Pills—Prices and Official Distribution** Price controls exist (*Testo Unico* Sec. 125). (See L below).
- H. **Pills—Other** Registration of pill as drug required. (*Testo Unico*, Sec. 162).
- I. **IUD** Physicians insert on "medical grounds." (See L below).
- J. **Commercial Advertising** All advertisement and all propaganda for contraception was prohibited. (*Testo Unico*, Sec. 112/1, 114/1; Code Penal Sec. 553). This "never constituted a serious obstacle to the use of the pill,"^c and these provisions were declared unconstitutional by the decision of the Italian Constitutional Court of March 16, 1971, No. 49.^d
- K. **Publicity for Family Planning** (See J above).
- L. **Government Policy** Policy between the two World Wars was strictly pro-natalist. Later, provisions punishing dissemination of contraceptive information were seldom enforced. Since the 1971 decision of the Constitutional Court, governmental policy seems to evade the issue of contraception. In medical profession, contraception seems to be carried out under the guise of "medical reasons" for prescribing pill, etc. Of the two largest Social Security organizations, INAM (National Health Insurance Service) provides no contraceptives; ENPAS (State Employees' National Health Service) supplies its beneficiaries with pills or other contraceptives recorded as necessary medical treatment.^e Existing family planning programs are run by private institutions (e.g., AIED and family planning association). Programs sometimes encounter hostility of local authorities.
- M. **Miscellaneous** Penal Code, Section 553 punished as offense (by imprisonment up to one year or fine) public incitement to practices against procreation or contraceptive propaganda. Declared unconstitutional March 15, 1971.

(a) Section 112, paragraph 1 of *Testo Unico* of Public Security Laws, approved by Royal Decree of June 18, 1931, No. 773, does not prohibit importation, production, etc., of contraceptives (as is sometimes believed), but it does prohibit the importation of writings, drawings, etc., on contraception.

(b) In the view of Professor A. Fiori of Institution of Legal Medicine, Catholic University of Sacred Heart, Rome, there is a possibility that

Section 552 of the Penal Code forbidding voluntary sterilization might be invoked against pills as causing temporary sterility.

(c) *IUSSP Study*, p. 122.

(d) See footnote 20 of Chapter II to text of this paper. The "A.I.E.D." is the Italian Association for Demographic Education in Rome.

(e) *IUSSP Study*, p. 148.

THE NETHERLANDS (12)

- A. **Imports—General** Permitted. No special license or registration required.
- B. **Imports—Duties**
- C. **Manufacture** See line A.
- D. **Condoms—General** Sold in all sorts of shops; also vending machines, indoors and outdoors. Sale of contraceptives from vending machines specifically allowed in hotels, restaurants, cafes.^a (Law of July 1, 1970).
- E. **Condoms—Price and Official Distribution**
- F. **Pills—Pharmacy and Prescription Requirements** Sold in pharmacies on prescription only.
- G. **Pills—Prices and Official Distribution**
- H. **Pills—Other**
- I. **IUD** Only physicians may insert.
- J. **Commercial Advertising** Pills and IUD's are advertised only to physicians and pharmacists. The restriction exists *de facto* only, as an agreement between the national associations of newspaper proprietors and the pharmaceutical industry that no advertisement for medical products, available only on prescription, or for sale only in pharmacies, will be accepted by the mass media. (Source: IPPF Survey) (See line M).
- K. **Publicity for Family Planning** See line M.
- L. **Government Policy** No government family planning program. No special legal provisions exist regulating the family planning movement. The attitude of the present government to family planning is tolerant to favorable. In December 1971 the Government—against the recommendation in a report by the *Ziekenfondsraad*—brought contraceptives which need medical prescription (pills, IUD's) under the medical benefits scheme. This means that all employees who have mandatory health insurance (i.e., all employees with an annual income below F. 18,800) will be able to obtain such contraceptives free of charge. Family Planning Association is financially supported by the Government and by municipal authorities.
- M. **Miscellaneous** In 1969, Parliament repealed a provision of the Penal Code which prohibited the display and sale of contraceptives to minors under eighteen. Instead, the municipalities were given the right to issue ordinances prohibiting sale of contraceptives in public ways. Some municipalities have used this right to restrict vending machines. Section 451 *ter* of the Penal Code had provided that showing means (*middel*) for prevention of pregnancy or offering them for sale or even showing that they are available was punishable. This also was repealed in 1969. No penal provisions on contraception now.^b

(a) The provision cited is an exception from the general prohibition against the sale of goods other than beverages in restaurants, cafes, bars, etc.

(b) Source: D. J. van de Kaa/Miss J. J. Slob, provisional report for IUSSP Study.

POLAND (13)

- A. Imports—General** Importation permitted, but only by specially licensed state enterprises of foreign trade. (Decree of Jan. 11, 1967). Importation for personal use requires permission from the Ministry of Health and Social Welfare (Law of Jan. 8, 1951, Sec. 19, para. 4). This is not enforced in practice. Importation of oral contraceptives allowed only under 2 concurrent conditions: (i) product must be included in the official list of medicines; (ii) special permission from Ministry to import (or special regulation) must provide for composition and quality of product imported. (Law of Jan. 8, 1951, Sec. 9, 16, 19).
- B. Imports—Duties**
- C. Manufacture** Production of medicines requires permission of Ministry of Health and Social Welfare. (Decree by Min. of Health and Social Welfare of July 29, 1965). Any medicine may be produced only if included in the official list of medicines published by Ministry of Health and Social Welfare. (Law of Jan. 8, 1951, Sec. 9; Decree Min. of Health and Social Welfare of April 3, 1963).
- D. Condoms—General** Sold in pharmacies, drug stores, and in booths selling newspapers, cigarettes, etc. They are easily accessible.
- E. Condoms—Price and Official Distribution** Very cheap. Sold by distribution centers of Public Health Service institutions. (Min. of Health and Social Welfare Reg. No. 34 of July 18, 1960).
- F. Pills—Pharmacy and Prescription Requirements** Sold in pharmacies only. (Law of Jan. 8, 1951; Reg. No. 34, July 18, 1960). Medical prescription only. (Decree of Min. of Health and Social Welfare, April 1, 1969; Reg. No. 34/1960). See also line G.
- G. Pills—Prices and Official Distribution** Prices reduced to 30% of retail value for persons entitled to social health service. (Decree Min. of Health and Social Welfare of Jan. 3, 1953; Reg. No. 34/1960). Official distribution is concentrated in the distribution centers of Public Health Service. (Reg. No. 34/1960).
- H. Pills—Other**
- I. IUD** Only physicians specialized in gynecology and specially trained nurses may insert IUD's, as a matter of organization of health service. (Min. of Health and Social Welfare Reg. of April 12, 1963, No. 19). Official distribution is concentrated in distribution centers of Public Health Service. (Reg. No. 34/1960).
- J. Commercial Advertising** Mechanical contraceptives may be advertised to general public. Oral contraceptives may be advertised only by announcement in professional medical or pharmaceutical periodicals, or in pamphlets distributed directly and exclusively to physicians or pharmacists. (Decree of Min. of Health and Social Welfare of Sept. 22, 1959, No. 354, Dz. Ust.).
- K. Publicity for Family Planning** Where an abortion is authorized, the physician has legal duty to instruct the woman on contraception. (Decree of Min. of Health and Social Welfare of Dec. 19, 1959, Sec. 3, para. 1).
- L. Government Policy** Use of contraceptives vigorously encouraged, not on demographic grounds, but as a preferable alternative to abortions. Family planning programs offered by the Government and by Society for Responsible Maternity which is a Government-supported organization. (However, in 1972 it was still estimated that only about 100,000 women in Poland—approximately 1% of all women in the relevant age—use oral contraceptives).
- M. Miscellaneous** Bringing about a (clear and present) public danger to life or health by violating quality standards of medicines is declared a crime. (Penal Code of 1969, Sec. 140-142; Law of Jan. 8, 1951, Sec. 26-29).

PORTUGAL (14)

- A. *Imports—General* Apparently not prohibited.
- B. *Imports—Duties*
- C. *Manufacture* Apparently manufacture not prohibited.
- D. *Condoms—General* All contraceptives considered medicaments and require prescription. (Decree Law No. 48,547 of Aug. 27, 1968, Sec. 58, para. 1 (a)).
- E. *Condoms—Price and Official Distribution*
- F. *Pills—Pharmacy and Prescription Requirements* Only in pharmacies. See line D.
- G. *Pills—Prices and Official Distribution*
- H. *Pills—Other*
- I. *IUD* See line D.
- J. *Commercial Advertising* The advertising of contraceptives is prohibited, even in the medical press. (Decree Law No. 48,547 of Aug. 27, 1968, Sec. 104/1).
- K. *Publicity for Family Planning* Pharmacists may not advise on contraception. (Decree Law No. 48,547, Sec. 11).
- L. *Government Policy* Negative. However, Government made a grant available for foundation of Family Planning Association and lends some support to its activities.
- M. *Miscellaneous*

ROMANIA (15)*

- A. **Imports—General** Pills and IUD's are not imported, except personally and unofficially. Condoms are imported officially from other Socialist countries.
- B. **Imports—Duties**
- C. **Manufacture** Pills and IUD's not manufactured in Romania. Some condoms are manufactured.
- D. **Condoms—General** Available in stores.
- E. **Condoms—Prices and Official Distribution**
- F. **Pills—Pharmacy and Prescription Requirements** Pills not generally available, but some can be found on an unofficial basis, having been imported from other Socialist countries.
- G. **Pills—Prices and Official Distribution**
- H. **Pills—Other**
- I. **IUD** Same as pills, see line F.
- J. **Commercial Advertising** Advertising and giving advice on contraception discontinued in 1966.
- K. **Publicity for Family Planning**
- L. **Government Policy** Government is officially pro-natalist. A family institute recently started in Bucharest which gives contraceptive help only to women with many children or whose health is unsatisfactory. (Romanian News Agency Press Report No. 3, Feb. 15, 1973).^a
- M. **Miscellaneous** No sanctions.

*Data largely from *IPPF Survey*. Other information on Romania is from Dr. Henry David of International Reference Center for Abortion Research.

(a) There is apparently no law which prohibits the practice of contraception or teaching about it. However, as a matter of fact, contracep-

tives are not available to the general public. According to *Romania*, Romanian News Agency, Vol. 24, No. 3, of February 15, 1973: "A center for combatting sterility, contraception and for family education—a medical institution aimed at consolidating the family by stimulating birth rate (sic) has recently started activity in Bucharest."

SPAIN (16)

- A. *Imports*—General Private importation for personal use not prohibited.
- B. *Imports*—Duties
- C. *Manufacture* Manufacture of contraceptives prohibited. (Penal Code, Sec. 416, No. 2) (See Line J). Sale of all kinds of contraceptives, including "objects which are able to avoid pregnancy" prohibited by Penal Code, Section 416, paragraph 3.
- D. *Condoms*—General
- E. *Condoms*—Price and Official Distribution
- F. *Pills*—Pharmacy and Prescription Requirements Sold in pharmacies on medical prescription, but not as contraceptives. (See line C).^a
- G. *Pills*—Prices and Official Distribution
- H. *Pills*—Other
- I. *IUD* See line C.
- J. *Commercial Advertising* Under Penal Code, Section 416, it is a criminal offense to: (i) offer for sale or to advertise medicaments, substances, objects, instruments, apparatus, means or processes able to avoid pregnancy; (ii) to display the above objects, medicaments, etc., in public; (iii) to carry out, in whatever form, anti-conceptualist propaganda.
- K. *Publicity for Family Planning* See Line J.
- L. *Government Policy* Negative.
- M. *Miscellaneous* Offenses under Section 416 of the Penal Code are punishable by fines up to 25,000 pesetas.

(a) Source: IPPF Survey. As a practical matter, pills are frequently seen in pharmacies, possibly owing to the demands of tourists.

SWEDEN (17)

- A. **Imports—General** Only contraceptives approved by the Royal Medical Board may be imported. (Royal Order No. 327, June 5, 1959). Requirements for import set by Order of the Royal Medical Board of June 30, 1959.
- B. **Imports—Duties** See Royal Order No. 327.
- C. **Manufacture** 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. Quality control by the National Board of Health and Welfare required by Order of April 4, 1970.
- D. **Condoms—General** Sold in various shops, vending machines, pharmacies, indoors and outdoors. Control based on testing of samples; minimum requirements established (thickness, etc.).
- E. **Condoms—Price and Official Distribution** No official distribution.
- F. **Pills—Pharmacy and Prescription Requirements** Sold in pharmacies on medical prescription only. Under Royal Order No. 328 of June 5, 1959 contraceptives determined by the Royal Medical Board must be for sale in pharmacies, branch pharmacies, and drug stores except when they are on roster service or night service. (IDHL, Vol. 11, p. 523). This Royal Order was repealed by Crown Order No. 729 of November 20, 1970 (IDHL, Vol. 23, p. 354).
- G. **Pills—Prices and Official Distribution** No official distribution.
- H. **Pills—Other**
- I. **IUD** Medical prescription required; may be inserted by trained midwives.^a No official distribution.
- J. **Commercial Advertising** This presence of contraceptives in the vending machines must not be indicated in such a way that special attention is drawn to this fact. (Royal Order No. 326, June 5, 1959).
- K. **Publicity for Family Planning**
- L. **Government Policy** Fully supports family planning. Description of development of legal provisions on sale of contraceptives in Sweden on pp. 181-184 Lee/Larson, *Law and Population*. After an anti-birth control law of 1910 and some limitative provisions of 1938, it was enacted on October 18, 1946 that all pharmacies must 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." (p. 182).
- M. **Miscellaneous**

(a) See IPPF Survey. A recent lawsuit raises the question of full liability of the manufacturer in a case of death from the thromboembolic conditions.

UNION OF SOVIET SOCIALIST REPUBLICS (18)

- A. **Imports—General** No prohibition. Imports, as well as production, are determined by economic planning and carried out by enterprises of public character.
- B. **Imports—Duties**
- C. **Manufacture** See Line A. Insufficient amount and quality criticized.^a
- D. **Condoms—General** Sold in various shops, pharmacies. No limitations. Can be displayed. Condoms are the prevalent form of contraception.^b
- E. **Condoms—Price and Official Distribution**
- F. **Pills—Pharmacy and Prescription Requirements** Pills still considered "experimental" in 1972.
- G. **Pills—Prices and Official Distribution** Exhibition and sale of contraceptives have been organized directly at women's consultation centers and pharmacies.^c
- H. **Pills—Other** No limitations other than on medical grounds and limited supply.
- I. **IUD** Insertion by physicians. Production of Soviet-made IUD's started a few years ago.^c
- J. **Commercial Advertising** No prohibitions on advertisement. However, advertisement is rare,^d as all commerce in goods like contraceptives is concentrated and planned and there is a lack of supply. Display at the point of sale allowed and practised.
- K. **Publicity for Family Planning** 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.
- L. **Government Policy** Policy of USSR and of its Republics favors family planning on a private, non-governmental basis (as distinguished from official influencing of natality). Although voices concerned with population trends can be heard from time to time, the basic principle which influences Soviet approach to birth control is to safeguard the right of *women* to determine themselves whether they wish to have children or not. Liberalization of abortion was the initial solution. Because too many abortions might undermine female health, the trend seems to be to increase the use and output of modern contraceptives.^e
- M. **Miscellaneous**

(a) E. A. Sadvokasova, *Sovetskoe zdravookhranenie*, 1966, No. 12, p. 71.

(b) David M. Heer, "Abortion, Contraception, and Population Policy in the Soviet Union," *Demography*, Vol. 2 (1965), p. 537.

(c) Letter from the Soviet Minister of Public Health, as cited in "U.S.S.R.: Views on Population/Family Planning," *Studies in Family Planning*, No. 49, January 1970, p. 16; G. Neimann, H. Herrmann, in *Akusherstvo i ginekologija* (Moskva), No. 11 (1971), p. 76.

(d) P. B. Maggs, *Law and Population Growth in Eastern Europe*, Law and Population Monograph No. 3, Medford, (1971), p. 15.

(e) "U.S.S.R.: Views on Population/Family Planning," note (c) above; E. A. Sadvokasova, 1 c. see note (a) above, pp. 71, 72; K. Grzybowski in Lee/Larson, p. 279ff; David M. Heer, "Recent Developments in Soviet Population Policy," *Studies in Family Planning*, Vol. 3, No. 11 (1972), esp. p. 259.

UNITED KINGDOM (19)

- A. Imports—General** Importation permitted for both commercial and private use. Product license required for pills only, being "medical products." (Medicines Act of 1968, Sec. 7, para. 3, with numerous exceptions).
- B. Imports—Duties** No specific duties for contraceptives. For general duties on inorganic and organic chemicals, rubber and synthetic rubber products, medical and surgical instruments and apparatus, see Import Duties Act of 1958, especially Section I, No. 7, Ch. 28-30, 39, 40, 90. (Parts of the Act due to be repealed by the European Comm. Act of 1972).
- C. Manufacture** Manufacturer of pill needs license issued by Secretary of State for Social Services. (Medicines Act of 1968, Sec. 8). Product license required for any sort of pills. (See Line A).
- D. Condoms—General** Sold in pharmacies, drug stores, various small shops, barber shops, even some super-markets. Although there are no legal limitations, individual local by-laws in many areas prohibit sale from vending machines in public places.
- E. Condoms—Price and Official Distribution** Price is reasonably cheap. Since 1974 distribution under National Health Service, Family Planning Program.
- F. Pills—Pharmacy and Prescription Requirements** Sold by pharmacies, family planning clinics and medical practitioners on medical prescription only. (Pharmaceuticals and Poisons Act of 1933, Sec. 17, Part II; Schedule 4B to Poison Rules of 1971). Family Planning Clinics may supply oral contraceptives directly "on other than medical grounds." (Poison Rules of 1971, Rule 31).^a
- G. Pills—Prices and Official Distribution** Price of a 6-month supply (when charged) approximately £1.50. From 1974 contraceptives will be fully integrated into the National Health Services. Pills will be supplied on a small prescription charge. According to *The Times* (London), March 29, 1974, the Labor Government will rescind all charges for contraceptives.
- H. Pills—Other**
- I. IUD** Only physicians (insert (matter of practice).^b IUD's are not covered by the Medicines Act, being considered "appliances" (except copper IUD, operating by chemical reaction). IUD's will be distributed as part of National Health Service Family Planning Program.
- J. Commercial Advertising** No specific limitation on advertisement of contraceptives under the U.K. laws. Medicines Act of 1968, Section 93, prohibits false and misleading advertisements. Ministers have power to prohibit, by regulation, advertisement of a specified class of medicines. This power has not been used. The Obscene Publications Act of 1959 bans publication of obscene matter "with a tendency to deprave and corrupt those likely to read it." Pharmaceutical Society has a voluntary code of advertising practice. It is a criminal offense to send unsolicited printed matter describing sexual techniques. (Goods and Services Act of 1971, Sec. 4). There may in practice be a ban on brand-specific advertising in some media.^c
- K. Publicity for Family Planning** Health Education Council has run television campaigns in various parts of the country. Local authorities and the Family Planning Association take part in displays, have posters, etc., available. (Some local authorities, such as London Transport, have at various times objected to specific advertisements).
Government Policy Family planning services are provided through local health authorities under National Health Service. This policy was implemented by 1973 legislation. The only controversial point was whether the supply of all contraceptives should be free of charge. Provision of family planning services has been concentrated under the authority of the Secretary of State by the National Health Service Reorganization Act of 1973. From April 1, 1974 contraceptive services and supplies will be available to all. The new Government has requested Leader of House of Lords to coordinate work on population questions.
- M. Miscellaneous** The Family Planning Association makes it a practice to send oral contraceptives through the mail only by recorded delivery. 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.^a From October 1, 1973 Health Service complaints will be investigated by the Parliamentary Commissioner (Ombudsman) as Health Service Commissioner.

(a) "In 1971, the Attorney-General was asked in Parliament to prosecute a gynecologist who had prescribed contraceptive pills to a girl of 12 who had had an abortion. The girl's parents had consented. It was suggested that the gynecologist and the girl's parents were guilty of aiding and abetting or counselling and procuring unlawful sexual intercourse. The Attorney-General replied that he thought that no crime had been established and this is probably correct. The mere provision of contraceptive protection in case the girl should again have intercourse does not amount to advising or helping her to do so. (Owen, A. S. "Sexual Offenses and Secondary Parties," *Criminal Law Review*, 1971, p. 580.) Equally, it would not constitute a criminal offense if advice on contraception were given to a male who was having intercourse with a girl

under 16." Diana M. Kloss, Bertram L. Ralsbeck, *Law and Population Growth in the United Kingdom*, Law and Population Monograph No. 11, Medford, 1973, p. 22.

(b) According to Dr. Robert Snowden, Director of Family Planning Research Unit, University of Exeter, although there is no legal impediment to the insertion of IUD's by paramedical personnel if the patient consents, the actual devices are in the possession of physicians, who, as a matter of practice, do not permit paramedicals to insert.

(c) There are codes on public advertising under The British Television Acts of 1953 and 1964 which exclude contraceptive advertising. The London Transport has a similar code banning brand-specific advertising.

YUGOSLAVIA (20)

- A. **Imports—General** Permitted, but home production encouraged. Importation of contraceptives (except condoms) governed by laws on medicines. They are exclusively distributed by the Social Security Organization (institution of public character) on a commercial but not a professional basis. There are controls as to conformity with "JUS" standards. (Uradni List SFRJ of 1954, No. 390, p. 544).
- B. **Imports—Duties** See Customs Duties Act No. 34 of 1965, part II, Ch. 30. (Pharmaceutical products 30,03) (Prefabricated medicaments, Customs Decree 15).
- C. **Manufacture** License required. (See Službeni list of 1965, No. 15, p. 700 and of 1973, No. 6, p. 130). Home production is favored and factories are encouraged to obtain foreign licenses. Licenses and registrations issued on republic (not federal) level by republic Institutes for Medicine Control.
- D. **Condoms—General** Not regulated by law. Sold in pharmacies, drug stores, small shops.
- E. **Condoms—Price and Official Distribution** Cost estimated at approximately 20¢ apiece. No official distribution, but see line L.
- F. **Pills—Pharmacy and Prescription Requirements** Sold in pharmacies on medical prescription only. In some republics there was a practice that gynecologists' prescriptions were required. This seems to be changing. Federal authorities recommend that general practitioners be authorized to prescribe pills.
- G. **Pills—Prices and Official Distribution** Contraception is part of so-called "obligatory medical security" (as, e.g., treatment for tuberculosis and cancerous diseases, delivery, etc.) and all the costs are covered by Social Security, except for a nominal charge of 4 - 6 Din. (General Law on Medical Security and Obligatory Medical Protection of Citizens, Uradni List SFRJ of 1969, No. 20, Sec. 14, para. c).
- H. **Pills—Other**
- I. **IUD** No legal provisions. Only gynecologists can insert, as matter of practice. IUD's imported from United Kingdom. Controlled by institutes of the separate republics. No official distribution, but see line L.
- J. **Commercial Advertising** Law on Distribution of Medicaments (Uradni List SFRJ of 1973, No. 6) provides in Section 43, paragraph 1: "Enterprises which produce, import, or distribute medicaments can advertise in the professional, medical, pharmaceutical . . . press." They must draw attention to indications and contraindications. Section 43, paragraph 2 says: "It is forbidden to advertise medicaments by mass media, and in areas or shop windows of the health institutions or other enterprises." Section 45, paragraph 2: "It is forbidden to advertise medicaments of which the sale has not been authorized, or to distribute samples thereof." The above provisions do not seem to be strictly followed in practice. However, contraceptives are never displayed in public.
- K. **Publicity for Family Planning** Resolution on Family Planning (Službeni List SFRJ of 1969, No. 20) 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." Under Section 5 of the Law on the Interruption of Pregnancy, physicians have to explain to couples the advantages and methods of contraception as opposed to abortion.
- L. **Government Policy** The Resolution on Family Planning^a stresses "conditions assuring that every child is born when desired and really wanted," as well as "the view that the number of children desired and intervals between births are matters to be rightfully decided by parents themselves," and by means of the most up-to-date methods and techniques of birth control. Official policy is fully to encourage and support family planning in Yugoslavia. Contraception and family planning are part of the regular medical services. There are several institutes of family planning, usually on the republic level.
- M. **Miscellaneous** Law on Sale of Medicaments (Službeni List of 1965, No. 15) imposes fines for various violations of provisions on medicaments.

(a) See Appendix II.

AUSTRALIA (21)

(Most material on contraceptives is state law and regulations; federal law only exceptionally).

- A. **Imports—General** Imports permitted. Procedures for evaluation of oral contraceptives to be imported have been set up by the Australian Drug Evaluation Committee.^a
- B. **Imports—Duties** Condoms 47 1/2% (approximately); pills and IUDs 32 1/2% (approximately); plus sales tax 27 1/2%.^b
- C. **Manufacture** States require license for manufacture of medicaments.^a Victoria (Poisons Act of 1962, Secs. 10, 15, 16), Western Australia (Poisons Act, Secs. 37-39), and Tasmania (Poisons Act, Secs. 39-43) require registration or "classification" of medicines before marketing. Federal legislation (Therapeutic Goods Act of 1966) gives the Ministry of Health power to set standards on goods for therapeutic use.
- D. **Condoms—General** *De jure* situation confused, as states' laws prohibit sale of contraceptives in "public places," which covers even shops accessible to public. In Victoria even pharmacies thus seem to be forbidden to sell condoms. In places with restricted access (e.g., clubs) vending machines may be used. *De facto*, condoms are sold not only by chemists, but in country areas even by hairdressers, as in Victoria.^d
- E. **Condoms—Price and Official Distribution**
- F. **Pills—Pharmacy and Prescription Requirements** Sold in pharmacies on medical prescription only, except that physicians may also sell. The legislation in all states puts pills on the "poison" list available on prescription only.^e
- G. **Pills—Prices and Official Distribution**
- H. **Pills—Other** The Federal and Queensland Branches of the Australian Medical Association ruled in 1971 that prescribing contraceptives to unmarried minors should not be unethical *ipso facto*.^f
- I. **IUD** "Widely accepted, legality never questioned."^g *De jure* there are no restrictions. *De facto* only inserted by physicians, and often only by gynecologists.
- J. **Commercial Advertising** Some states specifically prohibit advertisement (or display, or gratuitous delivery) of "any contraceptive," unless directed to physicians and pharmacists (sometimes, "Publication sent *only* to . . ." e.g., Victoria Summary Offenses Act of 1966, Sec. 40). New South Wales, as late as 1969, enacted in Section 3, paragraph 1 of Obscene and Indecent Publications Act that ". . . any advertisement in relation to contraception shall be deemed to be an indecent advertisement."^h All states have legislation prohibiting obscene or indecent publications or advertisements.ⁱ In the case of *Ex parte Collins*, (1888) 9 L.R. (N.S.W.) 497, it was held that a publication setting forth methods of contraception was not obscene. Some states (e.g., Victoria, Summary Offenses Act of 1962, Sec. 41, para. b) declare it to be an offense to go "from house to house hawking, selling or offering for sale any contraceptive."^j
- K. **Publicity for Family Planning**
- L. **Government Policy** After the federal elections in December 1972, Government policy seems to be positive to family planning. Some changes, e.g., availability of pills under the Medical Benefit Scheme, began to be implemented.^k Parliament considering a judicial inquiry into all aspects of fertility control (1973).
- M. **Miscellaneous** Offense of unlawful selling, advertising, etc., contraceptives punished under most Australian Offenses Acts by fines.

(a) Finlay, H. A. and Glasbeek, S., *Family Planning and Law in Australia*, in manuscript form, 1973, p. 29, citing Customs Tariffs and Sales Tax Exemptions and Classification Act 1935-1967.

(b) See note (a) above.

(c) Provisions of license requirements in Victoria, Queensland, South Australia, Western Australia, and Tasmania, see Finlay-Glasbeek, pp. 25-28. Queensland requires no license, *ibid.*, p. 25.

(d) See note (a) above, pp. 3, 4.

(e) List of legal texts on prescription requirement given by Finlay-Glasbeek at p. 6. The non-hormonal contraceptive, "controid" (containing mercury) is classified in Schedule Two of the Poisons List among "substances dangerous to life if misused or carelessly handled, but which

should be available to public . . . without undue restriction." Acts or regulations allow its sale also in *licensed shops, if located several miles from nearest pharmacy*.

(f) The Medical Journal of Australia, 1971, I. (August 7), p. 339; a long series of letters to the Editor on "Prescribing of Oral Contraceptives to Minors" followed in the 1971 and 1972 volumes of the Journal.

(g) Finlay-Glasbeek, note (a) above, p. 13.

(h) *Ibid.*, pp. 17-24.

(i) Some acts listed by Finlay-Glasbeek on pp. 3-5, 16 ff.

(j) *Ibid.*, pp. 3, 4.

(k) The Parliament is now considering a judicial inquiry into all aspects of fertility control, according to Mr. Race Mathews, M.P.

CHINA, PEOPLE'S REPUBLIC OF (22)*

- A. **Imports**—General
B. **Imports**—Duties
C. **Manufacture**
D. **Condoms**—General
E. **Condoms**—Price and Official Distribution
F. **Pills**—Pharmacy and Prescription Requirements
G. **Pills**—Prices and Official Distribution
H. **Pills**—Other
I. **IUD**
J. **Commercial Advertising**
K. **Publicity for Family Planning**
L. **Government Policy**
M. **Miscellaneous**
- Legal provisions, if any are in force, are unknown. There are various kinds of pills and IUD's produced in China.
Since 1970 all contraceptives have been free, and are distributed through the health organization.
- Pills are delivered from health units, through paramedical personnel. No restriction as to sales in pharmacies, or as to prescription by physician.
- IUD's are inserted in the local health units, mainly by trained nurses or midwives. In some places they may also be inserted by "barefoot doctors."
- 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.
- The program, first introduced in 1954, after wavering during the Cultural Revolution, has developed into a nationwide official drive toward the reduction of fertility. This is presented to people as their patriotic and/or party duty. There is no private family planning organization. Family planning is a special responsibility of Family Planning Committees, which are associated with the various communal, factory, and neighborhood unit hospitals. Committees are combined organizations of Party members and medical personnel. There is a central state organization: the Birth Planning Group, under State Council. There seems to be a considerable amount of moral pressure applied on couples, as a characteristic and essential feature of the approach. According to Chinese official sources, the program has fared well in urban areas, but not so well in the villages.

*Basic sources: A. Faundes, T. Luukkainen, "Health and Family Planning Services in the Chinese People's Republic," *Studies in Family Planning*, Vol. 3, No. 7, Supplement, July 1972; *Studies in Family Plan-*

ning, Vol. 4, No. 8, August 1973; *New York Times*, September 1, 1973, p. 21, col. 2; September 17, 1973, p. 4, col. 3; IPPF Information Section, *Family Planning Reviews*, No. 1, March 1973.

INDIA (23)*

- A. Imports—General** Commercial import of condoms is barred under the Foreign Exchange Regulation Act of 1947 (Sec. 23A) and the Sea Customs Act of 1878 (Secs. 19 and 167, para. 8). This apparently also applies to pills. Gifts may be imported.^a Local production of both pills and condoms is favored and local ingredients are available. A license is required for the importation of all drugs. (Drugs and Cosmetics Act of 1940, Sec. 10, para. c).
- B. Imports—Duties** There are general tariff acts in addition to laws specially applicable to drugs and to contraceptives.
- C. Manufacture** Pills and condoms are both subject to regulations of Central Government. (Drug Control Act of 1950, Secs. 4-6 *et seq.*; also, Drugs and Cosmetics Act of 1940 and regulations thereunder). As to condoms, see also Schedule R, Rule 125, Drugs and Cosmetics Act of 1940.^b
- D. Condoms—General** Sold in pharmacies. Official "depot holders" sell at 1/3 of subsidized price.^c Also available through special consumer goods chains. The condom is a "drug" under Sec. 3(b) of the Drugs and Cosmetics Act of 1940 and subject to Central Government control (S.O.R. Gazette of India, Extra Pt. II, Sec. 2, p. 367). Also subject to test for warranty under Sections 2, 11-13 of Sale of Goods Act.
- E. Condoms—Price and Official Distribution** Sold at specially subsidized price. They are given out free in Government family planning centers. Government produces "Nirodh" condom and distributes it. Swedish Government donates condoms to help expand the use.
- F. Pills—Pharmacy and Prescription Requirements** Sold in pharmacies on prescription only. (See Schedule L of Drugs and Cosmetics Act of 1940).
- G. Pills—Prices and Official Distribution** Maximum price for a drug may be fixed by executive discretion, but not done for pill so far. (Drugs Control Act of 1950, Sec. 4). Private clinics have distributed pills free. Government does not distribute pills.
- H. Pills—Other** Pill is a "drug" under Section 3(b) of Drugs and Cosmetics Act, 1940, and subject to Central Government Control (S.O.R. Gazette of India, Extra Pt. II, Sec. 2, p. 367).
- I. IUD** Government program to distribute and insert IUD's was slowed down after several years, but IUD is permitted.
- J. Commercial Advertising** Advertising of a drug for the prevention of conception is forbidden. (Drugs and Magic Remedies [Objectionable Advertisement] Act of 1954, Sec. 3). However, the Government may permit publication of any advertisement of such a drug if it so desires (same Act, Sec. 15). Moreover, since pills require a prescription under Schedule L of Drugs and Cosmetics Act of 1940, they are only advertised by direct mail to medical practitioners. (Drugs and Magic Remedies [Objectionable Advertisement] Act of 1954, Secs. 14, para. c and 16). Only Government-sponsored "Nirodh" condom is advertised and condoms are exposed for sale. Obscenity rules under Indian Penal Code are strict. (*Reg. vs. Hicklin*, L.R. (1868) 3 QB 360). However, in 1965 *Udeshis v. State*, A.I.R., 1965, S.C. 881, liberalized these rules to allow for "social" purposes.^d (See line M).
- K. Publicity for Family Planning** Active promotion is carried on by Government, including a special advertising campaign for the "Nirodh" condom.
- L. Government Policy** There has been an official Central Government program since 1951, and the Government alone has 50,000 clinics. Indian Family Planning Association is helped by Government and Ministry of Health has directorate to spread information and motivation. State Governments' Ministries of Health cooperate. Central Government operates the cheap condom factory and sponsors, with the Association, the mass vasectomy camps. Government also grants certain tax and tariff concessions.
- M. Miscellaneous** "Obscene objects may not be sold." (Indian Penal Code, 1861, Sec. 293). However, recent *Udeshis Case* (A.I.R., 1965, S.C. 881) permits sale for a "social" purpose. Under Section 3, Drugs and Magic Remedies [Objectionable Advertisement] Act, 1954, it is an offense to publish any advertisement of any drugs as contraceptive. However, *India 1966*, 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." (IDHL, Vol. 19 (1968), p. 500).

*The material on India was largely supplied by Professor Dinesh C. Pande, Member of the Governing Council of the Indian Law Institute, in a special memorandum for the Pathfinder Fund of Boston, Massachusetts on *Regulation of Contraceptives in India: Some Legal Aspects* (1973).

(a) Although import of condoms appears to be barred by the Foreign Exchange Regulation Act, and the Sea Customs Act, a number of foreign condoms are imported and are on the market. Enforcement officials ignore them since a large sum of money is not involved and since the government favors contraception. No contraceptives are listed in "Red Book" as items for import. This apparently bars commercial import of pills also. (In addition to the above, there are general customs duties imposed under the Tariff Act of 1954, the Tariff Commission Act of 1951, the Custom Tariff Act of 1969).

(b) As to manufacture of contraceptives, there are laws applicable to all industry, i.e., the Industries (Development and Regulation) Act of 1951, the Capital Issues Control Act of 1947, the Companies Act of 1956,

the Essential Commodities Act of 1955, the Rubber Act of 1947, and the Rubber (Production and Marketing) Act of 1954. These are in addition to the laws specially applicable to drugs.

(c) Government NIRODH scheme gets condoms to villages through "depot holders" and through six largest consumer goods chains (soap, tea, kerosene, tobacco, etc.). They will have 400,000 outlets and sell at a subsidized low price of 15 paise for 3 pieces. A special feature of Indian contraceptive law is the fact that the condom is treated as a "drug."

(d) Direct advertisement to the public of any contraceptive including the condom is barred by the Drugs and Magic Remedies (Objectionable Advertisement) Act of 1954, except for a physician advertising on his premises. However, the Government-made condom, "NIRODH" is heavily advertised. The Act permits the Government to make an exception, but it has not done so (Drugs and Magic Remedies Act, Sec. 15). The fact that pills require a prescription under Section L of Drugs and Cosmetics Act discourages advertising.

INDONESIA (24)

- A. **Imports—General**
- B. **Imports—Duties** Gifts and samples duty free. No duty on pills. Condoms and IUD's probably now free.^a There has been a 40% duty.
- C. **Manufacture** Local manufacture of pills is under consideration, but is only just starting, and is now at the "assembly and packaging" stage.
- D. **Condoms—General** Sold in pharmacies and small tobacco shops.
- E. **Condoms—Price and Official Distribution** Condoms sell for 4¢ apiece and up.
- F. **Pills—Pharmacy and Prescription Requirement** Sale is permitted in pharmacies only, but inadequate number of pharmacies exist in country. (Expected to have only 7,000 in 1970). Prescription is legally required, but, as a practical matter, nurses and midwives give out pills.
- G. **Pills—Prices and Official Distribution** Pharmacies charge between US 45¢-55¢ per cycle. No Government price control.^b Government-supplied services give out pills free, or charge up to US 30¢ per cycle.
- H. **Pills—Other** Import permitted, but foreign exchange controls exist and import license required.
- I. **IUD** Government-supported services insert IUD's. There is, apparently, a custom of requiring the consent of the husband before the insertion of the IUD.^c
- J. **Commercial Advertising** Commercial advertisement is forbidden by Chapter VI, Article 534 of Penal Code. No dissemination of any information whatsoever on contraception allowed to persons under 17. Held "Crime against morals." (Penal Code, Ch. XIV, Arts. 283 and 283 (bis)).
- K. **Publicity for Family Planning** Forbidden by Chapter VI, Article 534 of Penal Code. This is not enforced.
- L. **Government Policy** Family planning is part of Government's Five-Year Development Plan. There is a National Coordination Body for Family Planning in the Government and the United Nations Seminar in Jogjakarta in June 1973 on Status of Women and Family Planning showed an active interest on the part of local women's groups. Government provides clinics for central islands, and supports family planning association. But see Line J.
- M. **Miscellaneous** Chapter VI, Article 534, and Chapter XIV, Articles 283 and 283 (bis) of Penal Code provide criminal penalties for (*inter alia*) giving unsolicited information on contraception, and also for furnishing contraceptives to persons under 17.^d

(a) Whether condoms and IUD's have yet been placed under Postal Tariff 848 (as medical supplies) and thus been made duty-free is not clear. This has been recommended. Old duty under Postal Tariff 167 (II) (a) was abolished under Minister of Finance Decision No. Kep 396/MK/III/7/71.

(b) The information on pill prices is from "Commercial Production and Distribution of Contraceptives," *Reports on Population/Family Planning*, No. 4, Population Council, June 1970.

(c) According to an Indonesian delegate at the 21st Anniversary Conference of the IPPF in 1973, there is a custom there of requiring the

husband's consent before the insertion of the IUD. Whether this is by law, and whether this applies in other Asian countries is not known to the authors.

(d) The obsolete provisions of the Criminal Code are directly contrary to the Government's Family Life Education Plan. There have been oral assurances from the Attorney General's Office that there will be no prosecutions. (See *Legal Aspects of Family Planning in Indonesia*, by the Indonesian Planned Parenthood Association, Law and Population Monograph No. 4, Medford, (1971).

IRAN (25)*

- A. Imports—General** Import license from Ministry of Health is needed, but only import license for condoms is easy to get, since a 1972 law requires all pills distributed in Iran to be processed in country. It is expected that all pills will soon be manufactured locally.^a Import of condoms not restricted and all are imported. There is no quality control on them. Import of raw materials is encouraged.
- B. Imports—Duties** Duty on condoms is 30% of CIF. Duties and other charges on pill imports total 28.5%.
- C. Manufacture** Almost all pills, but no condoms, are manufactured in Iran. Approval of Ministries of Health, Economy & Justice required for manufacture of any drug. Company must be 51% Iranian. Both the Drug Administration of the Ministry of Health and the Technical Committee of the Family Planning Division of the Ministry pass on quality of pills.
- D. Condoms—General** Sold by street vendors and miscellaneous shops.
- E. Condoms—Price and Official Distribution** Condoms sell for 3 to 8 US¢ apiece, but are free or cheap at clinics. The commercial price is 4 to 5 times the import price. There is official distribution at both government and private clinics.
- F. Pills—Pharmacy and Prescription Requirement** Sold in pharmacies^b on prescription only, but this not always strictly enforced.
- G. Pills—Prices and Official Distribution** Ministry of Economy sets retail price of pills (usually 70% above cost of product). If pill is imported, price is usually 70% above FOB price. Observed price is US 65¢-\$1.05 per cycle. Pills are cheap or free in clinics and most of pills dispensed go through the official and semi-official service channels.
- H. Pills—Other**
- I. IUD** IUD's are inserted in the clinics.
- J. Commercial Advertising** Commercial advertising to 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. Medical Society takes cautious attitude and advertising is not frequent. Ministry of Health covers pills, condoms and IUD's in its media advertising, but this is not pushed strongly.
- L. Publicity for Family Planning** Government distributes pamphlets on family planning free to population.
- L. Government Policy** Government has had an official program since 1967. There is an Undersecretary for Family Planning in the Ministry of Health. Various ministries, universities, and public and private agencies are cooperating and it is estimated that 50,000 agents are involved in communication and motivation. There are 1,500 fixed and mobile clinics. There is also an association which receives government support, and is largely concerned with information and education. It also has a few clinics.
- M. Miscellaneous**

*Material used comes from Dr. Parviz Saney of Iran Law and Population Project; Westinghouse Population Center Study on Iran of 1972 and "Commercial Distribution of Contraceptives," by Arthur D. Little, Inc., Reports on Population and Family Planning, No. 11, Population Council, March 1972, p. 12.

(a) According to Little report (see above) all pills are expected soon to be manufactured in Iran with imported ingredients.

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

ISRAEL (26)*

- A. Imports—General** Imports for both commercial and for private use are permitted. Section 42A of Pharmacists' Ordinance (Laws of Palestine, Vol. II, p. 1124) empowers the Ministry of Health to control the import of drugs. No regulation has yet been issued.
- B. Imports—Duties**
- C. Manufacture** From point of view of manufacture, contraceptives are treated like other drugs under Section 42A of Pharmacists' Ordinance (Laws of Palestine, Vol. II, p. 1124) which empowers the Ministry of Health to control manufacture of drugs. No regulations have yet been issued.
- D. Condoms—General** Condoms are generally available in stores.^a
- E. Condoms—Prices and Official Distribution** There is no official distribution.
- F. Pills—Pharmacy and Prescription Requirements** Pills are sold in pharmacies and are treated like other drugs. No prescription is required. The Medical Practitioners' Ordinance (Laws of Palestine, Vol. II, p. 909 [1933]) could be interpreted to require a prescription but this has not occurred.^b
- G. Pills—Prices and Official Distribution** No official distribution.
- H. Pills—Other**
- I. IUD** The Medical Practitioners' Ordinance (Laws of Palestine, Vol. II, p. 909 [1933]) could be interpreted as requiring a prescription but this has not occurred. The IUD is not inserted by official services but certain clinics do perform this service.
- J. Commercial Advertising** Commercial advertisement of medicaments allowed to physicians and pharmacists only.
- K. Publicity for Family Planning** Publicity for family planning is allowed.
- L. Government Policy** The Government is, unofficially, pro-natalist, but there is no legal limitation on publicity for contraceptives. Religious law discourages use of contraceptives. There is an association which does some information work.
- M. Miscellaneous**

*There is no specific law dealing with contraceptives. Since contraceptives are used, it is assumed that they may be both imported and manufactured. Students of the subject recommend that the Government educate the public as to modern contraceptives so as to cut the number of abortions. ("Influence of Selected Demographic Attitudes on the Use of Contraceptive Methods in the Tel Aviv Area," (1971), Nadel-Sheneor, Modan and Toff, *Harepuah*, Vol. LXXX, No. 7, p. 349.) According to the same authors all modern means are available and in use.

(a) The Minister of Health has not issued regulations under the Pharmacists' Ordinance, *Laws of Palestine*, Vol. II, p. 1124 controlling the manufacture, import, trading and use of drugs. See 18 L.S.I., p. 163 (1964).

(b) The Dangerous Drugs Ordinance (Laws of Palestine, Vol. I, p. 607 [1933]) would apply if any pill were to contain any ingredient in schedule attached to the ordinance. This is not now the case.

JAPAN (27)*

- A. **Imports—General** Permission for import of condom takes ten days. License for import of drugs necessary. (Pharm. Law No. 145 of 1960, Sec. 22) No kind of pill or IUD has yet been authorized for import.
- B. **Imports—Duties** Duties on condoms neither restrictive nor particularly favorable.
Japanese IUD (Ota-Ring) manufactured. Otherwise no IUD yet authorized. Drug manufacturers must have license. (Pharmaceutical Affairs Law, Sec. 12). No kind of pill authorized for manufacture or sale yet. Quality standards are prescribed for condoms by both industry and Ministry of Health. Are respected in practice.
- C. **Manufacture** The condom is still the leading contraceptive used in Japan.
- D. **Condoms—General** An official program of free distribution of condoms to low income families is subsidized by Government.
- E. **Condoms—Prices and Official Distribution**
- F. **Pills—Pharmacy and Prescription Requirements** No pill had been authorized as of 1971 for sale in Japan on the ground of potential danger of health risks. This is still the case so far as the authors know. It is reported that oral contraceptive pills are available in pharmacies on prescription "for non-contraceptive use" and that "a small number of women are using the pill," although, according to another statement, "orals are illegal as contraceptives."^a
- G. **Pills—Prices and Official Distribution** Matter under study by Central Pharmaceutical Affairs Council.
- H. **Pills—Other**
- I. **IUD** The only IUD authorized for use, as of 1971, was the Japanese-manufactured Ota-Ring. According to IPPF (March 1973) IUD's are "illegal" in Japan. Matter under study by Society of Obstetrics and Gynecology. Recent reports indicate that Society has recommended that Government approved use of IUD. (*People*, Vol. 1, No. 3 (IPPF, 1974), p. 28).
- J. **Commercial Advertising** False or exaggerated statements on efficiency of drugs prohibited. (Pharmaceutical Affairs Law, Sec. 68). Condoms may be displayed for sale, and are sold door-to-door.
- K. **Publicity for Family Planning** Publicity for family planning is not restricted. The object of Government's family planning program is to enlighten the public on contraception, to replace abortions.
- L. **Government Policy** After World War II, a policy supporting the curbing of population growth was developed. In the 1950's contraception was promoted as a means to replace abortion, and a government program was initiated in 1952. As the low fertility trend lasting for some years has been criticized by some groups, tendencies to "slightly increase fertility" are being noted. Up to the present time, there has been no change in the official family planning program. In 1972, the Government allocation for the extension of family planning services was \$1,056,573. The Government provides international aid for family planning and gives support to a Japanese family planning association.
- M. **Miscellaneous**

*Sources: *IDHL* 1973, p. 178 for English Translation of Japanese Code on Advertising for Drugs, Cosmetic Products and Medical Devices; *Lee/Larson*, p. 11 ff; M. Muramatsu, "Japan," *Country Profiles*, March 1971; K. Inishi, *Production and Distribution of Contraceptives in Japan*, Tokyo, December 1971, (UNIDO Document ID/WG.116/4). Information also came in letters from IPPF, Western Pacific Region, Tokyo, (August

28, 1973) and IPPF Information Section, *Family Planning Reviews* No. 1, March 1973, and other sources. The authors would appreciate any further specific information which readers can supply.

(a) It is particularly difficult to get precise information on the Japanese law regarding pills and IUD's.

LEBANON (28)

- A. **Imports—General** Import forbidden by implication. (Penal Code Arts. 537, 538).^{a b} In fact, contraceptives are imported. The Penal Code is based on Legislation Decree No. 340/NI of March 1, 1943, and reflects French influence.
- B. **Imports—Duties**
- C. **Manufacture** Presumably forbidden. See line A.^{a, c}
- D. **Condoms—General** Although sale of condoms is forbidden,^a they are in fact available as a prophylactic against venereal disease.
- E. **Condoms—Prices and Official Distribution** Distributed by Family Planning Association, licensed by Government. No Government distribution of contraceptives.
- F. **Pills—Pharmacy and Prescription Requirements** Although sale of pills is forbidden, in fact they are available in pharmacies without prescription, as cycle regulators.^d
- G. **Pills—Prices and Official Distribution** No Government distribution of contraceptives. Family Planning Association licensed by Government does distribute pills. See line L.
- H. **Pills—Other** Issuance of progesterone to women with certain illnesses forbidden by Ministry of Health Decree No. 340/1 of October 10, 1968.^d
- I. **IUD** Although theoretically forbidden, they are available for insertion through the Family Planning Association.
- J. **Commercial Advertising** Prescribing, spreading or giving publicity to contraceptives is forbidden. (Penal Code, Arts. 209, paras. 2 and 3, and 537).
- K. **Publicity for Family Planning** See line J.
- L. **Government Policy** Government attitude theoretically negative, but the Family Planning Association has been given "public utility" status by a Presidential Decree of 1971, and association has support of Ministries of Health, Labor and Social Affairs. It has been invited to use the Public Health Centers as Family Planning Clinics. The Association had nine clinics in 1973. A Population Commission has recently been established to study population matters as they relate to national planning (Ministerial Decree No. 73/1).
- M. **Miscellaneous**

(a) According to the terms of the law in Lebanon, prescription, distribution, propaganda for, and sale of all kinds of contraceptives are illegal (Penal Code Arts. 209, 537 and 538). In fact, however, all are available in pharmacies and at Family Planning Association clinics, and the Association is licensed by the Government to operate.

(b) As to imports, 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 has not barred importation. Pills for the Family Planning Association are imported on the basis of letters from the

Ministry of Health, based on an original letter of 14 August 1971, on condition that they are distributed free by its clinics—with the limitation that they may not be given to women with certain illnesses.

(c) Manufacturing has not been undertaken, so far as is known.

(d) As to a prescription requirement for pills, the boxes of pills contain the text of the Ministry of Health Decree which states that progesterone shall not be given to women with certain listed illnesses. A circular by the Ministry of Health, stressing need for prescription before selling contraceptives was issued and later withdrawn.

MALAYSIA (29)

- A. **Imports—General** License required to import pills under Poisons Ordinance No. 29/52. (No undue delay occurs). Condoms are subject to quotas under Customs Duty List. Local production of condoms is favored as part of official industrial policy. However, almost all contraceptives used in Malaysia are imported.
- B. **Imports—Duties** Usual duty of 25% not imposed on pills. There is a 2% surtax and a 5% sales tax on pills. No duty on condoms.
- C. **Manufacture** Little manufacture takes place, except for some condoms. Local manufacturers are granted "pioneer" status and are registered. If pills are eventually manufactured, the manufacturer will be subject to control under the Poisons Ordinance No. 29/52. Standards Institute of Malaysia promulgates standards for pills set by Chemistry Department. The Institute prescribes quality standard for condoms but this is not controlled.
- D. **Condoms—General** Condoms are sold in stores generally, including barber shops and news vendors.
- E. **Condoms—Prices and Official Distribution** Condoms are distributed by National Family Planning Board. The Swedish SIDA gives free condoms to government. Commercial prices fluctuate.
- F. **Pills—Pharmacy and Prescription Requirements** Pills are sold by pharmacies, licensed wholesalers and medical practitioners. (Sec. 18, Poisons Ordinance No. 29/52). Section 8.18 of Poisons Ordinance No. 29/52 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.
- G. **Pills—Prices and Official Distribution** Distributed by National Family Planning Board at rubber estates and in clinics, free. Board is also making pills available at low cost (Malay \$1) per cycle.
- H. **Pills—Other** Pills are not distributed to unmarried women or divorcees, widows or persons with contraindications. There are some limitations on persons under 18. (Poisons Ordinance 29/52, Sec. 13).^a
- I. **IUD** Inserted by physicians only. National Family Planning Board provides both IUD's and insertions.
- J. **Commercial Advertising** Advertising to medical profession only. (In practice, matter of ethics). See Medicines (Advertising and Sales) Ordinance, 1956. Government limits advertisement because of sensitivity.
- K. **Publicity for Family Planning** Instructions on use of pills given at clinics. Some sex education in schools. In general, publicity is toned down because of religious, social and political sensitivities.
- L. **Government Policy** There has been a government program since 1966. Both National Family Planning Board and Family Planning Association distribute contraceptives. Government granted \$2,000,000 to Board and makes contribution to Family Planning Association. Family Planning included in First and Second (Development) Plans, (Family Planning Act of 1966, No. 42/66). Instruction is offered as part of total maternal and child health program.
- M. **Miscellaneous** There is no restriction on use of mail and it is used for transmission of contraceptives. The Post Office Ordinance of 1947 (Sec. 28) contains a Government prohibition of obscene articles in mail, but this is not applied to contraceptives.

(a) According to *Straits Times* of 12 June 1973, Family Planning Board keeps records to prevent distribution of pills to unmarried women.

PAKISTAN (30)*

- A. **Imports—General** Imports are permitted, but most pills compounded locally since local production of pills is favored. (One brand is imported). Registration and license of importer required by Customs Department. Fee required. Ingredients of some pills imported. All condoms are imported.
- B. **Imports—Duties** No duties. Foreign exchange is made available.
- C. **Manufacture** All packaging and some ingredients of pills are local.^b
- D. **Condoms—General** Condoms are sold in pharmacies and other shops, but most are distributed through Government channels.
- E. **Condoms—Price and Official Distribution** There is official distribution. There are price controls, but the price varies from 3 to 150 rupees per gross.
- F. **Pills—Pharmacy and Prescription Requirements** Pills are sold in pharmacies only. State-owned pharmacies are to be set up—1 per 50,000 people. Prescription is no longer required. (See Ministry of Health Decree of May 4, 1973 rescinding prescription requirements, but failing to rescind requirement that pill be sold in pharmacies only).
- G. **Pills—Prices and Official Distribution** Price controls exist. Prices are low (4—5 rupees per cycle). (See Essential Commodities Control Order of 1971). Government-subsidized pills are sold through private channels. Official distribution exists, but most pills are supplied through private channels.
- H. **Pills—Other** Brand name sales of all drugs prohibited as of March 1, 1973, except patented brand names. (Drug [Generic Names] Ordinance of 1972). Sales of pills not based on formulae in National Formulary (1972) forbidden.
- I. **IUD** IUD's are inserted by physicians and "matrons." Official IUD program is being de-emphasized.
- J. **Commercial Advertising** Contraceptives are being advertised to physicians and pharmacists. Advertisement to general public is not prohibited, but is seldom attempted. No real impediment exists except custom and Indecent Advertisements Prohibition Act of 1963, which has never been invoked.
- K. **Publicity for Family Planning** There has never been any limitation on publicity.
- L. **Government Policy** The Government program began in 1960. Family Planning Association started in 1953 and received Government funding in 5-Year Plan of 1955-1960. In 1960 Family Planning services were included in Government public health program. Government set up official separate Government service in 1966 with high priority. In 1974, 419 full-time and 576 part-time clinics, with 1,300 medical and 800 paramedical staff. Islamic law is important influence. Both Government and Family Planning Association have put out brochures on Islamic attitude, stating that it is favorable. Family Planning Council established 1965.^a
- M. **Miscellaneous** Indecent Advertisements Prohibition Act of 1963 might be invoked, but it has never been done.

*Information largely from Westinghouse Population Center Study on Pakistan of 1973. Also from Government Press Information Department release of 28 March 1972, Report of Law and Population Project of the Family Planning Association of Pakistan, and a paper by S. B. Hopkins and H.C. Van Renselaer, *Laws and Customs that May Influence Fertility in Pakistan*, Johns Hopkins University, Baltimore, 1971.

(a) All authorities state that there have been very few laws or regulations specifically aimed at family planning, until the recent favorable laws were enacted.

(b) It is not clear whether the law requires a license for local manufacture or imposes other controls on local drug manufacture, other than the new Drugs (Generic Names) Ordinance which establishes a National Drug Formulary. The press release of March 1972 states that a "Standing Committee of Experts" will keep the Formulary under review and that the Central Drug Testing Laboratory will be strengthened to support provincial drug testing laboratories.

PHILIPPINES (31)*

- A. Imports—General** Until recently there was a ban on importation of contraceptives. Ban was not always enforced and has been repealed (See Rep. Act No. 2352 repealing Sec. 6 of Rep. Act No. 1394; also, Rep. Act No. 1937, Sec. 102, deleted by Pres. Decree No. 34 of 1972). Imports of raw materials encouraged. All importers of pharmaceutical products must register annually with Food and Drug Administration (Food and Drug Act of 1963). Each drug must also be approved and registered by Food and Drug Administration. Importers' letter of credit required 50% of price to be set aside in advance.
- B. Imports—Duties** All pharmaceutical products pay 30% duty which may be cut to 5% if product is not manufactured locally or is to be found in short supply (Rep. Act No. 1937, Sec. 104). Condoms pay 20% duty. Sales tax of 7% on all products.^a Raw materials for drugs pay only 10% duty.
- C. Manufacture** All pharmaceutical products must be approved by Food and Drug Administration and manufacturer registered annually (Food and Drug Act of 1963). Several firms tabletize and package pills in country. No other manufacture of pills and no manufacture of condoms so far. Drug regulations are issued by Department of Health.
- D. Condoms—General** Condoms sold in drug stores (Rep. Act No. 4729, 1966 Secs. 1-2). Also by street vendors. Population Commission (POPCOM) ordered in 1972 to use all available channels.
- E. Condoms—Price and Official Distribution** Few condoms are dispensed in official or non-commercial clinics. Commercial price is high; cheapest is US 4¢ apiece.
- F. Pills—Pharmacy and Prescription Requirements** Pills sold in "licensed" drug stores or pharmaceutical company only. (Rep. Act No. 4729 of 1966, Secs. 1-3). There are few drug stores in rural areas. Until 1973, pill sales required the "prescription of a qualified medical practitioner" (Rep. Act No. 4729 of 1966). This not always enforced.^b Under Presidential Decree 79 of 1972, POPCOM ordered to train paramedicals to "dispense and administer all acceptable methods" (Sec. 5, para a).
- G. Pills—Price and Official Distribution** Pill prices are high in commercial channels. Cheapest is US 35¢ per cycle, if sold in bulk. Otherwise, US 54¢ and up (See also Pres. Decree 79, Sec. 5, para. b). Government and private clinics distribute pills free. Most of them are gifts from US AID.
- I. IUD** IUD's may only be distributed or dispensed by a "licensed drug store or pharmaceutical company and with the prescription of a qualified medical practitioner" (Rep. Act No. 4729 of 1966, Secs. 1-2). Formalities for the prescription are set forth in Republic Act No. 5921 of 1969, Art. IV. Nurses and midwives are being trained especially by POPCOM and licensed to insert (Pres. Decrees 69 and 79, Sec. 5, para. a of 1972). As of present, most IUD's are being dispensed through official or noncommercial clinics at little or no cost.
- J. Commercial Advertising** Commercial advertisement of condoms is not prohibited by law, but it was only attempted during one month (in 1971) and was then stopped, apparently due to pressures exerted against it. Advertising of other contraceptives is banned from mails (Revised Admin. Code of 1958, Sec. 1954, para. c). But this liberalized by Presidential Decree 79, Section 5, paragraphs b and c of 1972. Advertising of pills and IUD's to physicians and medical personnel permitted (See Revised Admin. Codes of 1958, Sec. 1954, para. c). Presidential Order No. 18 of 8 December 1972 orders all mass media to promote the concept of family planning.^c
- K. Publicity for Family Planning** Government favors maximum publicity.
- L. Government Policy** The Population Act of 1971 (Republic Act 6365, as revised in 1972 through Pres. Decrees Nos. 69 and 79, Sec. 4, paras. f and i), declares national policy to make available to citizens all acceptable methods of contraception. A Five-Year Population Education Program has been begun to cover all levels of elementary and secondary schools—sponsored by Department of Education (See Letters of Instruction No. 47 and 47A). Official distribution of contraceptives is covered in Presidential Decree 79, Section 5, paragraphs a and d, and in special Rules and Regulations regarding Family Planning Clinics of the Department of Health. All educational institutions, government offices, mass media, voluntary and religious organizations, all business organizations ordered to promote family planning (General Order No. 18 of 8 Dec. 1972; also Letter of Instruction No. 46, same date). The 1973 Constitution (Art. XV, Sec. 10) makes the government responsible to "maintain population levels most conducive to the national welfare."
- M. Miscellaneous** Use of mails prohibited for contraceptives (Revised Admin. Code of 1958, Sec. 1954, para. c). This prevented newspapers from advertising contraceptives, except for condoms. But see Letter of Instruction No. 47 of 8 December 1972 which orders the Postmaster General to help in disseminating family planning information. All inconsistent acts repealed. Revised Penal Code, Section 201 regarding obscene publications makes no specific reference to contraceptives.

*Much of the information comes from the Westinghouse Population Center Study on the Philippines of 1972, from the A. D. Little study and from "East Asia Review, 1972," *Studies in Family Planning*, Vol. 4, No. 5, p. 114, May 1973.

(a) Whether the strong government population program of 1973 will repeal duties is not known yet.

(b) The requirement of a prescription was "widely ignored" accord-

ing to A.D. Little study, p. 4. That report also states that the Philippines Medical Association took a strict attitude toward the prescription requirement.

(c) Advertisement has, in the past, been limited, owing to fear of the Church and other public reaction, and owing to restrictive law on the use of mails (copied from U.S. law).

SINGAPORE (32)*

- A. **Imports—General** Imports are permitted, but the Singapore Family Planning and Population Board (SFPPB) can control all activities in family planning field.^a See line D.
- B. **Imports—Duties**
- C. **Manufacture** Manufacture is permitted under SFPPB control.
- D. **Condoms—General** Condoms are sold in pharmacies and by street vendors. SFPPB authorized to control all activities of sale or distribution (Sec. 11, para. 2, Family Planning and Population Board Act of 1965).
- E. **Condoms—Price and Official Distribution** Condoms sell for 50 Singapore cents for 6 pieces at Government clinics.
- F. **Pills—Pharmacy and Prescription Requirements** Pills sold in pharmacies.
- G. **Pills—Price and Official Distribution** Pills sell for 1 Singapore dollar per cycle at Government clinics.
- H. **Pills—Other** SFPPB authorized to control all activities of sale or distribution. See Line D above.
- I. **IUD** SFPPB authorized to control all activities of sale or distribution. At Government-sponsored clinics, a small fee of 5 Singapore dollars is charged for insertion.
- J. **Commercial Advertising** No specific information available on advertising laws, but in light of the Government's strong anti-natalist policy, it is assumed that advertising is permitted.
- K. **Publicity for Family Planning**
- L. **Government Policy** Government program since 1965. The *Straits Times* of October 25, 1972 announced the Government's intention of discouraging parents from having more than two children. The Government has a very strong program of incentives and disincentives. The Government subsidizes and works closely with the family planning association.
- M. **Miscellaneous**

*Material taken from Hall, *Law and Population Growth in Singapore*, (Law and Population Monograph No. 9) Medford, (1973).

(a) The Family Planning and Population Board ("SFPPB") is the sole and official agency for promoting and disseminating information about family planning in Singapore.

SOUTH KOREA (33)*

- A. Imports—General** Imports of contraceptives not permitted. Korean market is restricted to locally produced contraceptives, manufactured partly from imported bulk ingredients and partly from local raw materials. Only raw materials can be imported.^a
- B. Imports—Duties** 100% duty on latex for condoms.
- C. Manufacture** 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. There are also restrictions on quality, purity, packaging and labelling of condoms. Side effects and contraindications must be marked on packets.
- D. Condoms—General** Condoms are sold in pharmacies only. There is one pharmacy per 2,300 inhabitants and largely in the cities. No vending machines.
- E. Condoms—Price and Official Distribution** Condoms price is US 3¢ per piece. Government supplies sold in bulk at lower cost. Total markup between manufacturer and consumer is 80% in commercial channels. Government subsidizes national family planning program offering a choice of methods, including condoms.
- F. Pills—Pharmacy and Prescription Requirements** Pills are sold in pharmacies only. (Only one pharmacy per 2,300 inhabitants). Prescription is not required. Physicians, midwives and nurses aides with special training are authorized to give guidance (Maternal and Child Health Law, Art. 7).
- G. Pills—Price and Official Distribution** Pill price is relatively cheap (10¢ per cycle for official program), but technological improvements and new packaging may lead to price rises. Total markup in commercial channels is 42%. A national program for distribution of pills to IUD "drop-outs" was initiated in 1967.
- H. Pills—Other** Side effects and contraindications of pills must be marked on package.
- I. IUD** IUD's may be inserted by physicians, examiners, and nurses who are trained for more than two months at medical institutions designated by the Ministry of Health and Social Affairs (Mother and Child Health Law of 1973, Law 2514, Sec. 7; also Regulations regarding the enforcement of the Law, Presidential Ordinance 6713, Sec. 2). The Korean Government supports clinics which offer a choice of methods, including the IUD. The Government has supported an IUD campaign.
- J. Commercial Advertising** Under Law of May 1971, contraceptive pills and any product containing corticosteroids may not be advertised in press except in medical journals and magazine, "Happy Home," published by the Planned Parenthood Federation of Korea. However, it is expected that this restriction will be lifted and there has been information as of September 1973 that the ban has, in fact, been lifted. Advertisement of condoms (and spermicide) is not prohibited. Show case display permitted, but infrequent. Excessive advertisement of contraceptives might be subject to obscenity rules.
- K. Publicity for Family Planning** Publicity highly organized, widespread, and officially encouraged.
- L. Government Policy** In 1962, the Government announced an official family planning policy. Programs were organized by the Maternal and Child Health Section of the Ministry of Health and Social Affairs. The Planned Parenthood Federation of Korea (PPFK), in cooperation with the Korean Government, has provided family planning services since 1962. Public education activities began in 1963 and, in 1964 one field worker for each village was provided and an IUD campaign was begun. In 1970 the National Family Planning Center was established to work with PPFK in delivering contraceptive services to the public. The Center's name was changed to "The Korean Institute of Family Planning" (KIFP) in July 1971. PPFK also conducts informational and educational programs and channels foreign assistance into research and evaluation projects. About one-tenth of its budget is derived from Government sources (See Law 2514, Maternal and Child Health Law of 1973; Pres. Enforcement Decree of May 28, 1973, and Enforcement Regulations of Ministry of Health, August 13, 1973).
- M. Miscellaneous** Punishment for infringement of Law 2514, Section 7 is provided in Section 11 thereof.

*Information is from Westinghouse Population Center Study on Korea of 1972, from *Family Planning Perspectives*, Vol. 2, No. 2, Oct. 1970, p. 45 and "Commercial Production" *supra*, note (b) to Tabulation for Indonesia. The 1973 Law for the Preservation of Mother and Child Health and the Presidential Ordinance for its enforcement, which is the new law dealing with family planning, are more concerned with abortion, steriliza-

tion, etc., than with contraceptives. These laws do, however, deal with the insertion of IUD's.

(a) Duty-free import of raw materials or ingredients for pills is hampered by requirement that importing firm must export products equivalent to at least 10% of value of materials imported.

SRI LANKA (Ceylon) (34)*

- A. Imports—General** Family Planning Association is now sole supporter of pills, condoms and IUD's. Small local production of condoms but no advantage given to it. Most contraceptives imported as gifts of IPPF or of Swedish aid. State Pharmaceutical Corporation plans to reduce number of brands of pills imported to four. Commercial importer must receive allocation of foreign exchange from Import Controller, but no other restriction set by State Pharmaceutical Corporation of Ceylon which controls import and manufacture of drugs.
- B. Imports—Duties** No duty if gifts. But see note (a) regarding FEEC requirement.
- C. Manufacture** There is no domestic production of condoms or pills except one (apparently unsuccessful) condom company. State Pharmaceutical Corporation has power to control manufacture of drugs (by Government Gazette Notification of 1971). No quality control exists since most contraceptives are imported.
- D. Condoms—General** Condoms are sold in pharmacies and are generally available in Government-supported cooperatives all over country. No vending machines exist in Sri Lanka.
- E. Condoms—Price and Official Distribution** Public Health and Family Planning Association midwives distribute at subsidized prices or free. The low commercial price of 1 rupee for 4 pieces is subsidized by IPPF.
- F. Pills—Pharmacy and Prescription Requirements** Pills are sold in pharmacies only as a matter of practice but not of law. A prescription is not required by statute but a Price Control Order under Control of Prices Act (see Government Gazette Notification) forbids sale without prescription. Pills are distributed by public health midwives at clinics.^b
- G. Pills—Price and Official Distribution** Pill cost is 3—5 rupees per cycle (subsidized) but free at Family Planning Association clinics and centers. Family Planning Association plans to sell for 75¢ per cycle.
- H. Pills—Other** As a matter of practice, pill is distributed with instruction and labelling in a local language.
- I. IUD** IUD's inserted by physicians only, but this is a matter of practice, not law. Public health service and Family Planning Association clinics provide this service free. Private physicians insert for 25 rupees.
- J. Commercial Advertising** Commercial advertising is allowed to general public but appears under "Medical" headings. Representative of Association Newspaper Group refused to accept advertisement as "offensive to good taste". However, this attitude appears to have liberalized and newspapers and cinemas have carried ads. Radio Broadcasting Corporation has refused but this being contested by Family Planning Association. Products may be displayed in stores.
- K. Publicity for Family Planning**
- L. Government Policy** Government has had a program since 1965 and it is part of 1971 Five-Year Plan. Government gives financial support to the Family Planning Association. Family planning is also part of the Ministry of Health's Maternal and Child Health Service, which gives free contraceptives and inserts IUD's free. Government sponsored full-scale conference on legal aspects of fertility in January 1974.
- M. Miscellaneous** As a matter of practice, contraceptives are not sold through the mails.

*No legislation exists as to contraceptives. Material is based on Government Gazette Notification and actual practice.

(a) As 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 IUD's. (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 non-complying store is struck from list of distributors. (See letter of 19 June 1971 from Minister of Finance to Family Planning Association). Government also requires Foreign Exchange Entitlement Certificates 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.

(b) As to prescription requirement, IPPF recommended that this 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. Prescription requirement stems from a Government Price Control Order, which the medical profession supports and which is known to pharmacists. As a result of this, pills are sold commercially only at pharmacies.

THAILAND (35)*

- A. **Imports—General** Contraceptives may be imported. Personal supply may be imported without duty (Medicines Act of 1967, Sec. 13, para. 4). Importer must employ a pharmacist (Medicines Act of 1967, Sec. 24). An open general license for import of pills and condoms is required with yearly renewal necessary (Medicines Act of 1967, Secs. 12-18).^b
- B. **Imports—Duties** Duty on pills—10% of c.i.f. plus 7.7% sales tax. Duty on condoms—50% of c.i.f. plus 7.7% sales tax, plus 2.3% clearing charge. See line L.
- C. **Manufacture** Only condoms are manufactured locally. Production of pills would require a license, with yearly renewal (Medicines Act of 1967, Secs. 12-18). Status of local compounding of pills unclear.
- D. **Condoms—General** Condoms are sold in drug stores, tobacco booths and other small shops. Vending machines are not forbidden, but not used.
- E. **Condoms—Price and Official Distribution** Condoms are available at health institutions. The National Family Planning Project supplies them to patients.
- F. **Pills—Pharmacy and Prescription Requirements** Pills are sold in pharmacies theoretically on prescription only. License required (Medicines Act of 1967, Secs. 21, 32, 39, 44; See also Regulation of Ministry of Health, Secs. 26, 27). In fact, pills are available without prescription,^a and in 1970, Ministry of Public Health ruled that auxiliary midwives could prescribe pills.
- G. **Pills—Price and Official Distribution** Pill price is flexible; relatively not very expensive (averaging between US 40-60¢ per cycle). There is free distribution of pills in health clinics under the Family Planning Project, but donation of up to US 25¢ is requested.
- H. **Pills—Other**
- I. **IUD** No regulation, but in practice they are inserted by both physicians and nurses. Research is presently under way concerning IUD insertion by nurses. IUD's in practice not available outside hospitals and health stations which cooperate with the National Family Planning Project. Also available from private physicians.
- J. **Commercial Advertising** Condoms—commercial advertisement is permitted, except that certain words may not be used. Pills—advertising is allowed to physicians only, but not "by means of a gift" (Medicines Act, Secs. 88, 90).^b IUD's are promoted in mass media by the National Family Planning Project. Advertising is monitored by the Drug Control Division of the Ministry of Public Health.
- K. **Publicity for Family Planning** Publicity for family planning has been allowed since 1970 when Government began to promote family planning.
- L. **Government Policy** The Government has had a program since March 17, 1970, when the Council of Ministers approved a policy of voluntary family planning presented by the National Economic Development Board. As a result, the National Family Planning Project has been proclaimed, and officially sponsored services are offered through the public health services. The Government is offering tax and customs duty concessions. The family planning association also offers services in certain hospitals.
- M. **Miscellaneous** Unlicensed production, sale, or importation of pills carries a penalty of imprisonment up to 5 years and a fine; illegal advertisement—imprisonment up to 6 months and fine; other violations of Medicines Act—fines (Medicines Act of 1967, Secs. 101-126).

*The material is largely from a 1972 translation of the Medicines Act of 1967 and from the Westinghouse Population Center Study on Thailand of 1972. We were also helped by Dr. Alan G. Rosenfield of the Population Council.

(a) Since 1971, the government has been experimenting with paramedical distribution of pills.

(b) It is possible that amendments may have been made in the Medicines Act subsequent to the date when the law was translated into English. Thus Westinghouse states that Section 88 of the Medicines Act was amended in 1970 to allow the overt advertising of pills, but the words "oral contraceptives" may not be used. The Medicines Act is administered by the Drug Control Division of the Ministry of Public Health.

TURKEY (36)*

- A. Imports—General** All condoms are imported, but no pills, even for personal use. However, the Government accepts gift contraceptives from foreign organizations for government health services. Allocation of foreign exchange and official approval of price required for all commercial imports. This often raises local price. Importers must obtain a license. Raw materials for pills are imported. Some materials subject to quota and prices paid need Government approval.
- B. Imports—Duties** Customs, port duties and other taxes on condoms about 75% of c.i.f. value. Additional warehouse and transport costs are an additional 80%. Import charge on raw materials for pills about 40% of c.i.f. price.
- C. Manufacture** Law No. 557 specifically authorizes manufacture of pills, but a license is required from Ministry of Health. Foreign firms may apply. Requirements are detailed and a fee is required.^a Ministry of Health also supervises the processing of the pill.
- D. Condoms—General** Condoms are sold in pharmacies and by street peddlers.
- E. Condoms—Price and Official Distribution** Condom prices are fixed by supply, demand and taxes.^c
- F. Pills—Pharmacy and Prescription Requirements** Pills are available commercially through pharmacies only (or doctors' "drug chests" in small towns). There is a prescription requirement but is not enforced. Physicians are scarce outside cities.^b
- G. Pills—Price and Official Distribution** Pills are distributed free by official services. The pill price is controlled by the Government.^c
- H. Pills—Other** Full instructions are required with the package.
- I. IUD** Permitted. Private physicians insert on payment of fee. Ministry of Health clinics insert IUD's free but very few physicians available.
- J. Commercial Advertising** Contraceptives may be exhibited in pharmacies. Short announcements of availability of prescription drugs allowed with Ministry of Health approval.
- K. Publicity for Family Planning** Population matters and family planning are covered in TV and radio broadcasts. The various methods are explained and state-supported services are advertised.
- L. Government Policy** The Government has had a program since Law No. 557 of April 1965. Department of Population Planning in Ministry of Health runs clinics and mobile medical teams. Law No. 931 of 1967 puts population planning chiefs in each province and health region. Services are provided to Armed Forces. Some free distribution of contraceptives by Government.^d Turkish Planned Parenthood Association has 28 branches and receives some Government support.
- M. Miscellaneous** Law No. 557 of 1965 provides criminal penalties for production, import, or distribution of contraceptives which do not have Government approval.

*The material comes in part from the Westinghouse Population Center Study on Turkey of 1972.

(a) Manufacturer of pills must apply for license from Ministry of Health. Fee of 3,300 T.L. is required. Applicant must submit full information, example of product, pricing information, dosage, formulae, packaging, prospectuses, etc. After testing in laboratory, a six-month trial period required in government clinic.

(b) Pills available only through licensed pharmacies. There were 2,316 of these in Turkey in 1971, but largely in cities. In rural areas or small towns, there may only be a doctor's "Drug Chest." Whether the pill is or is not a "dangerous drug" requiring a prescription under the law is not clear, but in fact pills are available without prescription.

(c) Prices of pills (set by the government) include 10% profit for

wholesaler and 25% for retailer. For condoms, the importer's profit is 25% in addition to the above. In 1971, average family spent 455 liras on health and personal care. Cost of condoms or pills per year (estimated at 125 liras per year) would be about 28% of the health or personal care budget. This is less than cigarettes cost.

(d) Government policy is favorable in theory, but policy is not pushed aggressively, and political parties do not all agree. Lack of physicians outside principal cities is very serious. Government physicians in province centers, townships and rural districts have little or no time for family planning. The national objective of reaching 5% of women of reproductive age is not being achieved despite training programme. Cut in funds available for service also limits availability.

ALGERIA (37)

(Following summarizes all information available)

- A. Imports—General** Ordinance No. 69-14 of March 25, 1969 (*Journal Officiel*, April 4, 1969, No. 29, p. 226) grants exclusive importation rights for pharmaceuticals to the Algerian Central Pharmacy. In view of the negative attitude of the Government (see below) it is unlikely that there are heavy imports. The *New York Times* of July 27, 1973 reports that 2 million cycles of pills were purchased commercially in 1972.
- L. Government Policy** In 1966 and 1967 pilot family planning projects were started and received considerable support, particularly from women's groups. On June 19, 1969 the President made a strongly negative speech and little has since been done. The Four-Year Plan assumes a population growth rate of 3.4% per year. ("Land, Man and Development in Algeria", Part II: Population, Employment and Emigration," J. Waterbury, *Field Staff Reports* Vol. XVII, No. 2, North Africa Series, 1973, Hanover, New Hampshire). It may be significant that although Algeria, as a former department of Metropolitan France, was covered by the old French law of 1920, the New Algerian Penal Code of June 8, 1966 contains only Section 310 on the general subject. This provides only that the sale of abortifacients is an offense. Contraceptives are not mentioned.

BURUNDI AND ZAÏRE (38)*

- A. **Import—General** Importation of medicines needs authorization by health authorities. (Ordinance No. 27 bis/Hyg. of March 15, 1933, Secs. 11, 13).
- B. **Import—Duties**
- C. **Manufacture**
- D. **Condoms—General** Display or free distribution of contraceptives prohibited. (Penal Code of 1940, Sec. 178, para. 3).^a
- E. **Condoms—Price and Official Distribution**
- F. **Pills—Pharmacy and Prescription requirements** Pills can be sold in pharmacies on medical prescription only. Where no pharmacy within 15 km, physicians may sell. (Ordinance of March 15, 1933, Secs. 3, 9, 10).
- G. **Pills—Price and Official Distribution** See line D above.
- H. **Pills—Other**
- I. **IUD**
- J. **Commercial Advertising** Advertising contraceptives for sale, or "arousing the passions or others with a lucrative purpose, by . . . distributing pamphlets, printed or other, which divulge the means of contraception, advocate their use, or indicate the methods to obtain them or to use them" are offenses. (Penal Code, Sec. 178, para. 4).
- K. **Publicity for Family Planning** Production, importation, transportation, delivery to a transportation agent, or advertisement of birth control pamphlets prohibited, if for purpose of trade or (free) distribution. (Penal Code, Sec. 178, para. 5). (See line D above). Advice with non-commercial purpose not prohibited. However, pharmacists are forbidden to supply "medical consultations" in connection with sales. (Ordinance of March 15, 1933, Sec. 3, para. 4).
- L. **Government Policy** On December 5th, 1972, President Mobutu of Zaïre in his annual address set forth the government's policy to limit births to "naissances désirables".
- M. **Miscellaneous** Violations of the prohibitions of Section 178, paragraphs 3, 4, and 5 of Penal Code are punishable with imprisonment up to one year and/or with fine up to 1,000 francs.

*These two countries are listed here together because their laws are identical.

(a) The provisions of Section 178, paragraphs 3-5 of the Penal Codes have been literally taken over from Section 383, paragraphs 7-8 of the Belgian Code, as amended in 1923. However, the upper limit of the penalties has been doubled in the African codes.

The law of Burundi has been checked as of February 28, 1970 (R. Bellon, P. Delfosse, *Codes et Lois du Burundi*, Bujumbura, 1970). No similar recent information is available for Zaïre. The present legal situation in both countries is not certain.

**CAMEROON, CHAD, CONGO-BRAZZAVILLE, CENTRAL AFRICAN REPUBLIC,
GUINEA, NIGER, UPPER VOLTA (39)***

A. Imports —General	Import of contraceptives is prohibited. See line F.
B. Imports —Duties	
C. Manufacture	Prohibited. See line F.
D. Condoms —General	Available in pharmacies as protection against venereal disease. See line F.
E. Condoms —Price and Official Distribution	No official distribution.
F. Pills —Pharmacy and Prescription Requirements	Forbidden as contraceptive, but available in pharmacies on physician's prescription only for health reasons. Few physicians available. This is by interpretation of French Law of 1920 against contraceptive propaganda which was taken as banning contraceptives themselves. (See e.g., Chad Law No. 28 of Dec. 29, 1965, Arts. 97, 98; also, Cameroon Pharmacy Law,—Law No. 68-F-8 of June 11, 1968; Official Gazette of Cameroon, July 15, 1968, No. 2, Supp. pp. 35-54; IDHL, Vol. 20, p. 399).
G. Pills —Prices and Official Distribution	No official distribution
H. Pills —Other	
I. IUD	Prohibited. See line F.
J. Commercial Advertising	Prohibited. See line F. In Cameroon, National Association of Pharmacists is required to enforce, through a special inspection service, all regulations against advertising of pharmaceutical products. (Law of June 11, 1968; See <i>African Law Digest</i> , Law No. 68-LF-8).
K. Publicity for Family Planning	Prohibited. See line J.
L. Government Policy	Government policies in all these countries is strongly against family planning. French Law of 1920, although repealed at home, is still in effect, including the sweeping negative interpretations of that law.
M. Miscellaneous	There are strong penal provisions to enforce the restrictive laws, e.g., Chad has imprisonment and fines for all advertising propaganda, exposing for sale, use of the mails, etc. (Law No. 28 of Dec. 29, 1965, Art. 98).

*These seven francophone West African countries are handled together since their laws and regulations are very much the same. They still retain the provisions of the French Law of July 31, 1920. After becoming independent, these countries adopted "reception" statutes providing that French law in effect prior to independence and not contrary to the new constitutions remains in effect. (J. S. Salacuse, *An Introduction to Law in French-Speaking Africa*, Vol. 1, Africa South of the Sahara, 1969). In some of these countries, e.g., in Cameroon and Chad, these provisions were later incorporated, with certain small changes, in newly enacted laws.

Thus in the Cameroon, Law No. 68-LF-8 of June 11, 1968, regulating the practice and organization of the profession of pharmacist (*Official Gazette of the Federal Republic of Cameroon*, July 15, 1968, No. 2, Supplement, pp. 35-54; abstract in *IDHL*, Vol. 20, p. 399) reproduces provisions governing contraceptives and contraceptive propaganda in force in France prior to the French law of 1967:

The advertising of contraceptives and abortifacients is specifically prohibited on grounds that such advertisement provokes

and facilitates abortion. (*African Law Digest*, Vol. 4 [1968], p. 243).

In Chad, Section 3 of French Law of July 31, 1920 was almost literally incorporated into the Chad Law of December 29, 1965 (*Journal Officiel de la République de Tchad*, January 1, 1966) as Article 98. Under this provision sale, display, etc. of contraceptives is prohibited and punishable if undertaken "with the purpose of contraceptive propaganda". By the last paragraph of Section 3 of the old French law "contraceptive propaganda or propaganda against natality" was declared to be a separate offence ("*propagande anticonceptionnelle ou contre la natalité*"). In Section 98, paragraph 2 of the Chad law the act constituting this offense has been defined as "*propagande anticonceptionnelle contre la nationalité* (sic)".

For further comment on the old French law see Chapter IV section c(1) above and note 6 thereto.

The authors have been unable to obtain special information as to the situation in the last five of the countries named, nor do they know to what extent these laws are actually enforced.

DAHOMY (40)

(Following summarizes all information available)

- | | |
|--|---|
| A. Imports—General | Imports are permitted. ^a |
| D. Condoms—General | Condoms are available in pharmacies as against venereal disease. |
| F. Pills—Pharmacy and Prescription Requirements | Pills are available on prescription in pharmacies. |
| G. Pills—Prices Official | Pills are distributed in government-sponsored and private clinics, as are IUD's. |
| I. IUD | See line G above. |
| L. Government Policy | The government policy seems to be becoming more favorable. The Family Planning Association is recognized by the Government. |

(a) Since the Government has a family planning clinic in the official maternity and child health clinic building in the capital, it is assumed that contraceptives may legally be imported and contraception publicized, despite the French Law of 1920.

EGYPT (41)*

- A. **Imports—General** Imports encouraged. "The government abstains from taxing any of the imported drugs or contraceptives."
- B. **Imports—Duties** See line A.
- C. **Manufacture** "Domestic production of contraceptives faces no difficulty at present. Pharmaceutical companies are able to meet local demand for the various drugs and contraceptives. Moreover, foreign firms are not prevented from manufacturing locally, and in fact some contraceptives are manufactured by joint foreign and local efforts. The government facilitates the importation of the raw materials needed for local production." Condoms are not manufactured locally.
- D. **Condoms—General** The Government seeks to facilitate the "abundant availability" of all contraceptives "all over the country." They may be mailed to any part of the country and "distribution is made easy." They are "usually channelled through the National Company for the distribution of pharmaceutical products." Condoms are on sale in pharmacies and in shops generally.
- E. **Condoms—Price and Official Distribution** All contraceptives are distributed by the Government "to family planning centres free of charge. The centres in turn distribute them to the consumers free of charge. Meanwhile, a normal price for a month's supply of contraceptives costs about 13 piastres if it is bought from a pharmacy."
- F. **Pills—Pharmacy and Prescription Requirements** "Sold in medical centres and pharmacies—which are widely spread in every Egyptian town, as well as some villages." "A doctor's prescription is not necessary for the purchase of pills or any other contraceptive."
- G. **Pills—Price and Official Distribution** See line E.
- H. **Pills—Other**
- I. **IUD** IUD's "are made available in clinics and family planning centres free of charge."
- J. **Commercial Advertising** "In Egypt no laws or regulations exist which can be considered unfavorable or which hinder the promotion of . . . distribution . . . of contraceptives." See line K.
- K. **Publicity for Family Planning** "Advertising is essential for the promotion of family planning policies, and especially the use of contraceptives. Hence, special budgets are allotted to the Ministry of National Guidance for the enhancement of birth control advertisement. In addition, there is within the Executive Organ 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."
- L. **Government Policy** Presidential Decree No. 4075 of 1965 (amended by P.D. No. 1054 of 1972) establishes the High Council for Family Planning, presided over by the Deputy Prime Minister. Membership includes Ministers of Health, Social Affairs, Planning, Education, Religious Affairs, Agriculture, and Mass Media. There is an Executive Organ for Family Planning with a technical (medical, social, religious and statistical) branch, a service (with 2200 centres and 25 provincial units) branch and a financial and administrative branch. Other social and health centres also promote family planning. At all levels, there is some local autonomy.
- M. **Miscellaneous** The Government is chiefly concerned with changing popular attitudes at all levels. Incentives are used. Employees in family planning centres are given certain financial rewards for promoting acceptances and a person accompanying an acceptor to the centres receives half a £. Awards are given to mid-wives, social workers, friends and husbands of acceptors.

*The material quoted is from a communication from Dr. Ahmad Khalifa, Chairman of the Board of the National Center for Social and Criminological Research. Dr. Khalifa's statements on these matters may

be accepted as semi-official. The other material is from an article by Magdi and Gloria El Kammash, appearing in *Lee/Larson*, p. 368.

GABON (42)

- A. **Imports—General** Imports prohibited.
- B. **Imports—Duties**
- C. **Manufacture** Manufacture prohibited.
- D. **Condoms—General** Sold in pharmacies. Available as against venereal disease.
- E. **Condoms—Prices and Official Distribution** No official distribution.
- F. **Pills—Pharmacy and Prescription Requirements** Sold in pharmacies on prescription and for therapeutic purposes only. A board of three physicians may prescribe pills where (a) a woman's health could be endangered by a further pregnancy or (b) the well-being of the family so requires. (Ordinance No. 64/69 of October 4, 1969, *Journal Officiel* Nov. 15, 1969, No. 25, pp. 831-832).
- G. **Pills—Price and Official Distribution**
- H. **Pills—Other** Prescription must be entered in a counterfoil book by the physician and in a special register by the pharmacist. See line F. Only in cases of "absolute necessity" may pills be prescribed for women under 25 years.
- I. **IUD** IUD's are prohibited.
- J. **Commercial Advertising** No advertisement allowed.
- K. **Publicity for Family Planning** All publicity for family planning is prohibited.
- L. **Government Policy** Government strongly negative. Government believed that the country was under-populated and asserted that there were insufficient doctors to control use of contraceptives.^a
- M. **Miscellaneous** Heavy fines and imprisonment for violation of prohibitions. Special inspection teams set up to enforce the measure.

(a) B. Wolf's study (see note 25 in Chapter II of main text), citing P. Pradervand, *Family Planning Programmes in Africa*, says that a new anti-contraception law, stiffer than the old French Law of 1920, has been

enacted which prohibits the import of contraceptives and prescribes heavy fines and prison sentences for violations. Special inspection teams are set up to enforce the law.

GHANA (43)

- A. Imports—General** Imports permitted. License needed to import pills and condoms.^a (See Phar. & Drugs Reg., 1961, Reg. 23). Government favors local production of condoms although no local manufacture exists. License to import pills required.
- B. Imports—Duties** 50% duty on condoms and IUD's. Pills have no duty. No duty on gift contraceptives.
- C. Manufacture** Pharmacy Board licenses organizations to manufacture pills. (Phar. & Drugs Act of 1961, Art. 64, Sec. 17, para. 1).
- D. Condoms—General** Sales are made in pharmacies and supermarkets.
- E. Condoms—Price and Official Distribution** There is a low subsidized price of 10¢ for 3 from the National Trading Corporation. Commercial cost is 50¢-90¢. The official National Trading Corporation sells condoms but has only 315 outlets. They are also distributed by the National Family Planning Program.
- F. Pills—Pharmacy and Prescription Requirements** Pill is sold in pharmacies only. (Phar. & Drugs Act of 1961, Art. 64, Sec. 20). Pill is a Class A dangerous drug and requires a prescription. (Phar. & Drugs Act of 1961, Art. 64, Secs. 22 and 25). Prescription book must be kept. (Reg. Sec. 16).
- G. Pills—Prices and Official Distribution** There is official distribution of the pill.
- H. Pills—Other** Pharmacy Board may demand details of composition. (Phar. & Drugs Act of 1961, Art. 64, Sec. 32, para. 1).
- I. IUD** Only physicians may insert.^b Official services make IUD's available.
- J. Commercial Advertising** Advertisement is prohibited, unless published by direction of Ministry of Health. (Phar. & Drugs Act of 1961, Art. 64, Sec. 34, para. 3). This is not always enforced. Copies of descriptive matter published in relation to a drug must be submitted to Pharmacy Board. (Phar. & Drugs Act of 1961, Art. 64, Secs. 32, para. 1, and 33). No point-of-sale promotion or display.^c
- K. Publicity for Family Planning** Publicity for family planning is encouraged.
- L. Government Policy** The Government policy is favorable.^d Government has an official policy to discourage population growth. There is a National Family Planning Program working with four Ministries since 1970. A Planned Parenthood Association exists.
- M. Miscellaneous**

(a) Efforts to protect domestic rubber industry result in high duty and license requirements for condoms. See "Rationale for the Involvement of Private Sector Marketing Institutions, etc.", T. Black, *Studies in Family Planning*, Vol. 4, No. 2, p. 29-30, Population Council, (1973).

(b) No special provisions on condoms and IUD's found. Condoms are available at supermarkets. According to report by Richard B. Turkson, a physician must insert the IUD.

(c) As to the pill, although the Pharmacies and Drugs Act of 1961 gives power to the Pharmacy Board to examine (and apparently to approve) descriptive matter to be published in relation to a drug (including steroid pills). Section 34 prohibits publication of an advertisement of a drug for any purpose "relating to human sexual intercourse", unless this

is published "by direction of the Minister" (Sec. 34, para 3). Pill is, in fact, available without prescription, but at \$1.50 per cycle. See "Rationale" p. 30. No displays at point-of-sale of pill or condom.

(d) Ghana has an official policy to limit population growth. See *Population Planning for National Progress and Prosperity, Ghana Population Policy*, Accra-Tema, (1969), and "Ghana: Official Policy Statement", *Studies in Family Planning*, No. 44 (August 1969), p. 1 ff. A policy statement of March 1969 states: "... the Government will take vigorous and practical steps . . . to distribute widely reliable information on the means of contraception and to make birth control advice and services readily available to all couples who wish to use them."

IVORY COAST (44)

(Following summarizes all information available)*

- A. **Imports**—General Imports are permitted.^a
- D. **Condoms**—General Condoms are available at pharmacies.^a
- F. **Pills**—Pharmacy and Prescription Requirements Pills are available in pharmacies on prescription.^a
- L. **Government Policy** The former negative attitude of the Government may be changing.

*There appears to be some confusion as to the state of law in Ivory Coast. Despite an earlier official statement from a government source that distribution of contraceptives is forbidden, the Ministry of the Interior stated in a letter of May 2, 1973, that "The sale of contraceptives is not forbidden."

(a) The French Law of July 31, 1920, may still be in force "on the books" and it is apparently felt that efforts to change the law might meet with opposition. However, it is not enforced. President's Houphouët-Boigny's government does not, in practice, prohibit contraception.

Contraceptive pills and devices may be purchased openly in pharmacies, the pills usually without medical prescription. (V. D. Dubois, *Population Review 1970: Ivory Coast*, American University Field Staff Reports, Hanover, N.H., 1970, pp. 9-11).

(b) It may be significant that in June 1973 a Population Conference, convened at Abidjan by International Educational Development, Inc., and attended by many representatives of Roman Catholic Church-related organizations opted for "regulation of birth to attain a better quality of life".

KENYA (45)*

A. Imports —General	Imports are permitted.
B. Imports —Duties	
C. Manufacture	Manufacture is permitted but does not yet take place.
D. Condoms —General	
E. Condoms —Price and Official Distribution	Condoms are sold generally and, in the Meru District, there has been a special government-sponsored highpower sales and distribution project through commercial channels. Free samples are given and there is a subsidized price of 3 for US 7¢. There has also been distribution through government and family planning association clinics.
F. Pills —Pharmacy and Prescription requirements	Pills are available through pharmacies on prescription only. (Only 45 pharmacies in country and few physicians in rural areas). (Phar. and Poisons Ordinance, Chap. 244, Law of Kenya [1962], Art. 25, para. 2(a); Part I of list).
G. Pills —Prices and Official Distribution	Pills are free in government clinics and cost \$1.40 per cycle in pharmacies.
H. Pills —Other	
I. IUD	Both government and association clinics offer free insertion.
J. Commercial Advertising	Condoms are advertised but pills are not. Advertisement of pill is <i>not</i> illegal under Pharmaceuticals and Poisons Ordinance, Chapter 244, Laws of Kenya (1962). The condom sales program was promoted by radio, film, leaflets, door sales and mailings.
K. Publicity for Family Planning	This is permitted and family planning association has responsibility for education and motivation.
L. Government Policy	The government program began in 1966 and there are both government and association clinics.
M. Miscellaneous	

*Information on Kenya in the Tabulation comes from Black's study cited in note (a) of tabulation for Ghana. According to a government publication, the existing family planning

program has virtually no impact on the rate of population growth (*Africa Contemporary Report*, Vol. 4 [1971-1972], p. B. 148).

MALI (46)

(Following summarizes all information available)*

- A. **Imports—General** Importation 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 list has not yet been prepared as far as the authors know). (Ordinance of June 1972).
- B. **Imports—Duties**
- C. **Manufacture** Manufacture is permitted. See line A.
- D. **Condoms—General** Distribution is authorized. See line A.
- F. **Pills—Pharmacy and Prescription Requirement** Distribution is authorized. See line A.
- I. **IUD** Distribution is authorized. See line A.
- J. **Commercial Advertising** Information and education is authorized. See line A.
- K. **Publicity for Family Planning** Information and education is authorized. See line A.
- L. **Government Policy** Government policy appears to be favorable. A family planning association was formed in 1972. There is a Government-sponsored clinic in the capital dispensing pills and IUD's. Canadian Government assistance is accepted.
- M. **Miscellaneous** Infraction of the Ordinance of June 1972 is punishable under Penal Code.

*An ordinance of the military government of Mali (Comité Militaire de Libération Nationale) of June 1972, which the authors have seen in draft form only, repeals articles 3 and 4 of the French Law of July 31, 1920, and authorizes family planning practices other than abortion "within the limits of a national program controlled jointly by the Minister of Health

and the Secretariat of Social Affairs." It allows information and education concerning methods and means of family planning, as well as the importation, manufacture, and sale of contraceptives authorized by the government.

NIGERIA (47)

- A. **Imports—General** 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 should be presented to pharmacy inspectors at ports.
- B. **Imports—Duties** Contraceptives are usually allowed exemption from duties (according to IPPF's *Relationship between Governments and Voluntary Family Planning Associations*, 1973).
- C. **Manufacture** Manufacture permitted since 1968, but no local manufacture yet exist since local consumption is still low. Nigerian Enterprises Promotion Decree (No. 4 of 1972) would require 40% of shares of local company to be held by Nigerians. Tax advantages would be provided. Ministry of Health established a Federal Quality Controller in 1974.
- D. **Condoms—General** Condoms are alleged not to be popular. They are available in pharmacies, patent medicine stores and general stores.
- E. **Condoms—Price and Official Distribution** There is virtually no official distribution. Commercial prices are US 40 to 70¢ for three. Wholesale chemists give discounts on medicaments, including contraceptives, to hospitals and family planning clinics.
- F. **Pills—Pharmacy and Prescription Requirements** *De jure*, these are available in pharmacies or recognized family planning centers on prescription only. There are very few physicians. *De facto* pills can be purchased without prescription. Sale of pills has increased 50% during years 1969-1974.
- G. **Pills—Price and Official Distribution** Poor formerly got contraceptives free at clinics. At present the Family Planning Council and the Family Planning Unit of Ibadan University subsidize low prices at pharmacies. 97% of the subsidization for the Council comes from IPPF.
- H. **Pills—Other**
- I. **IUD** These are available free at clinics but see line G. IUD's are alleged to be expensive through private channels.
- J. **Commercial Advertising** Advertisement of contraceptives subject, in fact, to regulations of Nigerian Pharmacists Society and must be in professional journals. Contraceptives may be displayed in pharmacies.
- K. **Publicity for Family Planning** The Family Planning Council circulates films and "comic" publications. It has placed radio and TV spots, leaflets and billboard ads.
- L. **Government Policy** The Government of Nigeria still has no national policy on family planning. An inter-ministerial committee in 1969 recommended a policy, but no action was taken. The 1970-1974 Development Plan announced the intention to establish a federal government program and many family planning association clinics are on federal or state government clinic or hospital premises. Plan states: "Families would have access to information, facilities, and services that will allow them freedom to choose the number and spacing of their children." (Federal Government Printer, 1971, Lagos, p. 78). Still no official distribution program. Two states have contributed to the Family Planning Council.
- M. **Miscellaneous** Advertisements subject to federal obscenity law.

*Most of information comes from Black's study cited in note (a) of tabulation for Ghana, and from Mr. Thomas C. Lyons of AID, Lagos.

SENEGAL (48)

(Following summarizes all available information)

Imports are permitted. Condoms are available in pharmacies (presumably as prophylactics). Pills are available in pharmacies. There is a private clinic with official toleration which dispenses pills and inserts IUD's using midwives as well as physicians for insertions. There is no official distribution. Advertisement and publicity are limited. The Government policy may become favorable.^a There was a family planning association for a short time but it collapsed. The establishment of a new association is under consideration.

(a) President Senghor in March 1971 declared in Parliament that his Government favored family planning. See *Le Soleil* (newspaper) of March 21, 1971. On the other hand, the authors are informed that as of

March 1973, import, sale, and advertisement of contraceptives were not free of restriction, as the French Law of 1920 is still theoretically in effect, although it is not enforced.

TUNISIA (49)*

- A. Imports—General** Import of contraceptive products and medicaments is subject to the regulation of pharmaceutical products by Decree Law No. 60-12 of March 16, 1960 (Law No. 61-7 of January 9, 1961). A license is required from the Minister of Health for any medicine which has not already been authorized in France. (Decree of Jan. 1, 1942, Secs. 7 and 12). The Central Pharmacy of Tunisia has a monopoly for the importation of foreign pharmaceutical specialties (Decree Law No. 61-2 of January 16, 1961; See IDHL, Vol. 13, p. 359).
- C. Manufacture** License from the Ministry of Health is necessary before a medicine is admitted for sale. (Decree of Jan. 1, 1942, Sec. 8).
- F. Pills—Pharmacy and Prescription Requirements** Pills may be sold in pharmacies only on medical prescription. (Decree Law No. 60-12, Secs. 24 and 29; IDHL Vol. 12, p. 439). Physicians may sell medicines only where there is no pharmacy within a radius of 15 km. (Secs. 29, 31).
- G. Pills—Price and Official Distribution** There is official distribution through the public health organization.
- J. Commercial Advertising** Commercial advertisement of medicines is allowed (1) to general public after a "previous visa" by public health authority; (2) to physicians and pharmacists, if name and ingredients of the product and name of the producer are given. (Decree of Jan. 1, 1942, Secs. 1,3,5).
- K. Publicity for Family Planning** Publicity for family planning is encouraged.
- L. Government Policy** The French Law of July 31, 1920 was repealed by Law No. 61-7 of January 9, 1961.^a By Law No. 71 of August 2, 1971 a new Institute was established, attached to the Ministry of Health, as the country's center for family planning. Under Section 18 of that law all contraceptive consultation, care, and the supply of contraceptives were to be delivered only through public health establishments, to the exclusion of private physicians and hospitals. However, this law was repealed by Law No. 73-17 of March 23, 1973; the public sector monopoly was discontinued, and instead of the Institute a new family planning center, *L'Office National de Planning Familial et de la Population* was established. In September 1973 the internal statute of the Office was issued. According to the provisional new plan for 1973-1976, the national policy is to reduce the gross reproduction rate from 3.1 in 1971 to 1.2 in 2001. The government has liberalized sterilization and abortion laws.
- M. Miscellaneous**

*The source of most of this information is Pierre Lellouche, *Le Contrôle des Naissances en Tunisie (Moyens Préventifs)* in manuscript form, Cambridge, Mass., 1973.

(a) The text of Law No. 61-7 of January 9, 1961, and of the Decree of January 1, 1942, are to be found in *Lee/Larson*, p. 344.

ARGENTINA (50)*

- A. *Imports*—General Import of contraceptives in finished form is forbidden. (This may not apply to condoms as "prophylactics").
- B. *Imports*—Duties Import duty on raw materials is 5% if not produced in country, but 95% if produced locally.
- C. *Manufacture* Contraceptives may be manufactured, but must be officially tested and registered before sale.
- D. *Condoms*—General No restrictions on sales. May be sold in vending machines.
- E. *Condoms*—Price and Official Distribution There are price controls on all sales in government anti-inflation effort.
- F. *Pills*—Pharmacy and Prescription Requirement Formerly sold in pharmacies on prescription only (Pharmaceutical Law, Law No. 17,565 of Dec. 5, 1967, B.O. of Dec. 12, 1967, and Implementing Decree No. 7,123 of Nov. 15, 1968, Sec. 9, para c). In fact, available without prescription in pharmacies. By a Ministry of Health decree signed in March 1974 pills are to be made available only upon prescription signed by three "medical authorities." (N.Y. Times, Mar. 17, 1974, at 4, col. 1).
- G. *Pills*—Prices and Official Distribution Price controls exist, see line E. No official distribution.
- H. *Pills*—Other
- I. *IUD* Formerly available in registered pharmacies, but see line F.
- J. *Commercial Advertising* Condoms may be advertised generally, but with discretion as to language used.
- K. *Publicity for Family Planning* By decree of early March 1974 dissemination of birth control information prohibited. See Line F above. Family Planning Association carried on some information and education work prior to March 1974.
- L. *Government Policy* Government attitude is unfavorable, but a Family Planning Association exists, and four provincial governments have permitted F.P.A. to use official health facilities.
- M. *Miscellaneous*

*Information largely from private pharmaceutical company and from IPPF Relationships.

BRAZIL (51)

- A. Imports—General** The Service of Medical Control does not permit the import, manufacture, or sale of products labelled as "contraceptives." "Materials presumably may be imported as "prophylactics" or as medications to control bleeding. Status of IUD imports not clear.^a
- B. Imports—Duties** Pills: 37% c.i.f. Condoms: 37% c.i.f.
- C. Manufacture** Pills may be sold only after having been licensed by the Service of Medical Control. (Law No. 1,472 of Nov. 24, 1951, Sec. 61). 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. (Law No. 2,187 of Feb. 16, 1954).
- D. Condoms—General** Condoms are illegal as "contraceptives," but may be sold in pharmacies as "prophylactics" against venereal disease.
- E. Condoms—Price and Official Distribution** No official distribution.
- F. Pills—Pharmacy and Prescription Requirements** Sale of "contraceptive medicines" prohibited (Decree No. 20,377 of Sept. 8, 1931, Art. 120.). (But see note a). Pills are sold in pharmacies, on prescription only, as drugs used for ovulation control and medical regularization, although a big market exists and in fact pills are accessible without prescription. In localities, where there is no pharmacist permission to open a pharmacy may be granted to persons who have been practicing pharmacy for more than five years (Law No. 1,472 of Nov. 22, 1951).
- G. Pills—Price and Official Distribution** No official distribution, but see note (b).
- H. Pills—Other** Doctors are forbidden to take part in practices designed to prevent conception (Decree No. 20,931 of Jan. 11, 1932, Art. 16, para. f).
- I. IUD** In State of Guanabara the sale, insertion and recommendation of the use of IUD is forbidden in pharmacies, drug stores, doctors' offices, etc., (Reg. of Secretary of Health, No. 735, of May 17, 1967). In fact, the Family Planning Association (BEMFAM) operates in that state.
- J. Commercial Advertisina** It is prohibited to advertise, even indirectly, any pharmaceutical products and specialties as "contraceptives" (Decree No. 4, 113 of Feb. 14, 1942, Secs. 1, para. II, 5, para. V, and Sec. 10; exception for "technical-scientific" publications). Doctors may not "announce" any procedure to avoid pregnancy (Decree No. 20,377 of Sept. 8, 1931, Art. 120). It is a criminal offense, punishable by fine, to "announce a procedure, substance, or an object" for avoidance of pregnancy. (Law on Penal Contraventions No. 3,688 of Oct. 3, 1941, Sec. 20).
- K. Publicity for Family Planning** Theoretically forbidden, but family planning is publicly discussed in the press and elsewhere.
- L. Government Policy** Until about 1965, when the Society for Family Welfare was created in Brazil, contraceptives were considered taboo, although the number of yearly performed abortions was estimated at 1,500,000. After much discussion, the Federal Council of Medicine recently liberalized prescription of contraceptives and insertion of the IUD (but the status of the Federal Council to act in this regard is not clear). It is clear that the public attitude is changing, which may eventually be followed by the official attitude.
- M. Miscellaneous** Decree No. 20,377, Article 120, of September 8, 1931, states that it is forbidden to sell contraceptive medications or to make public products which can be used for this purpose. Penalties are provided. Decree No. 20,931, Article 16 (f) of November 1, 1932, prohibits any physician from acting to prevent conception or to terminate a pregnancy.

(a) Contraceptives are being imported into Brazil and sold there in pharmacies even without a physician's prescription. A large shipment of condoms was sent to Brazil by a large U.S. exporter openly in 1973, presumably on the ground that they were "prophylactics" and not "contraceptives". The family planning association (BEMFAM) operates openly and effectively.

(b) It should be noted that the laws and regulations cited largely date from 1946 and occasionally from 1931. The old law is negative on all aspects of contraception and treats it in the same category as abortion. President Medici expressed the opposition of his government to family planning, but the views of his successor are not yet known. The governors of some states are taking a more liberal position.

CANADA (52)

- A. **Imports—General** Imports are permitted. Detailed provisions are to be found in the Food and Drug Regulations, e.g., importer's duty to furnish previous notification to the Director of the Food and Drug Administration (Food & Drug Reg. C.09.005). An inspector may examine, take specimens of and detain devices imported (Food & Drugs Reg. A.01.040). (Regarding importation of drugs in dosage form, see Food & Drug. Reg. C.01.055 *et seq.*)
- B. **Imports—Duties**
- C. **Manufacture** There is a "notification" requirement for manufacturers (Food & Drug Reg. C.09.002 ff.). There are detailed control provisions in the Regulations. Also, sale or advertisement of a "new drug" requires authorization from the Ministry of Health (Food & Drug Reg. C.08.001 ff.).
- D. **Condoms—General** Condoms must be labelled (Food & Drug Reg. K.01.002).
- E. **Condoms—Price and Official Distribution** There are provincial and federal subventions to family planning associations.
- F. **Pills—Pharmacy and Prescription Requirements** Pills are sold in pharmacies on prescription only, as oral contraceptives are listed in "Schedule F" (i.e., prescription drugs) of the Food and Drug Regulations. Labelling required. (Food & Drug Act, Sec. 9, para. 2; Food & Drug Reg. C.01.004 ff.). Prohibition of distributing drugs as samples (Food & Drug Act, Sec. 14, para. 1).
- G. **Pills—Price and Official Distribution** Welfare recipients obtain pills without charge. In the province of Quebec social aid may meet cost of pills under Quebec Social Aid Regulation No. 2, Section 2.01, paragraph a. See line L.
- H. **Pills—Other**
- I. **IUD** The law as to who may insert an IUD is not clear, even if insertion of IUD's is considered to be a "medical act." Under the law of Ontario, a paramedical cannot perform a "medical act" for payment. See line L.
- J. **Commercial Advertising** Pills (Drugs Schedule F) may not be advertised (Food & Drug Reg. C.01.044). Contraceptive "drugs" not listed in Schedule F may be advertised to the general public. (Food & Drug Act, Sec. 3, para. 3; Reg. C.01.625, as amended by P.C. 1970-37 of 14 Jan. 1970). Condoms may be advertised but not by distribution of samples or through the mail. (Food & Drug Reg. K.01.001, as amended by P.C. 1970-37). The amendment cited excludes IUD's from advertisement to the public. Advertisement of pills on radio and on TV is subject to official approval. (See Regulations amended in *Canada Gazette* of 14 July 1971). Sending by mail of samples of drugs is prohibited, except to physicians *et sim.* (Post Office Regulation of 1970, 1102.3). No program on birth control may be advertised, unless it is "appropriate to the medium" (Broadcasting Act, Sec. 5).
- K. **Publicity for Family Planning** See line J.
- L. **Government Policy** Both federal and provincial governments fund by grants Family Planning Association services. The federal government has had a program since 1970 for training, research and information. It also shares the cost of contraceptives supplied through provincial and local governments. Ministry of Health supports a service program. There is an active Family Planning Association. The government also assists family planning in foreign countries.
- M. **Miscellaneous** Advertising performance, efficiency, or length of life of anything that is not based on adequate testing is an offense under Penal Code, Section 306, paragraph 2. Until June 1969 the Criminal Code, Section 150, paragraph 2 (c) provided that it was an offense to sell, advertise, publish an advertisement of, or have for sale or disposal any means, instructions, medicine, drug or article intended or represented as a method of preventing conception or of causing abortion or miscarriage. Motives were irrelevant; it was, however, a defense to prove that "the public good" was served by the alleged acts. The words "preventing conception or" were deleted from this provision by an amendment of June 1969 (Stat. of Canada 1968-1969, C. 4. Sec. 13).^a

(a) According to C. Dubac ("L'aspect juridique des médicaments contraceptifs", *Laval Medical*, Vol. 39 (1938), p. 427, ff.), only two cases have been reported as decided under the section cited. As early as 1936 the Appeal Court in Manitoba in *R. v. Palmer* affirmed the acquit-

tal of an employee of the Parents' Information Bureau, who had offered contraceptives to a married couple and explained their use. The courts found that her acts had served the public good.

CHILE (53)

- A. **Imports—General** Importation requires consent of Ministry of Economics, Industry and Commerce. Transactions in foreign exchange are handled by the Executive Committee of the Central Bank. See also line C.
- B. **Imports—Duties**
- C. **Manufacture** Importation and manufacture of "pharmaceutical products" requires special authorization from the Director General of Health (Decree No. 725 of 1967, Sec. 102; Exec. Decree No. 471 of 1971; Decree No. 269 of 1972, Art. 4). Controls of quality are carried out by the National Health Service (Same Decree, Art. 54).
- D. **Condoms—General** Condoms are sold in pharmacies, customarily, but there is no legal requirement to that effect.
- E. **Condoms—Price and Official Distribution**
- F. **Pills—Pharmacy and Prescription Requirements** Pills are sold in pharmacies and places specially authorized by the National Health Service (Reg. of Pharmaceutical Products, Decree No. 471 of 1971 and Decree No. 269 of 1972, Art. 8). They are the "exclusive responsibility of the physician" (Circular No. 227 of the Ministry of Health of Oct. 8, 1968).^a According to recent information, "Chile now allows distribution of oral contraceptives without prescriptions . . ." (*People*, Vol. 1, No. 3 (IPPF, 1974), p. 42).
- G. **Pills—Price and Official Distribution** Pharmaceutical products, including pills, may not be given out free, (Decree No. 471 of 1971 and Decree No. 269 of 1972, Art. 10) except as physicians' samples or in an emergency. However, a few clinics are alleged to give pills out free, on a scale limited by lack of funds.
- H. **Pills—Other**
- I. **IUD** According to Circular 227 of Oct. 8, 1968 (see line F) IUD's must be prescribed and inserted by physician only.
- J. **Commercial Advertising** Only those products may be advertised "as medicaments or as products of medical utility" which have been authorized or recognized by the National Health Service (Health Code, Art. 54). Misleading advertising of pharmaceutical products is prohibited under Article 12 of Decree No. 471 of 1971 and Decree No. 269 of 1972. In fact, contraceptives are not advertised.
- K. **Publicity for Family Planning** In the fourth year of secondary school, the curriculum of the health education course covers population awareness, population policy, and family planning in Chile. (See Supreme Decree No. 27,952 of Dec. 7, 1965 of Min. of Education, Diario Oficial of Dec. 20, 1965, and National Health Service Circular on General Rules on Women's Health of 1971).
- L. **Government Policy** There has been a government program since 1967. The Allende Government's approach to family planning was cautious, as an ambitious birth control program would have created internal political difficulties. Therefore, legal regulations on contraceptives was on a "low-key" level, mostly administrative regulations or circulars. All programs connected with family planning had to be coordinated with and supervised by the National Health Service. (Circular No. 227 [A.2.1, No. 3]. "Basic Rules on Birth Control of October 8, 1968").^a The new Government gives family planning "top priority." (*People*, *supra* line F, p. 41).
- M. **Miscellaneous** Violation of any provision of the Health Code is a misdemeanor (*falta*) punishable by fine, and permission to operate a pharmacy or other enterprise may be cancelled. (Health Code, Art. 167).

(a) The National Health Service had broad powers in matters concerning importation, manufacture and distribution of pharmaceutical products, based on the Health Code. Activities related to family planning have been concentrated in the Service. See especially Circular No. 227 (A.2.1, No. 3) of October 8, 1968, on the "Summary of Basic Rules on

Birth Control in the National Health Service" (reprinted in: *ICIS, Instituto Coordinador de Investigaciones Sociales, FLASCO, "Regulación Jurídica de Esterilización, Anticoncepción Y Salud Pública"*, Santiago, 1973, pp. 39 ff.).

COLOMBIA (54)

- A. Imports—General** Customs laws require an importer to deposit 130% of the value of imports with a bank. Condoms: No legal barriers, but import duties, exchange controls, and red tape are so onerous that "essentially all condoms are smuggled in." Import of drugs needs license by Ministry of Public Health (Regulation of 1964, Sec. 2).^a
- B. Imports—Duties** Pills: 60% *ad valorem* duty on the invoice value. Duty on ingredients necessary to manufacture pills is relatively minor.^b
- C. Manufacture** No condoms or IUD's produced (1970); pills to a large extent are compounded locally with imported ingredients.
- D. Condoms** Sold in drug stores. There are 4,500—5,500 retail drug outlets available to 75% of population with 2,000 more "boutiques"—i.e., small drug shops. Public image of condoms strongly associated with illicit sex and prostitution.
- E. Condoms—Price and Official Distribution** Price (1971) 60¢ to \$1.25 per dozen estimated "exorbitant" due mainly to furtive import. *Profamilia* imported 576,000 units to be distributed at very low prices in 1970, to promote the use of condoms. Small amount has been imported in 1971 by the Ministry of Health to be distributed through health centres.
- F. Pills—Pharmacy and Prescription Requirements** Theoretically sold in pharmacies on medical prescription only. In fact, the prescription requirement is widely ignored. It is possible "to obtain any amount of pills anywhere in Colombia without a medical prescription."^c The prescription requirement is found in Regulations of 1964, Section 5.
- G. Pills—Price and Official Distribution** Normal retail price in 1971: 16 to 18 pesos (US 80¢—90¢) for a cycle. Some pills distributed officially by the ministry clinics, or by *Profamilia* and ASCOFAME.^d
- H. Pills—Other**
- I. IUD's** Inserted mostly in clinics (Ministry of Health, ASCOFAME, *Profamilia*), a few by physicians in private practice.
- J. Commercial Advertising** Commercial advertisement of contraceptive pills to consumers is prohibited.^e (Regulations of 1964, Sec. 10).
- K. Publicity for Family Planning** Publicity is allowed. In 1970 *Profamilia* spent approximately \$100,000 to advertise the services of its clinics. The largest mass media campaign in Latin America.^f
- L. Government Policy** The Government is unofficially favorable. Family planning services have been unofficially available through some public facilities. Family planning associations run clinics on a large scale. Government plans to introduce clinical and educational services.^g
- M. Miscellaneous**

(a) Decree No. 2228 of 1962 (Diario Oficial of August 18 and 27, 1962) covering the regulation of manufacture, import and sale of drugs has been superceded by a Regulation of the Ministry of Public Health in Decree No. 1523 of 1964 (Diario Oficial of July 21, 1964). See A. D. Little Study, pp. 7, 10.

(b) *Ibid.* p. 10.

(c) G. Echaverry, *The Production and Distribution of Contraceptives in Colombia*. UNIDO Doc. ID/WG. 116/8 (Dec. 21, 1971) p. 5, Little Study, *supra*, pp. 8, 10.

(d) *Ibid.* p. 9

(e) *Ibid.* p. 10.

(f) *Ibid.* p. 7.

(g) *IPPF Relationships*

"Profamilia" is the Colombian Family Planning Association, and "ASCOFAME" is the Association of Medical School Faculties.

COSTA RICA (55)

- A. Imports—General** Oral contraceptives are imported as "Patent Medicines" or "Pharmaceutical Specialties." Each import of drugs or medical articles requires a sealed permit from Board of Registration of Drugs. Import and manufacture of drugs confined to College of Pharmacists and its authorized establishments (Sanitary Code, Sec. 70, also Regulation under Art. 101). All new medical supplies must be registered with the College of Pharmacists in Ministry of Public Health (Sanitary Code, Secs. 70 and 88). There is no local production to be protected.^a
- B. Imports—Duties**
- C. Manufacture** No special restrictions on manufacture. Control function is assigned to College of Pharmacists (Sanitary Code, Sec. 70 and Regulations under Art. 101). General provisions of Sanitary Code for all drugs apply to contraceptives under Official Pharmacopoeia (Sanitary Code, Sec. 78).^a
- D. Condoms—General** Available in pharmacies.
- E. Condoms—Price and Official Distribution** See Line L.
- F. Pills—Pharmacy and Prescription Requirements** Oral contraceptives may be sold in pharmacies or sanitary units authorized by Ministry of Public Health on prescription only (Sanitary Code, Sec. 77 and Exec. Decree of 31 July 1964).^b
- G. Pills—Price and Official Distribution** There is official distribution of pills at subsidized low price or free to very poor. Social security gives pills free in San Jose.
- H. Pills—Other** Pills may be sold if registered under Articles 87 and 91 of the Sanitary Code with the Board of Registration.
- I. IUD** IUD's are permitted and are inserted in clinics.
- J. Commercial Advertising** Wording used in all drug advertisements is controlled under regulations of Office of Registration of the College of Pharmacists (Exec. Decree No. 8 of Sept. 8, 1945, Art. 14). No special provisions for contraceptives. No limitation on exposure for sale in pharmacies and no "obscenity" limitations. Samples can be sent to physicians only.
- K. Publicity for Family Planning** National Program of Family Planning and Sex Education covers contraception (Exec. Decree 1311, Art. 4, Sec. (c). See also Code of Medical Ethics, Sec. XIX). It has exclusive responsibility for propaganda on contraceptives.
- L. Government Policy** Government has a National Program of Family Planning and Sex Education (Exec. Decrees 3 and 5 of 1967 and 26 and 1311 of 1970). Purpose is to resist population growth through education, services and research. Contraceptives sold at low prices and given free to very poor. Public attitude is receptive. The Family Planning Association closely cooperates with Government. The National Population Committee coordinates all family planning activity.^c Government sponsored a round table on population law in December 1973.
- M. Miscellaneous** Impurities in drugs punished under Article 82 of Sanitary Code.

(a) No law against local manufacture, but it has not yet been begun. All contraceptives are imported.

(b) See also Article 1 of Executive Decree No. 14 of September 30, 1972, which forbids sale of pills from physicians' medicine chests under normal conditions. Article 28 of the Sanitary Code permits official physi-

cians "to make them available out of their medicine chests in areas where there is no pharmacy."

(c) 1971 Report of Costa Rica Demographic Association shows very favorable public reception of service and rate of consultations growing very quickly.

JAMAICA (56)*

- A. **Imports—General** Pills are imported under general license. No restrictions on condoms. No imports permitted from countries that do not import Jamaican goods. Each new type of pill must be registered with Drug and Poisons Control Board. Must prove drug is authorized in country of origin,^a and that it is registered in United Kingdom, United States or Canada.
- B. **Imports—Duties** Pills from United States pay total duty of 41 1/2% but Commonwealth Preference of one-third for United Kingdom or Canada. Condoms pay 22% plus port charges.
- C. **Manufacture** No manufacturing now, but plans are being made for future manufacture, and there are no restrictive laws.
- D. **Condoms—General**
- E. **Condoms—Price and Official Distribution** There is free distribution if patient cannot afford. But there is no price control of commercial sales and the prices are high.
- F. **Pills—Pharmacy and Prescription Requirements** Pills are available in pharmacies only and there are only 150 in country. A prescription is required, but this is not enforced. There is only one doctor per 3,100 people.
- G. **Pills—Price and Official Distribution** The commercial price per cycle is from U.S. 96¢ to U.S. \$2.94. The average cost is U.S. \$18 for one year's supply.^b There is free distribution if patient cannot afford. Otherwise, there is a token fee of U.S. 10¢ per cycle.
- H. **Pills—Other** Pills are subject to controls on markups.
- I. **IUD** IUD's are available in National Family Planning Board clinics free. There are no limitations in the law.
- J. **Commercial Advertising** Pills may be not advertised commercially but condoms may be, if cleared with Family Planning Board.
- K. **Publicity for Family Planning** Government conducts advertising campaign, using all media and outdoor advertising.
- L. **Government Policy** The Government has set up a National Family Planning Board under Ministry of Health. There are 156 clinics. The Government cooperates with the Family Planning Association in all activities.
- M. **Miscellaneous**

*Information from Westinghouse Population Center Study on Jamaica of 1972 and from Rosen, *Law and Population Growth in Jamaica*, Law and Population Monograph No. 10, Medford, (1972).

(a) Rule that new type of pill must show a certificate of free sale "in country of origin" is to prevent experimentation in Jamaica by foreign drug countries on pills not yet authorized in home countries.

(b) Commercial price of pills at \$18.00 per year compares with average per capita income per year of \$380.00. Westinghouse concludes high tariffs and prohibition of pill advertising are serious impediments to spread of contraceptives in Jamaica.

MEXICO (57)*

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| A. Imports—General | Permission to import is required from Ministries of Health and Industry and Commerce (which favors domestic production). Standards of quality for import and manufacture set by Ministry of Health. |
| B. Imports—Duties | Duty on condoms is 50 pesos, plus 100% of value, plus 10%. Duty on IUD's is 110% of value, plus fees. Lower rates for raw materials. |
| C. Manufacture | A new manufacturer must show that it is 51% Mexican-owned, and has less than 5% foreign staff. Standards are set by Ministry of Health, similar to standards of U.S. Food and Drug Administration. |
| D. Condoms—General | Condoms are sold in pharmacies only. |
| E. Condoms—Price and Official Distribution | The Ministry of Industry and Commerce fixes commercial price of condoms at 1 peso per condom. Social Security centers will provide condoms, pills and IUD's free to members. The Government Workers' Organization will do the same. The Ministry of Health plans to provide full service for 5 pesos by 1974 to the rest of the population. (This is not certain). ^a |
| F. Pills—Pharmacy and Prescription Requirements | Pills are sold in pharmacies on prescription only. |
| G. Pills—Price and Official Distribution | See line E. |
| H. Pills—Other | Foreign companies desiring to start pill manufacturing after 1973 must be 51% Mexican owned. Local manufacture favored by sales tax exemption. Information on contra-indications must be included with pills. |
| I. IUD | IUD's are inserted by medical personnel with gynecological experience. Paramedical personnel being trained by Ministry of Health. Ministry of Industry and Commerce fixes price for insertion at 12.5 pesos but 78 pesos if new inserter used. See line E. |
| J. Commercial Advertising | Commercial advertisement of pills, IUD's and condoms may be to medical personnel only and must contain information on contra-indications, as approved by Ministry of Health. Samples to doctors only. Contraceptives are displayed on pharmacy counters. |
| K. Publicity for Family Planning | Family planning propaganda is permitted and sex education is specifically authorized in the new Sanitary Code, but does not yet, in fact, take place (See San. Code of Feb. 26, 1973, Arts. 34-37; D.O. Mar. 13, 1973). |
| L. Government Policy | The new Sanitary Code of 1973 takes a favorable line, but it is not yet fully interpreted. Government plans to deliver family planning services through Public Health and Social Security Centers. The Social Security Agency will cover free the 20 to 30% of the population with Social Security coverage by the end of 1976. The Government Workers' Organization will cover its members. The Ministry of Health plans to cover the remaining 60% of population by the end of 1974 at a charge of 5 pesos per visit. Whether this will be possible as a practical matter is doubtful. Parliament adopted a new General Population Law and established a National Population Commission early 1974. |
| M. Miscellaneous | Samples of IUD's, pills and condoms are barred from the mail. |

*The *Fundación para Estudios de la Población* supplied summary of the new Sanitary Code and Regulations of the Secretariat of Health.

(a) Although government is now taking a favorable position, various difficulties might develop, including: possible inadequacy of quantity of domestic production (which is officially favored); imports may be

impeded by delays and tariffs; relatively high prices for commercial sales; difficulty of reaching rural populations; and requirement of condom sales in pharmacies only. Import formalities may take 6 months in certain cases.

PERU (58)*

- A. **Imports—General** Imports are not prohibited.
- B. **Imports—Duties**
- C. **Manufacture** Manufacture is not prohibited, and condoms are manufactured.
- D. **Condoms—General** "The sale of contraceptives without a medical prescription shall be prohibited" under Section 24 of the Sanitary Code (See line F). However, the condom is not considered a "contraceptive" but a "prophylactic" and is available in any pharmacy without prescription.
- E. **Condoms—Price and Official Distribution** No price control. Condoms not available through the clinics referred to in line G.
- F. **Pills—Pharmacy and Prescription Requirements** May be sold in pharmacies, on medical prescription only (if "not affecting health"). (Sanitary Code, Decree—Law No. 17,505 of March 18, 1969; IDHL Vol. 21, [1970], p. 137, Sec. 24; "Code of Medical Ethics," 1970, Sec. 40). Contraceptives must be "used under the control of the physician." (Sanitary Code, Sec. 24).
- G. **Pills—Price and Official Distribution** Pills are given out free by the Family Planning Association and by the Christian Family Movement.
- H. **Pills—Other** Prescription of contraceptives is forbidden: (a) to minors without consent of parents or guardians; (b) to married persons without consent of spouse (Code of Medical Ethics, Sec. 41).
- I. **IUD** Medical prescription and subsequent medical control required. (Sanitary Code, Sec. 24). IUD's are inserted at family planning association clinics. See line L.
- J. **Commercial Advertising** Commercial advertisement of contraceptives is not legally prohibited. However, it is in fact prevented by the Ministry of Health.
- K. **Publicity for Family Planning** Not prohibited. Clinics offer education and information programs. Family planning discussed in press.
- L. **Government Policy** Government policy ambivalent.^a There is no Government program. Peruvian Association for Family Planning, founded in 1967, runs clinics and educational and training activities. In January 1974, Government ordered Association to cease operations.
- M. **Miscellaneous** The newly formed Medical College of Peru approved the Code of Medical Ethics in March 1970. Its rules are binding for Peruvian physicians. For provisions relating to family planning, see lines F, H.

*Information on Peru (other than the text of the law) obtained from: J. Donayre, "Peru", in *Country Profiles*, (Population Council), October 1973, and in an interview with Dr. Donayre.

(a) The Provision of the Sanitary Code dealing with prescription for contraceptives is included in a chapter on abortion, which is some indication of the government's attitude.

UNITED STATES OF AMERICA (Federal Laws) (59)*

- A. **Imports—General** Imports are permitted (Title 21, Sec. 381, U.S.C.A.). A foreign manufacturer of "drugs" may register under Title 21, Section 360 (l). If approved, he may import. (See also Sec. 381).
- B. **Imports—Duties** Duties are 6% on condoms, 5% on most pills, 18% on IUD's. These duties are considered low.^a
- C. **Manufacture** A license to manufacture is required (Title 21, Sec. 355, U.S.C.A.) if the new drug is "introduced into interstate commerce." The manufacturer must register under Section 360 (b) with Department of Health Education and Welfare. IUD with "heavy metal" (copper) or a drug incorporated is considered as "drug" (FDA Regs. Sec. 130.50 adopted Feb. 28, 1973). Federal Government^b (and some states)^c controls quality, purity packaging and labelling of condoms (Title 21, Sec. 351 and 352, U.S.C.A.). Adequate directions and warning of side effects and contra-indications for drugs and devices must be marked under Title 21, Section 352(f) and (n). Special warning for pills (FDA Regs. Sec. 130.45 (d)).
- D. **Condoms—General** The packaging, labelling and purity of condoms are under FDA and state control.
- E. **Condoms—Price and Official Distribution** The programs supported by the Federal Government offer a choice of method, including the condom, the pill and the IUD.
- F. **Pills—Pharmacy and Prescription Requirements** Sold in pharmacies on prescription only (See FDA Regs., Sec. 130.45 (d) (1)).
- G. **Pills—Price and Official Distribution** See line E.
- H. **Pills—Other**
- I. **IUD** The IUD with heavy metal (copper) or a drug incorporated in it is considered as a "drug" (FDA Reg. Sec. 130.50 adopted Feb. 28, 1973).^d See line E.
- J. **Commercial Advertising** Unsolicited contraceptives and unsolicited advertisement thereof may not be sent through mail except to physicians, pharmacists, hospitals, etc., (Title 39, Sec. 3001(b), (1 & 2). Title 21, Section 352(n), FDA Regulations 21, Section 1.105(e) require advertisements for prescription drugs to show side effects, contra-indications, etc. See also FDA Regs. Sec. 130.45(d).
- K. **Publicity for Family Planning** Publicity for family planning is permitted.
- L. **Government Policy** Supreme Court states that right to decide whether and when to have a child is protected by Federal Constitution (*Eisenstadt vs. Baird*, 405 US 438). The Family Planning Services and Population Research Act of 1970 states that the national policy is to make comprehensive voluntary services readily available to all persons desiring them, Section 2 (1), and subsidizes service projects by state and local agencies and private organizations.^e
- M. **Miscellaneous** Unsolicited contraceptives and unsolicited advertisements thereof may not be sent through mail except to physicians, pharmacists, hospitals, etc. (Title 39, Sec. 1461, U.S.C.A.) For penal provisions covering violations of federal drug laws, see Title 21, Sections 331 and 333, U.S.C.A.

*For detailed information on the U.S. legal situation, including a list of state laws on contraception see Pilpel and Ames in "Legal Obstacles to Freedom of Choice in the Areas of Contraception, Abortion and Voluntary Sterilization in the United States"—(Commission on Population Growth and the American Future, Research Reports, Vol. VI, *Aspects of Population Growth Policy*, Edited by Robert Parke, Jr. and Charles F. Westoff, Washington, 1973).

(a) Duties on contraceptives considered relatively low, since they are under 10%.

(b) The F.D.A. controls quality, purity, packaging and labelling of contraceptives, including drugs and devices. (See *U.S. vs. Dean Rubber Mfg. Co.*, 356 F.2d 161).

(c) Some states (e.g., California, Colorado) also exert certain controls in this field. (See Proceedings of Batelle Institute, First International Conference on Condoms, Seattle, Wash., March 1973).

As example of relatively restrictive state law, Section 6811 of the N.Y. Education Law provides:

It shall be a Class A misdemeanor for:

8) Any person to sell or distribute any contraceptive to a minor under the age of sixteen years: the sale or distribution of a contra-

ceptive to a person other than a minor under the age of sixteen years is authorized only by a licensed pharmacist, but the advertisement or display of said articles, within or without the premises of such pharmacy is hereby prohibited.

(d) According to Mrs. Harriet F. Pilpel, Legal Counsel of the Planned Parenthood Federation of America, Inc., the question of who may insert IUD's is governed by the state laws which relate to medical practice generally. The legal situation varies from state to state, and even sometimes from city to city. Some states (e.g., New York and California) have special categories of paramedical personnel who are permitted to perform a variety of functions under the supervision of physicians.

(e) Under the leadership of the Federal Government, over forty states have adopted positive policies toward contraception. The degree of implementation of these policies through state health and welfare agencies varies.

UNITED STATES OF AMERICA (State Laws) (59)*

- A. **Imports—General** Federal matters
- B. **Imports—Duties** Federal matters
- C. **Manufacture** Some states have quality controls, particularly on condoms.^c
- D. **Condoms—General** Sales of condoms permitted in pharmacies. Majority of states permit vending machines with certain limitations but some states restrict sales of condoms to pharmacies. (For an example of restrictive state law see note c). The majority of states have no restriction of any sort on condoms. Others have mild limitations, e.g., on who may sell. A few states limit distribution to minors. The trend is to liberalize.
- E. **Condoms—Price and Official Distribution** Eighteen states had adopted legislation authorizing state agencies to administer family planning programs by September 1971. These include condoms, pills and IUD's.
- F. **Pills—Pharmacy and Prescription Requirements** Sold in pharmacies (controlled by federal law).
- G. **Pills—Price and Official Distribution** See line E.
- H. **Pills—Other** A few states limit distribution to minors. The trend is to liberalize.
- I. **IUD** The majority of states have no restrictions of any kind. Others have various mild limitations. The law of the various states is unclear, as to who may insert.^d A few states limit distribution to minors. The trend is to liberalize. See line E.
- J. **Commercial Advertising** The majority of states have no limitation on advertising or display, but some states allow advertising of contraceptives only in medical or pharmaceutical publications, or in literature enclosed with package, and some states restrict the advertising and display of condoms. A few states have limitations on distribution of contraceptives to minors. The trend is to liberalize this requirement. For an example of a restrictive state law, see note c.
- K. **Publicity for Family Planning** Three states appear to forbid all dissemination of information about contraception. These laws are almost never invoked and are probably unconstitutional.
- L. **Government Policy** As of September 1971, 28 states had no laws restricting information on, sale, or distribution of contraceptives. (Most of the remaining 22 had mild restrictions, e.g., on vending machines or place/manner of sale, or sale to minors, etc.). Many states have adopted positive policies toward contraception.^e In 1973, the American Bar Association formally urged "that states eliminate existing legal restrictions on access to contraceptive information, procedures . . . and supplies."
- M. **Miscellaneous**

*Footnotes referred to are to those which follow the Federal tabulation.

VENEZUELA (60)*

- A. **Imports—General** Imports are permitted, if medicine is registered. For private import for personal use, a medical prescription must be enclosed. For commercial imports, a license is required from Ministry of Development. Easy to obtain as no lack of foreign exchange.
- B. **Imports—Duties** Duty is 20% as of May 1973 on condoms; 1% on pills.
- C. **Manufacture** Authorization to manufacture from Pharmaceutical Department is necessary. National production is not subsidized by Government. A test of a medical product (in some cases only) is performed in *Instituto Nacional de Higiene*. One type of pill (Norlestrin) now compounded locally, and it pays a low tariff on raw materials.
- D. **Condoms—General** Condoms are sold legally in pharmacies only but, in fact, 90% are sold by vendors.
- E. **Condoms—Price and Official Distribution** There is official distribution of contraceptives in Caracas in the *Maternidad Concepción Palacios* and at family planning clinics. The commercial price is not controlled and the median price is US 69¢ for 3.
- F. **Pills—Pharmacy and Prescription Requirements** Legally sold in pharmacies on prescription only. In practice can be obtained without prescription since almost half of total practicing physicians are in Caracas and there is only one physician to 3,000 people in some rural areas.
- G. **Pills—Price and Official Distribution** Prices are controlled by Government. Median price is US \$2.23 per cycle. See line E.
- H. **Pills—Other** Every new prescription drug requires a health permit if sold commercially. Considerable delay is involved.
- I. **IUD** See line E.
- J. **Commercial Advertising** There is no legal prohibition on commercial advertisement of prescription drugs, but it is not yet done. Commercial advertising requires approval of Administration of Pharmacies which has, so far, always been refused. Recent ads for condoms may be stopped.
- K. **Publicity for Family Planning**
- L. **Government Policy** A Government-sponsored family planning program is carried out at the *Maternidad Concepción Palacios* (in Caracas). The Family Planning Association of Venezuela runs 52 clinics in the country and gets some Government funding and some private funds. Outside the capital there are some 31 clinics run by the Association. Most of contraceptives in clinics are from international gifts. The Church is relatively tolerant.
- M. **Miscellaneous**

*Source of information: Pharmacy Division of the Ministry of Health and Welfare, and Westinghouse Population Center Study on Venezuela of 1972.

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THE DISTRIBUTION AND SUPERVISION OF ORAL CONTRACEPTIVES

Statement by IPPF Central Medical Committee

At its meeting in London on 2-4 April 1973, the IPPF Central Medical Committee agreed on a statement embodying certain guidelines for IPPF member Associations with regard to the distribution of oral contraceptives and the supervision of women taking them. This statement was approved by the IPPF Management and Planning Committee which met on 6-8 April.

"When oral contraceptives were first introduced, it was reasonable to restrict the use of these unknown and relatively powerful drugs to medical prescription. However, as experience has extended over a decade and a half and grown to tens of millions of users, the IPPF Central Medical Committee is increasingly confident that this method of family planning is highly effective and relatively simple to use, and that the health benefits almost certainly outweigh the risks of use in nearly all cases. It has been found that the complications that do occur are difficult to predict by examination prior to use, but that access to follow-up facilities can be important, especially in enhancing continuation rates.

Continuation rates among oral contraceptive users have sometimes been disappointing, but the wide acceptability of the method enables it, by preventing unplanned pregnancy and induced abortion, and permitting the satisfactory spacing of children, to make a contribution towards reducing maternal mortality and increasing the quality of life for parents and their children.

The limitation of oral contraceptive distribution to doctors' prescription makes the method geographically, economically and sometimes culturally inaccessible to many women. As a consequence, deaths and sickness of women and children, which might otherwise be avoided by the voluntary limitation of fertility, continue.

In many countries the regulations that are supposed to limit oral contraceptives to doctors' prescription are generally ignored. Those who can afford to purchase them from commercial outlets do so without medical supervision. However, national and international agencies abide by regulations, only distributing free or sub-

sidized pills through doctors. As a result there is discrimination against many of those most urgently in need of protection against unplanned pregnancy.

The Committee recognizes that death due to thromboembolic disease is a rare but demonstrable complication of the use of oral contraceptives, and that certain endocrine and metabolic changes take place in some users. Nevertheless, the Committee feels that routine examination contributes little to reducing the risks because it is rarely possible to identify susceptible women. The Committee points out that some unknowns remain concerning potential beneficial or harmful long-term side effects, but these are most likely to be elucidated by case-control studies, which can be carried out independently of the method of distribution. The Committee believes that whoever normally meets the health needs of the community, whether doctor, nurse, traditional midwife, pharmacist or storekeeper, can be an appropriate person to distribute oral contraceptives. The Committee concludes that responsible, simple methods of non-medical distribution of oral contraceptives can and should be devised, and recommends member Associations to:

1. Pioneer innovative schemes for distribution of oral contraceptives (together with all other contraceptives).
2. Educate governments and the medical profession on the health benefits to women and children of non-medical methods of distributing oral contraceptives.
3. Plan programmes of information and education describing the use of oral contraceptives, relative contraindications and possible side effects.
4. Reorientate clinic facilities so that the public has access to trained personnel in cases where the woman is uncertain about the use of oral contraceptives, has a complicating medical condition, or requires reassurance."

YUGOSLAV RESOLUTION ON FAMILY PLANNING*

Under Article 176 of the Constitution of the Socialist Federative Republic of Yugoslavia, the Federal Assembly, at the separate sessions of the Federal Council, April 25, 1969, and of the Council on Social and Health Matters, April 25, 1969, adopted the following resolution.

The ability of parents to determine the number of children and intervals between births is one of the fundamental human rights and duties.

The fulfillment of this human right includes society's guarantee to parents of appropriate information and of the necessary means for family planning, so that they may determine the number of their children and the intervals between births before the conception of a child.

The changed position of women in society has altered the structure of the family and relations within it. It has also decisively influenced the fulfillment of a woman's function of motherhood. A lower birth rate and the reduction of infant mortality result from these changes. On the other hand, the size of a family is more and more influenced by the fulfillment of the wish to achieve a better life and a higher standard of living. Deliberate family planning is in the common interest both of parents and of society. The creation of conditions assuring that every child is born when desired and is really wanted is of particular importance to women, to their psychological and physical well-being and to the proper fulfillment of their parental duties, thus contributing to the upbringing of a healthy younger generation. Under present conditions, family planning, as a continuous human and social effort, assures noteworthy social, medical, economic, political and other advantages.

The most primitive method—the termination of pregnancy—is still being applied on a large scale as a form of birth control. For this reason, those forms of birth control which will make it possible for man to gain mastery over the laws of biological reproduction and thus eliminate anarchy in this sensitive domain, are important factors in the struggle against the termination of pregnancy,

which is highly injurious to health and dangerous to a woman's life.

This undoubtedly requires a thorough study of family planning and birth control, as well as coordinated action within the educational system and various measures of preventive medicine aimed at the prevention of unwanted pregnancy.

The fulfillment of the social objective of family planning and the regulation of conditions governing the termination of pregnancy requires an active role including definite obligations and duties on the part of social services, medical institutions and social and other organizations, associations and institutions. It also requires the creation of the necessary conditions for the implementation of a clear social policy in this sphere. In the complex of questions which are of vital importance for the health of women and family relations, particular importance should be placed upon family planning and other matters relating to the termination of pregnancy, in view of the following facts:

1. Surveys of demographic trends indicate that birth control and certain forms and methods of family planning are already being implemented successfully in many parts of Yugoslavia.

2. Termination of pregnancy which is not only obsolete and primitive but also injurious to the health and often dangerous to the life of women is still the basic method of birth control while the extension of contraceptive methods is lagging behind.

3. The present laws on the termination of pregnancy are designed to prevent illegal abortion and to assure that terminations of pregnancy are performed in medical institutions as required by the medical and social indications. However, greater emphasis should be laid on the legislative regulations concerned with protection not only of a woman's health, her psychological and physical well-being, but also with the protection of the interests of the family and society as a whole. The relevant legis-

lative regulations should primarily emphasize and promote the prevention of unwanted pregnancy as the basic form of birth control.

4. Careful attention to the spreading of contraception and stimulation of activity in this direction has proved the most expedient way of fostering family planning.

II

Having adopted the view that the number of the children desired and the intervals between births are questions to be decided by parents themselves as a matter of right, and that they should have access to the most up-to-date methods and techniques, it is necessary to call attention to the tasks of the social services, the scientific institutions and the social and other organizations and institutions.

1. Within the framework of the educational system, particular attention should be devoted to the preparation of youth in order to give them proper understanding of relations between man and woman as well as of harmonious and responsible matrimonial relations and of the proper fulfillment of parental duties within the family. Sex education should be included in the programs of all educational institutions, giving due consideration to the age of the children and to the adolescents' stage of mental and physical development. According to the statement above, educational projects and regular school courses in all educational institutions should be worked out in accordance with the level and type of school or university department. Appropriate programs should also be worked out for other groups which have a big concentration of youth, such as: young men during their service in the Yugoslav People's Army, voluntary youth work projects; student and youth hostels; pre-military training courses; hygiene courses in rural areas and other forms of youth activity in the countryside; young parents' guidance centres; parent schools, curricula, etc.

Workers' and people's university programs should also include problems from this domain and develop corresponding activities.

Educational activity in this sphere should be based primarily on the need to promote better human relations and greater respect for the human personality and to improve health and hygiene standards. The mass communication and information media have borne an important role in the development and pursuit of educational activity aimed at the promotion of healthy relations between the sexes.

2. In the domain of public health and social welfare, particularly within the sphere of activity of general practitioners of medicine, efforts should be directed at the systematic spreading of knowledge as to the use of contraceptive methods and techniques and their adjustment to the needs of both partners. The development of new contraceptive methods and techniques should be followed and studied. A corresponding place should be given to information about this matter in the education of all teaching, medical and social work personnel. In the

implementation of this resolution, a decisive role will be played by personnel having all the necessary education.

3. The most expedient solution should be found for the problem of financing these activities. Due consideration should be given to social security funds and other sources for the financing of preventive medicine, to the funds of the educational communities and to other sources, including also the participating individuals themselves. On the initiative of the republic or autonomous province concerned, the needs, possibilities and method of appropriation of the federal funds required shall be examined by the federal authorities, and definite solutions consistent with the public interest shall be proposed to the Federal Assembly.

III

1. The right of parents to decide themselves on the number of children and on the intervals between individual births can be realized in the full sense by the use of contraceptive methods and techniques. The termination of pregnancy, as the least desirable form of birth control, is merely an extreme solution enabling women to discontinue an unwanted pregnancy if it has already occurred.

2. If unwanted pregnancy occurs, health and social services should encourage the parents to renounce their decision to discontinue the pregnancy by calling attention to the fact that the discontinuance, even if performed in a medical institution, is actually a surgical operation, which to a greater or lesser extent affects a woman's health both from the physical and psychological points of view. On the other hand, this should provide a suitable opportunity of instructing a woman, or both partners on the up-to-date means and methods for the prevention of unwanted pregnancy. Should a woman insist on the termination of the unwanted pregnancy, the discontinuance may be performed, but only if other conditions prescribed have been satisfied.

3. In order to encourage contraception, the regulations should require that the beneficiary pay part of the cost of the termination of pregnancy. The per cent of this participation in the total cost should depend on the resources of the woman or the family concerned.

In order to assure more humane treatment for a woman who terminates a pregnancy in a medical institution it is necessary to simplify the procedure and adjust it to the conditions that prevail in different environments. Only the basic principles governing the termination should therefore be determined by federal law.

4. In view of the existing differences in the level of development of public health services in their activities on contraceptive methods and techniques, the accessibility of these services to those concerned, as well as in the general level of health education, hygiene, tradition and prejudice, it is desirable that these matters be regulated in a manner that best corresponds to the respective environments in the individual republics and auto-

mous provinces. Particular attention should be devoted to the specific conditions of rural environments.

5. Public action in the sphere of family planning, particularly in educational activity and the prevention of unwanted pregnancy, should be coordinated with demographic research, statistical records and the analysis of certain social and other indicators. The latest scientific results should be borne in mind.

IV

Having adopted these views on family planning and on the regulation of conditions governing the termination of pregnancy, the Federal Assembly emphasizes that educational, social security, health and medical

institutions, socio-political and other organizations and associations, public authorities, and others must fully engage in implementing the actions determined by this resolution.

The Federal Executive Council and the Federal authorities concerned shall provide for the implementation of this resolution and shall notify the Federal Assembly from time to time of the progress made in this respect.

*Službeni list SFRJ 1969/20 (p. 612, No. 307).
Translation provided by "Institute for Family Planning",
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