The Idea of Maternal Protection Act and Its Application: Statements from the Administration

JMAJ 55(3): 221–224, 2012

Yoko IZUMI*1

Key words Maternal Protection Act, Induced abortion, Maternal and child healthcare

Introduction

Eugenic Protection Act (Act No. 156 of 1948) was first enacted in 1948 as legislation introduced by Diet members. In 1996, it was then partially revised and its title changed to Maternal Protection Act because some parts of its purposes and provisions based on eugenic ideas were considered to discriminate against people with disabilities (as explained in the revision proposal of the time).

The Overview of Maternal Protection Act

The purpose of Maternal Protection Act is to protect the life and health of women by stipulating matters concerning sterilization and induced abortion (Article 1) (**Table 1**). With regard to induced abortion, it states that, provided consent from both the pregnant woman and her spouse is obtained, a designated physician is allowed to perform the procedure when: 1) the continuance of the pregnancy or labor can severely damage maternal health due to physical or economic reasons, or 2) the pregnancy is the result of a sexual assault or intimidation.

Abortion is prohibited under Penal Code in general. The act of induced abortion per se falls under a violation of Penal Code, however, it is legalized as long as the situation satisfies the requirements specified in Maternal Protection Act. In this manner, designated physicians under Maternal Protection Act can be considered as one of the requirements to void the illegality of abortion under Penal Code, and therefore the role of prefectural medical associations that are entrusted with the task of appointing those designated physicians is significant.

The Statistics on Maternal Protection in Japan

Physicians and designated physicians who have performed sterilization or induced abortion procedures are required to submit the summary results to their prefectural governors (Article 25). The results are then tabulated and released by Statistics and Information Department, Minister's Secretariat, Ministry of Health, Labour and Welfare of Japan.

The national annual frequencies of legal abortion and their rates (as in the number of cases of legal abortion per 1,000 females of ages 15 to 49) since Year 1955 (**Figs. 1 and 2**) show a general tendency of decline. There were 1,170,143 cases of legal abortion in Year 1955, but it dropped to 223,405 in Fiscal 2009 (**Fig. 1**). It is also worth noting that the overall annual frequency rate has been below 10 since Fiscal 2006. In Fiscal 2009 alone, the average frequency rate among prefectures was 8.2, with Tottori being the highest at

*1 Director, Maternal and Child Health Division, Equal Employment, Children and Families Bureau, Ministry of Health, Labour and Welfare of Japan, Tokyo, Japan (izumi-yoko@mhlw.go.jp).

This article is a revised English version of a paper originally published in the Journal of the Japan Medical Association (Vol. 140, No. 2, 2011, pages 348–350). The original paper is based on a lecture presented at "Symposium: The Idea of the Maternal Protection Act and Its Application" during FY 2010 Workshop for Instructors of Family Planning and Maternal Protection Act, held at the JMA Hall on December 4, 2010.

Table 1 The overview of Maternal Protection Act

Maternal Protection Act

I. Purpose

- By stipulating matters concerning sterilization and induced abortion, it aims to protect the life and health of women. (Under Act No. 105 of 1996, Eugenic Protection Act was re-titled Maternal Protection Act.)

II. Sterilization

- Sterilization refers to the operation that disables the ability to reproduce without removing the gonad.
- Provided that consent from both the pregnant female and her spouse is obtained, a physician may perform an induced abortion when: 1) the pregnancy or labor can severely damage maternal health, or 2) the female already has several children and her health level will severely deteriorate with each additional labor.

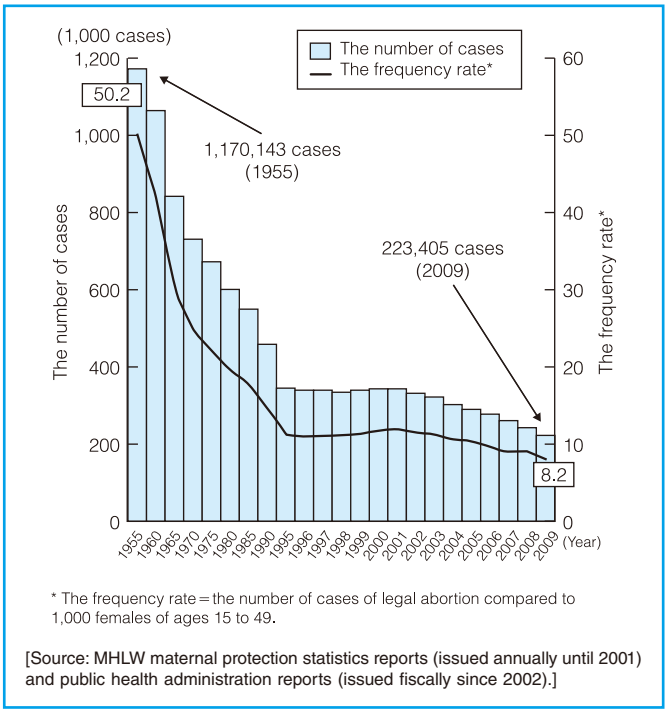
III. Maternal Protection

(1) Induced abortion

- Induced abortion refers to the act of inducing the expulsion of the fetus, placenta, and other appendages out of the mother's body during the period when the fetus cannot maintain its life outside the mother's body.
- Provided that consent from both the pregnant woman and her spouse is provided, the designated physician under Maternal Protection Act may perform induced abortion, if:
  1) the continuance of the pregnancy or the labor can severely damage maternal health due to physical or economic reasons, or
  2) the pregnancy is the result of a sexual assault or intimidation.

(2) Practical lessons of birth control

- Physicians and the practical instructors for birth control designated by prefectural governors offer practical lessons on birth control.



* The frequency rate = the number of cases of legal abortion compared to 1,000 females of ages 15 to 49.

[Source: MHLW maternal protection statistics reports (issued annually until 2001) and public health administration reports (issued fiscally since 2002).]

Fig. 1 The annual frequencies of legal abortion since 1955 and their rates in Japan

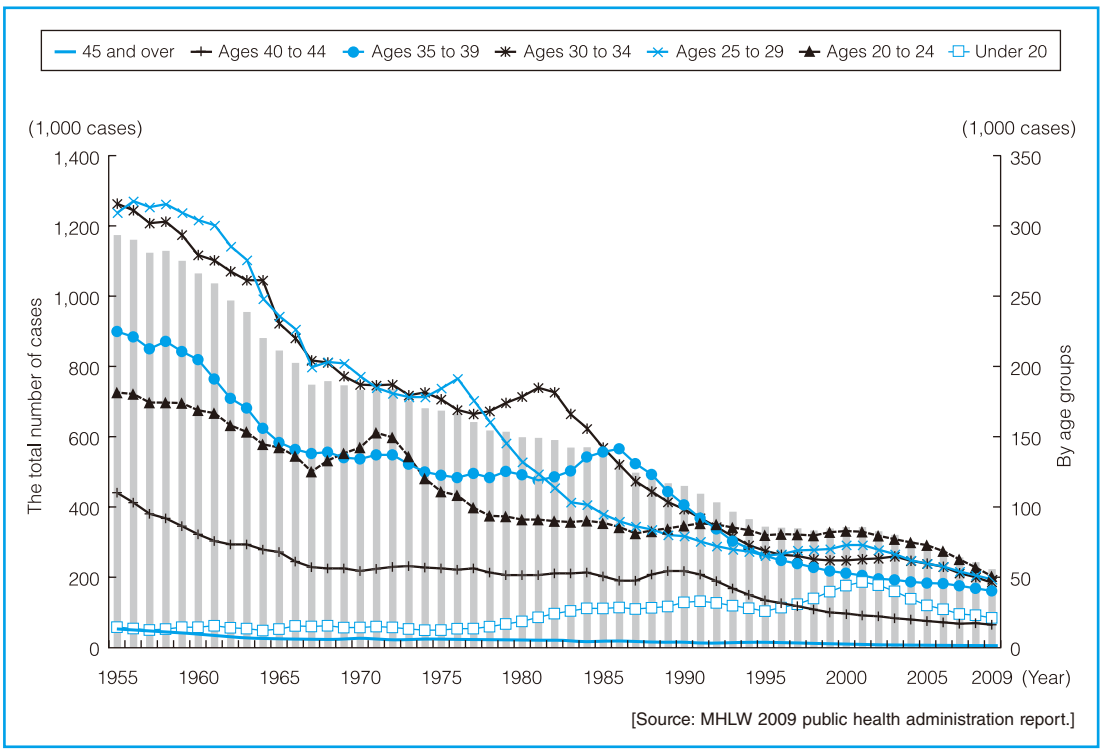


Fig. 2 The changes in the annual number of cases of legal abortion in Japan since 1955 by age group

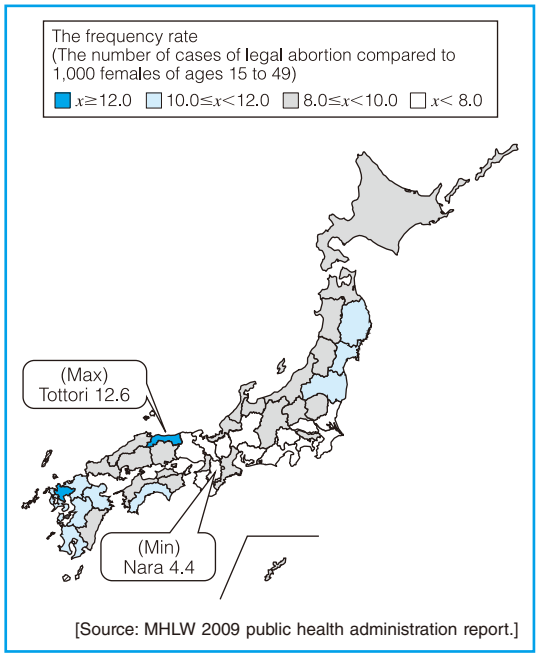


Fig. 3 The frequency rate of legal abortion by prefecture in Fiscal 2009 in Japan

Table 2 Overall frequency rates of legal abortion among teens in Japan in 2009: The prefectures with highest and lowest figures

	The frequency rate*	The number of cases
National	7.1	21,192
Three highest prefectures		
Kochi	11.5	172
Fukuoka	11.4	1,375
Ehime	9.9	318
Three lowest prefectures		
Nara	3.5	119
Saitama	4.1	698
Yamagata	5.2	146

* The frequency rate = the number of cases of legal abortion among teens compared to 1,000 females of ages 15 to 19.

[Source: MHLW 2009 public health administration report.]

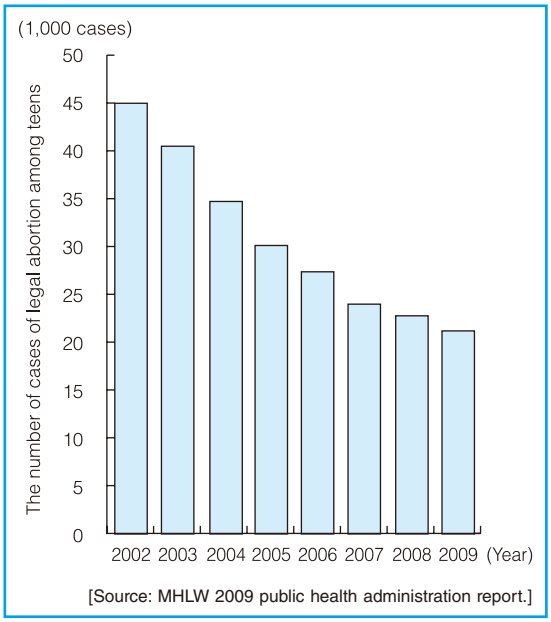


Fig. 4 The annual frequency of legal abortion among teens in Japan since 2002

12.6 and Nara being the lowest at 4.4 (**Fig. 3**). However, there was a considerable disparity among prefectures (**Table 2** and **Fig. 3**).

In the "Healthy Parent and Child 21" project (since 2001) that states the directionality of maternal and child healthcare in Japan in the 21st century, the frequency rate of legal abortion among teens is used as an index for "reinforcing health and promoting health education for adolescent." The recent data on legal abortion among teens show a decreasing tendency (**Table 2** and **Fig. 4**). The second mid-term assessment (March 2010) explains the reason for that tendency, "Factors such as the reduced frequency of sexual intercourse and the approval of oral contraceptives have been pointed out, but the analysis has not necessarily been accurate and thus more detailed analysis is required." In addition, expecting a further decline by promoting correct knowledge through proper sex education, the project urges to encourage efforts on a continuous basis in order to reduce the number of induced abortion among teens.