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Review of Abortuses Handling in Hong Kong: A Case Study

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ABSTRACT

Purpose – The purpose of this paper is to review the case of complaints on abortus handling and to suggest solutions for comforting the parents and providing respect and dignity towards abortuses.

Design/methodology/approach – The paper is a review of different stakeholders' point of view on the abortuses issue. The story of Angela and Kelvin, which is one of the most representative cases, is presented as a case study.

Findings – More parents who experienced miscarriage before 24 weeks pregnancy are willing to share their experiences and struggled for arranging a legal funeral for their child. The government understands the needs of the parents and starts to set up more Angel Gardens in public and private cemeteries. But, funeral and cremation services are not comprehensive. Mainland China and overseas measures on handling abortuses and providing support to

parents are being analyzed. Moreover, ethical concern on handling abortuses as clinical waste is being discussed.

Originality/value – Although fetuses of less than 24 weeks cannot be given a Certificate of Stillbirth, respect and dignity can be shown towards them through flexible regulation. After discussing the measures on handling abortus from other countries, their current regulation are feasible to apply in Hong Kong.

KEYWORDS: Handling abortus, Miscarriage, Policy review, Extremely preterm birth

1. Miscarriage

Miscarriage is actually a common condition that even healthy women may experience during their pregnancy. American Pregnancy Association (2018) stated that during the childbearing years of women, the chance of having a miscarriage can range from 10%-25%, and for healthy women, the average is around a 15%-20%. Moreover, a woman who has had a previous miscarriage has a 25% chance of having another.

1.1 Reasons for miscarriage

American Pregnancy Association (2018) reported that the causes for miscarriage are varied and usually cannot be identified. During the first trimester, the most common cause of miscarriage is chromosomal abnormality and most chromosomal abnormalities are the cause of a damaged ovum or sperm cell, or due to a problem when the zygote went through the division process. Other common cause of miscarriage included hormonal problems, infections or maternal health problems. Moreover, improper lifestyle such as smoking, drug use, malnutrition, or excessive caffeine intake increases the chance of miscarriage. Also, maternal age is one of the contributing factors. The higher the maternal age, the higher the chance of miscarriage. Andersen (2000) investigated that the risk of spontaneous abortion was 8.9% in young women aged 20-24 and 74.7% in those aged 45 or above.

1.2 Psychological effect after miscarriage

Most women may suffer from grief when they lose their child. Toffol, Koponen & Partonen (2013) investigated that experience of miscarriage may lead to bad psychological well-being and higher risk of having psychiatric disorders. Psychological well-being is associated with depressiveness and impaired functioning. Beutel et al. (1995) suggested that behaviors expressing the grief included but not limited to sadness, yearning for the lost child, and searching for a meaningful elaboration of the loss. Although grief reaction is a normal process for the women to help them walk through the pain, grief with a strong sense of self-blame may result in ‘pathological grief’. Toedter, Lasker & Janssen (2001) pointed out that ‘pathological grief’ may cause difficulty in handling normal daily activities such as interacting with other people.

The five stages of grief proposed by Elisabeth Kübler-Ross involve denial, anger, bargaining, depression, and acceptance. When the women are in the stage of anger, they had been suffering from negative emotions such as shock, loneliness, frustration, and irritability etcetera (Sands Australia National Council, 2012). Adding to the problem, they cannot receive sufficient psychological support from the hospitals or medical staff and therefore they may blame on the medical staff and complain for not caring for their feeling.

2. Case of abortus handling

Kelvin and Angela requested to retrieve the body of their son, Wally, in Princess Margaret Hospital after the miscarriage (Lau, 2017). The hospital replied that under 24 weeks' fetus was not classified as a stillbirth (Lau, 2017). Therefore, their request was rejected by the hospital since abortuses are classified as clinical waste that should be treated by the hospital ("Less than 24", 2017). Normally, the dead body is claimed by funeral service providers, as well as for the abortus with the Certificate of Stillbirth (Form 13) ("Less than 24", 2017). However, less than 24 weeks fetuses are not eligible to receive Form 13 and therefore fail to use the service from funeral service providers. The hospital then recommended Kelvin and Angela sought help from the Muslim cemeteries or pet cremation services ("Less than 24", 2017). Later, a spokesman for the Hospital Authority ("HA") announced that parents could take back the pregnancy remains of their less than 24 weeks' child (Lau, 2017). Finally, the hospital apologized to Kelvin and Angela for recommending pet cremation service for their child ("Less than 24", 2017).

But, the hospital still refused to issue Form 13 since Angela only experienced 15 weeks pregnancy before miscarriage (Lau, 2017). As a result, Kelvin and Angela are unable to arrange a legal and general funeral and bury for their son even though they can take him back. The unpleasant event became a motivation for Angela to fight for amending the regulation on Form 13 with the Legislative Council ("Less than 24", 2017). Thus, they sought help from a lawyer, two legislators and Catholic diocese (Lau, 2017). The Diocesan Board of Catholic Cemeteries is willing to help these parents. They applied amendment in planned uses of cemetery sites on the basis of their religious belief so that Wally could be held a funeral ceremony in Catholic Diocese parish and the body could place in "Angel Garden" eventually (Lau, 2017).

2.1 Little Baby Concern Group

Besides Angela, the founder of the group, Tse Mei-ye, also work hard to voice out for these abortuses. Also, when more parents were willing to share their own experiences on miscarriage and difficulties on arranging a funeral for their baby that under 24 weeks pregnancy ("Respect life fight", 2018). Tse established the "Little Baby Concern Group" to gather the parents with similar experience, and offer bereavement council service and support to help with the parents on retrieving their babies. Their members include the grief parents, their family members, relatives, and people from different industries such as social workers, counseling psychologists, teachers, housewife, nurses, and different religious members. They share the same view of striving respect and care to the baby under 24-week pregnancy and against the measure of handling abortuses as clinical waste. Tse attended different types of discussion, conference, legislative council meeting and corporate with legislative council members to give suggestions on amending the current regulation, to handle abortuses with respect and care the need of parents.

3. Point of views among stakeholders

3.1 Religious parties

The hospitals' practice of handling abortuses as medical waste raised the public's concern because of ethical issue behind this case. Although the less than 24 weeks fetuses are not classified as a human according to current regulation, it is undeniable that the fetus once lives. The parents regard the fetus as the member of the family. Therefore, treating them as clinical waste is unacceptable to them. For the perspectives of religious groups, they treat the fetuses as a human when they are formed. For example, from Psalm 139:16 "Your eyes saw my unformed substance; in your book all my days were recorded, even those which were

purposed before they had come into being.”, from muslin, Qur'an 5:3: “Whosoever has spared the life of a soul, it is as though he has spared the life of all people. Whosoever has killed a soul, it is as though he has murdered all of mankind, and for Catholic”, Didache 2:1–2 [A.D. 70]: “You shall not procure [an] abortion, nor destroy a newborn child”. It shows their attitude to life.

3.2 Parents

The parents reported that they felt helpless and angry with the arrangement since the current policy cannot protect their right and fails to give human identity to their babies (“Without the certificate”, 2018). Since the parents stated that they were not informed about the processes, they did not know that the abortus would be handled as clinical waste and therefore they did not request for taking back their child (“Sending abortus to”, 2018). When the parent realize that their child is treated as clinical waste, they will feel angry and blame on themselves, as well as the medical staff (“Less than 24”, 2018). Although the parents can take back their child, it is difficult to bury their babies under the current regulation, so they did not even have a place for remembrance of their child.

There are some reasons for parents having a bad impression towards the medical staff after experiencing a miscarriage. First, there is no midwife for less than 24 weeks labor. Women who undergo less than 24 weeks labor may be lack of care during labor and after birth when there is no midwife present since midwives are experienced in handling these cases and able to provide mental support. Moreover, before 18 weeks of labor, there is no grief team for the parents. Needs of such parents may be neglected since they experience the same pain as the parents losing their larger than 24 weeks child. Furthermore, a mother had an unpleasant experience with medical staff since the staff said to her that “It’s just a puddle of blood, it’s useless to reclaim it and cremate it”, which made her felt heartbreaking (“They are the parent”, 2018). It is unacceptable that the attitude of the medical staff was “unfeeling” towards the parents who just lost their child and unable to show empathy to these parents (Hannebaum, 2014).

3.3 Doctors

Doctors can take a side on whether distributing the Certificate of Stillbirth without bearing legal responsibility but it will be against the medical practice and rules of the public hospitals. In fact, doctors will respect the decision of the mother for arranging a funeral to their child since it does help to process grief. There is no room to adjust the standard of 24 weeks; otherwise, it will break away with the international standard. Furthermore, it is impossible to revise the requirement to distribute Form 13. Even lowering the standard of number of weeks of pregnancy, there are still victims that fail to be distributed a Form 13.

3.4 Legislative Councilors

Legislative councilor Tam Man Ho raised three suggestions on this issue. First, he suggested making the amendment on Cremation and Gardens of Remembrance Regulation, to let less than 24 weeks fetuses be buried or cremated legally (“They are the parent”, 2018). Second, he recommended to set up gardens in three government’s cemeteries in Hong Kong Island, Kowloon and the New Territories so that parents could hold a ceremony for remembrance of their child no matter they had religious belief or not (“They are the parent”, 2018). Third, the unclaimed abortuses in hospitals should also be provided cremation and the government should set up a public cemetery for these fetuses (“They are the parent”, 2018).

Another Legislative Councilor Fernando Cheung Chiu Hung also showed his concern towards this issue. He suggested that medical staff can provide sufficient information for the parents in order to help them make a clear decision (Cheung, 2018). A mother shared her experience of receiving inducing labor. She said after the surgery they needed to decide whether they meet the child and how to handle the body within a short period. Nonetheless, they did not receive any details from medical staff and did not have enough time to consider (Cheung, 2018). Moreover, medical staff should treat the parents with empathy and care in order to provide psychological support (Cheung, 2018).

4. Review of the current measures

According to Hong Kong legislation Births and Deaths Registration Ordinance (Cap. 174), doctors may issue a Certificate of Stillbirth (Form 13 under the Ordinance) in respect of a stillborn child (Press Release, 2017, para.7). The current regulation does not specifically state 24 weeks is the line to classify whether the fetus is a stillbirth. However, Hong Kong College of Obstetricians and Gynecologists (HKCOG) and Hospital Authority recognize the international standard on National Health Service to define stillbirth is a fetus reaches to 24 weeks pregnancy or more than 500 grams for uncertain gestational age (Press Release, 2017). Fetuses before 24 weeks have not developed the vital organs and the lungs are not yet functioning so they perform low survival rate (National Health Service, 2017). All the unclaimed fetuses are treated as clinical waste in Hong Kong hospitals. Therefore, the procedure of disposal is the same as handling clinical waste. If the parents refuse their child being handled as clinical waste, they have to take back the body and arrange burial or incineration service by themselves.

In fact, the number of receiving HA approval to collect the less than 24 weeks abortus is merely 23 cases within three years (Press Release, 2017). A doctor explained that the low number was due to insufficient promotion on parent reserve the right for getting back the abortus (“The funeral requirement”, 2018). Besides, different hospitals have different policies on retrieving the remains of abortus. Also, Dr. Cheung, the Consultant of Department of Obstetrics and Gynecology, Prince of Wales Hospital said that parents did not request to retrieve the abortus in the old days but nowadays people change their mind and want to plan a proper funeral for their baby (Less than 24, 2018). Unfortunately, parents can only take back less than 24-weeks-abortus but burial and cremation service providers refuse to provide service to them.

A legal burial or cremation service for handling the abortus is only available in private service providers since the cemeteries and crematoria under the Food and Environmental Hygiene Department do not accept the application for those less than 24 weeks abortus. The parents can only choose service in the private sector in religious groups or pet cremation services. For instance, the “Angel Garden”, which provides comprehensive service for abortus, is under government surveillance. For couples who do not have any religious belief or have other religious belief, they can only choose the pet cremation service. But, the ash cannot be placed in the niches. Actually, not many couples choose to cremate their child by pet cremation service because it is unacceptable that their child is treated as a pet. Besides, the high service fee for private pet cremation is also the concern for parents. The twilight zone of arranging cremation for abortuses by pet cremation is not workable. A manager from a pet cremation company claimed that no one asked for cremation service for less than 24 weeks abortus, the company would not handle these cases and was not clear about the current regulation (“Funeral service provider”, 2017). The usual practice of funeral parlors is followed by documents from the government or hospitals.

4.1 Previous exemption case

Mrs. Chung underwent termination of pregnancy in a day before 24 weeks gestation. Her husband tried to approach undertaker of burials but was rejected due to the lack of Form 13. Even with the help of chaplaincy, the hospital refused to give the Form (RTHK, 2017). Later, the hospital replied that the baby can be taken back without Form 13. Public cemeteries rejected Mr. Chung's application and then he discussed with another undertaker of burials whether pet cremation service would accept his application (RTHK, 2017). Finally, with the help of Legislative Councilor, the Food and Environmental Hygiene Department exercised its discretion to allow public cremation service for Mr. Chung's son and had a niche (RTHK, 2017). Mr. Chung's case shows that the government actually has discretion on handling legal burial of abortus in public cemeteries (RTHK, 2017).

4.2 Current legislations

Since the current legislation does not restrict the distribution of the Certificate of Stillbirth on pregnancy week, the doctor can make their own decision. If a doctor issues the certificate, the abortus will be signified as a stillbirth (even less than 24 weeks) and have the same right as a stillbirth under the current legislation.

The first controversy is the practice will against Offences against the Person Ordinance (2015). Since less than 24 weeks fetuses are viewed as a body part or human tissue, abortion can be done before the first 24 weeks gestation. However, pregnant women who decide to undergo an abortion need to prove that the continued pregnancy will harm their mental health, and also need approval by two doctors. After 24 weeks of pregnancy, abortion surgery can only be done under two doctors' strong convince if the continuation of pregnancy will be maternal life-threatening. When the fetuses are larger than 24 weeks, they will have a higher possibility to stay alive. Therefore, abortion after 24 weeks pregnancy is considered as unethical.

The second controversy is that regulation of before 24 weeks pregnancy abortion will be affected. If the parent can receive from 13 before 24 weeks gestation fetus, these fetuses will be considered as having great potential to become a human being, which is same as the after 24 weeks stillbirths. Therefore, the current regulation on abortion surgery before 24 weeks pregnancy should be as strict as the standard of after 24-week pregnancy abortion, and thus leading to more surveillance and limitation on abortion of before 24-week pregnancy. Mothers cannot conduct the medical termination of a pregnancy based on a physical or psychiatric problem, and physical or mental abnormality reasons.

The standpoint on not recognizing the human identity for before 24-week fetus is undoubted. Therefore, improvement plan should focus on confronting the parents and being sensitive to provide support.

4.3 Measures in Mainland China and Overseas Countries

In Taiwan and mainland China, disposal of the less than 24 weeks fetuses has been a controversy too. Ministry of Health of the People's Republic of China announced the 'Baby and Fetus remains and Placenta Management Regulation', the management of remains of fetuses and babies should follow the regulation of Funeral Management Regulation ("The funeral requirement", 2018). Handling of fetus remains should be done by parents ("The funeral requirement", 2018). If they have difficulties, they can entrust the handling of a fetus to a funeral department. In addition, handling remains of fetuses and babies as clinical wastes are forbidden ("The funeral requirement", 2018).

In Australia, since the less than 20 weeks fetuses are not recognized as a human according to the local law, Birth, Deaths and Marriages Registry will not issue a registration of birth (Sands Australia National Council, 2012). As these fetuses are not eligible to have

registration of birth, they do not have the registration of death too (Sands Australia National Council, 2012). Still, there is no constraint on how the parents handle the remains of their child (Sands Australia National Council, 2012). The way of handling the remains is up to parents' decision. Parents can take back their child and bury at home, use the communal cremation service offered by the hospital, choose a hospital-arranged funeral service, or organize a private funeral. For psychological support, an organization called SANDS provides support to parents who experience miscarriage, stillbirth and newborn death. A range of services is provided to relieve the pain of these parents (Sands Australia National Council, 2012). For instance, 24/7 National Support Line and Email Support are provided for parents to share their feeling and thoughts (Sands Australia National Council, 2012). If parents want to have a face-to-face communication, they can choose the Live Chat service (Sands Australia National Council, 2012). They can join the local support group to meet other parents who have the same experience (Sands Australia National Council, 2012). The organization also cares about the feeling of the fathers and set up a dedicated line for men, the Men's support line (Sands Australia National Council, 2012).

The National Health Service provides a guideline on the preterm birth before 24 weeks of pregnancy and focuses on maternal preference and mental support to ensure the babies are treated with care and respect (National Health Service, 2017). The first step of medical staff is to provide clear guidance for the parents about different options of handling the abortus. Therefore, the role of the midwives are important since they are responsible for monitoring the condition of mothers, provide mental support to comfort the depressed parents and provide solutions for parents according to their past experiences (National Health Service, 2017). The hospitals following NHS guideline would arrange the baby in Hospital Mortuary. The bereavement support such as designing mementos by photographs and memory box will be provided to the parents (National Health Service, 2017). The mothers can request the Maternity Unit staff to provide the certification of birth with the details of delivery date, time and weight of the baby (National Health Service, 2017). The parents can visit the baby in the Chapel of Rest or take their baby home for a period of time (National Health Service, 2017). Selection of baby's funeral on Born too Soon service is simple and free of charge, or they can choose private funeral services which allow customizing arrangement (National Health Service, 2017).

Although both Hong Kong and the United Kingdom (UK) do not admit the fetus less than 24 weeks as stillbirth, the plans in the UK are humanizing with care to the parents and show respect to the abortus. Giving effective communication and providing a clear procedure are the must for the mothers. The practice of UK is under the NHS guideline but its principle of disposal of pregnancy remains is based on communication between medical staff and the mother, and maternal decision. Women reserve the right of handling the baby after preterm birth (Human Tissue Authority, 2015). Medical staff of the UK hospitals will provide documents with explanations on the options (Human Tissue Authority, 2015). Parents can settle the burial for their child depends on their religious belief. If the mothers do not want to receive any information and avoid being involved in the choice of handling the pregnancy remains right after surgery, all information should be prepared for afterward request (Human Tissue Authority, 2015). Also, abortus disposal would be treated as "sensitive incineration" rather than clinical waste.

5. Recommendations

Some may question why the parents insist in arranging a funeral for their baby. Although the baby lived only for a short time or died prior to birth, he or she is still a part of the family. Thus, a funeral service becomes a very important part of the grieving process since it is a tool to express sorrow (Sands Australia National Council, 2012). Furthermore, it provides an opportunity for accepting the reality that the baby has gone, especially for the mothers. Therefore, a proper funeral can be a chance for the parents, other family members, and friends to express their love and “say goodbye” to the baby (Sands Australia National Council, 2012).

Secretary for Food and Health Professor Sophia Chan stated that the government is studying on proposed legislative amendments to better handle funeral arrangements of fewer than 24 weeks fetuses (“Less than 24”, 2018). Starting from 2019, a non-profit private Tao Fong Shan Christian Cemetery will provide 144 quotas for burial of abortus for their members. In addition, the Chinese Permanent Cemeteries will have its first ‘Angel Garden’ which provides 219 quotas for burial, and with a garden for the scattering of cremated ashes for couples without religious belief (Li, 2019). However, cremation of the body needs to be done by themselves (by using the pet cremation services). The Food and Health Bureau is studying the possibility of having an ‘Angel Garden’ in public cemeteries. Although there are improvements on burial for less than 24 weeks fetus, it is still difficult for the parents to arrange a cremation for their child.

Amending the policy would be the most effective and direct approach. 24 weeks is a determining line whether the fetus is a human and eligible to apply Form 13. Form 13 is essential that it can prove that the fetus is under legal abortion (Kaan, 2017). A lawyer suggested to have another Form, Form 13A to make the less than 24 weeks abortuses become ‘special existence’, proving that they are under legal abortion too. Therefore, it would become legal to arrange the funeral for them in public cemeteries so that more choices can be provided to the concerned parents. Amending the policy can help parents who do not have any religious belief or have other religious belief to choose the most suitable cemetery for their child. Besides, Form 13A can eliminate the worry of these private service providers of whether they are legal to provide this service.

The clinical staff have to serve the concerned parents with care and support when providing clear instructions. Also, sufficient information should be provided to the parents. In the public hospitals, nurses and doctors should declare the further procedures on the abortus with document signature to ensure that parents fully understand all details. It can ensure that the parents are clear about their right and the procedures of handling their abortus. Such information can be told before labor induction or termination of pregnancy. The medical staff should clearly tell the parents whether they can take back the abortus, the procedure of taking back the abortus, as well as how the hospital handle the abortus if the parents choose not to take back their child. Furthermore, staff training on handling the parents’ emotion and communication technique is necessary. Nurses or medical social workers are responsible for providing information to the parents for their decision and follow-up consultation. When the medical staff explain the procedure to the parents, they need to be aware of the wording and care about the feeling of the latter. For the Hospital Authority, it can establish parental bereavement and grief consultation with charity community such as “Walking through Stillbirth” and “Walking through Miscarriage” since parents who face similar situations can understand each other and give mutual support. Therefore, parents can receive mental support that helps them go through the bad time after they lost their baby.

The Hospital Authority can renew the current disposal policy on pregnancy remains. A discussion with a medical professional committee on amending handling procedures of abortus before 24-weeks’ gestation can be held. The proposed procedures can make reference

to “sensitive incineration” of NHS which mentions separation of the abortus and human tissues handling that can show respect toward the abortus.

6. Conclusion

The occurrence of miscarriage is common among pregnant women and miscarriage rate can reach 20%. However, there is not enough care for these unfortunate women. Angela and Kelvin’s case of being recommended to use pet cremation for their son raised the public concern on this issue, and more people realized that the less than 24 weeks fetuses would be treated as clinical wastes in hospitals. According to opinions from different stakeholders, there are not enough funeral services for less than 24 weeks fetuses and medical staff fail to provide sufficient care and mental support to the concerned parents. There are rooms for improvement on medical staff’s attitude towards concerned parents and having more flexibility in arranging legal funeral or cremation for less than 24 weeks fetuses. This study discovers that the current regulation is not comprehensive and has a loophole. Moreover, by taking mainland China and overseas measures as references, Hong Kong can learn from their regulations on handling abortuses, support service from medical staff and instruction for health professionals provide direction on showing respect and dignity to abortuses. Although the less than 24 weeks abortus cannot be given a human identity due to current legal constraints, more flexibility on handling abortuses should be provided to satisfy the needs of parents and settle their grief.

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