CHINA

Constitution of The People's Republic of China (1982, as amended 1999)

Chapter One – General Principles

[**Article 25**] The State promotes family planning so that population growth may fit the plans for economic and social development.

Chapter Two – The Fundamental Rights and Duties of Citizens

[**Article 49**] Marriage, the family, and mother and child are protected by the state.

Both husband and wife have the duty to practise family planning.

Chapter Three – The Structure of the State

Section III – The State Council

[**Article 89**] The State Council exercises the following functions and powers:

(7) to direct and administer the work concerning education, science, culture, public health, physical culture and family planning;

Section V – The Local People's Congress and the Local People's Governments at Different Levels

[**Article 107**] Local people's governments at and above the county level, within the limits of their authority as prescribed by law, conduct the administrative work concerning the economy, education, science, culture, public health, physical culture, urban and rural development, finance, civil affairs, public security, nationalities affairs, judicial administration, supervision and family planning in their respective administrative areas; issue decisions and orders; appoint, remove and train administrative functionaries, appraise their work and reward or punish them.

Source: http://www.novexcn.com/prc_constitution_1999.html

Population and Family Planning Law of the People's Republic Of China (2002)

Chapter I: General Provisions

Article 8. The State gives rewards to organisations and individuals that have scored outstanding achievements in the population programme and family

planning. Where the requirements specified by laws and regulations are met, plans for a second child, if requested, may be made. Specific measures in this regard shall be formulated by the people's congress or its standing committee of a province, autonomous region, or municipality directly under the Central Government.

***Chapter III:* Regulation of Reproduction**

Article 18. The State maintains its current policy for reproduction, encouraging late marriage and childbearing and advocating one child per couple.

Article 19. Family planning shall be practiced chiefly by means of contraception.

Article 20. Couples of reproductive age shall conscientiously adopt contraceptive methods and accept technical services and guidance for family planning.

Incidence of unwanted pregnancies shall be prevented and reduced.

Article 22. Discrimination against and maltreatment of women who give birth to baby girls or who suffer from infertility are prohited.

Discrimination against, maltreatment, and abandonment of baby girls are prohibited.

***Chapter IV:* Rewards and Social Security**

Article 23. The State, in accordance with regulations, rewards couples who practice famiy planning.

Article 25. Citizens who marry late and delay childbearing may be entitled to longer nuptial and maternity leaves or other welfare benefits.

Article 27. The State shall issue to a couple who volunteer to have only one child in their lifetime a "Certificate of Honour for Single-Child Parents."

Couples who are issued the said certificate shall enjoy rewards ….

Where the only child of a couple is disabled or killed in accidents, and the couple decides not to have or adopt another child, the local people's government shall provide the couple with necessary assistance.

Chapter V: Technical Services for Family Planning

Article 35. Use of ultrasonography or other techniques to identify fetal gender for non-medical purposes is strickly prohibited. Sex-selective pregnancy termination for non-medical purposes is strickly prohibited.

Chapter VI: Legal Liability

Article 36. Anyone who, in violation of the provisions of this Law, commits one of the following acts shall be instructed to make rectification and be given a disciplinary warning, and his unlawful gains shall be confiscated by the administrative department for family planning or public health … if the circumstances are serious, his license shall be revoked by the authority that issued it; if a crime is constituted, he shall be investigated for criminal liability in accordance with law:

(1) illegally performing an operation related to famiy planning on another person;
(2) using ultrasonography or othe techniques to identify fetal gender for non-medical purposes or to bring about sex-selective pregnancy termination for non-medical purposes for another person; or
(3) performing a fake birth-control operation, providing a false medical report, or issuing a counterfeit certificate of family planning.

Article 40. Any unit that, in violation of the provisions of this Law, fails to perform its obligation of assisting in the administration of family planning shall be instructed to make rectification and be criticized in a circular by the local people's government concerned; the persons who are directly in charge and the other person are are directly responsible shall be given administrative sanctions in accordance with law.

Article 41. Citizens who give birth to babies not in compliance with the provisions of Article 18 of this Law shall pay a social maintenance fee prescribed by law.

Citizens who fail to pay the full amount of the said fees payable within the specified time limit shall have to pay an additional surcharge each in accordance with relevant State regulations, counting from the date each fails to pay the fees; with regard to ones who still fail to make the payment, the administrative department for family planning that makes the decision on collection of the fees shall, in accordance with law, apply to the People's Court for enforcement.

Article 43. Anyone who resists or hinders the administrative department for family planning or its staff members in their performance of their official duties in accordance with law shall be subject to criticism and be stopped by the administrative department for family planning. If his act constitutes a violation of the administrative regulations for public security, he shall, in accordance with law, be given a penalty for the violation; if it constitutes a crime, he shall be investigated for criminal liability.

Chapter VII: Supplementary Provisions

Article 47. This Law shall go into effect as of September 1, 2002.

Criminal Law of the People's Republic of China (1979, amended 1997)

Section 5. Crimes of Endangering Public Health

Article 335. Medical personnel who fail seriously to carry out their responsibility, causing the death of patients or serious harm to the health of patients shall be sentenced to not more than three years of fixed-term imprisonment or criminal detention.

Article 336. Whoever illegally engages in medical practice without obtaining the qualification for medical practice, and when the circumstances are serious, shall be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or control, and may in addition or exclusively be sentenced to a fine. Whoever causes serious harm to the health of patients shall be sentenced to not less than three years and not more than 10 years of fixed-term imprisonment, and a fine. Whoever causes the death of patients shall be sentenced to not less than 10 years of fixed-term imprisonment and a fine.

Whoever conducts unauthorized birth control reversal surgery, fake birth control surgery, and pregnancy termination surgery, or takes out birth control devices from the womb, and when the circumstances are serious, shall be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or control, and may in addition or exclusively be sentenced to a fine. Whoever causes serious harm to the health of patients shall be sentenced to not less than three years and not more than 10 years of fixed-term imprisonment and a fine. Whoever causes the death of patients shall be sentenced to not less than 10 years of fixed-term imprisonment and a fine.

Source: Permanent Mission of The People's Republic of China to the United Nations. http://www.fmprc.gov.cn/ce/cgvienna/eng/dbtyw/jdwt/crimelaw/t209043.htm

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Information Office of the State Council Of the People's Republic of China
August 1995, Beijing

Family Planning in China
(White Paper of the Government)

"One child for one couple is a necessary choice made under China's special historical conditions to alleviate the grim population situation."

Source found at website of: Embassy of the People's Republic of China in the Republic of Lithuania. http://www.fmprc.gov.cn/ce/celt/eng/zt/zfbps/t125241.htm

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Law on Maternal and Infant Health Care, 27 October 1994.

Chapter II. Pre-marital Health Care

Article 7. Medical and health institutions shall provide citizens with pre-marital health-care services. Pre-marital health-care services shall include the following:

(1) pre-marital health instruction: education in sex, human reproduction and genetic diseases;
(2) pre-marital health consultation: medical advice on matters relating to marriage and child-bearing, etc.; and
(3) pre-marital medical examination: medical examination conducted for both the male and female planning to be married to see whether they suffer from any disease that may have an adverse effect on marriage and child-bearing.

Chapter III. Health Care During the Pregnant and Prenatal Period

Article 16. If a physician detects or suspects that a married couple in their child-bearing age suffer from genetic disease of a serious nature, the physician shall give them medical advice, according to which the said couple shall take corresponding measures.

Article 17. After antenatal examination, if a physician detects or suspects an abnormality with the fetus, he shall make pre-natal diagnosis for the pregnant woman.

Article 18. If one of the following cases is detected in the pre-natal diagnosis, the physician shall explain the situations to the married couple and give them medical advice on a termination of gestation:

(1) The fetus is suffering from a genetic disease of a serious nature;
(2) The fetus is with a defect of a serious nature; or
(3) Continued gestation may jeopardize the safety of life of the pregnant woman or seriously impair her health, due to the serious disease she suffers from.

Article 19. Termination of gestation or performance of ligation operations practised in accordance with the provisions of this Law shall be subject to the consent and signing of the person per se. If the person per se has no capacity for civil conduct, it shall be subject to the consent and signing of the guardian of the person.

Whoever is to terminate gestation or receive ligation operations under this Law shall receive such services free of charge.

Chapter V. Administrative Management

Article 32. Medical and health institutions that in accordance with the provisions of this Law carry out pre-marital medical examination, genetic disease diagnosis and pre-natal diagnosis, ligation operations and operations for termination of gestation must meet the requirements and technical standards set by the administrative department of public health under the State Council, and shall obtain the permission of the administrative departments of public health under the local people's governments at or above the county level.

Sex identification of the fetus by technical means shall be strictly forbidden, except that it is positively necessitated on medical grounds.

Article 33. Personnel engaged in making genetic disease diagnosis or pre-natal diagnosis as provided by this Law must pass the examination of the administrative department of public health under the people's government of the province, autonomous region or municipality directly under the Central Government, and obtain a corresponding qualification certificate.

Personnel engaged in making pre-marital medical examination, performing ligation operations or operations for termination of gestation as provided by this Law and persons engaged in home delivery must pass the examination of the administrative department of public health under the people's government at or above the county level, and obtain a corresponding qualification certificate.

Article 34. Personnel engaged in the work of maternal and infant health care shall strictly abide by the professional ethics and keep secrets for the parties concerned.

Chapter VI. Legal Liability

Article 35. Where anyone who has not obtained a relevant qualification certificate issued by the State commits any of the following acts, the administrative department of public health under the local people's government at or above the county level shall stop such act and give a warning to or impose a fine upon him in light of the circumstances:

(1) to engage in pre-marital medical examination, genetic disease diagnosis, pre-natal diagnosis or medical technical appraisement;
(2) to perform operations for termination of gestation; or
(3) to issue relevant medical certificate as stipulated by this Law.

The relevant medical certificate as mentioned in item (3) of the preceding paragraph shall be null and void.

Article 36. Where anyone who has not obtained relevant qualification certificate issued by the State performs operations for termination of gestation or terminates gestation by other means, thus causing death, disability, loss or basic loss of

working ability, shall be investigated for criminal responsibility according to the provisions of Article 134 and Article 135 of the Criminal Law.

Article 37. Where personnel engaged in the work of maternal and infant health care, in violation of the stipulations of this Law, issue fake medical certificates, or undertake sex identification of the fetus, medical and health institutions or administrative departments of public health shall in light of the circumstances give them administrative sanctions; if the circumstances are serious, they shall be disqualified for practice of their profession according to law.

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[Jacobson note: see Articles 22, 35, 36 of Population and Family Planning Law, 2002, below.]

Law on the Protection of Rights and Interest of Women, 3 April 1992.

Article 42. When a wife terminates gestation as required by the family planning programme, her husband may not apply for a divorce within six months after the operation; this restriction shall not apply in a case where the wife applies for a divorce, or when the people's court deems it necessary to accept the divorce application made by the husband.

Marriage Law of the People's Republic of China (effective 1 January 1981)

[**Article 1**] This Law is the fundamental code governing marriage and family relations.

[**Article 2**] A marriage system based on the free choice of partners, on monogamy and on equality between man and woman shall be applied.

The lawful rights and interests of women, children and old people shall be protected.

Family planning shall be practised.

Chapter III. Family Relations

[**Article 12**] Both husband and wife shall have the duty to practise family planning.

[**Article 15**] Infanticide by drowning and any other acts causing serious harm to infants shall be prohibited.

[**Article 19**] Children born out of wedlock shall enjoy the same rights as children born in wedlock. No one may harm or discriminate against them.

The father of a child born out of wedlock shall bear part or the whole of the child's

living and educational expenses until the child can support himself.

[**Article 20**] The state shall protect lawful adoption. The relevant provisions of this Law governing the relationship between parents and children shall apply to the rights and duties in the relationship between foster-parents and foster-children.

The rights and duties in the relationship between a foster-child and his natural parents shall terminate with the establishment of his adoption.

[**Article 21**] Maltreatment and discrimination shall not be allowed between step-parents and step-children.

Source: http://www.novexcn.com/family_main.html

HONG KONG
Offences against the Person Ordinance.

Section 46. Administering drug or using instrument to procure abortion.
Any woman, being with child, who, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, and any person who, with intent to procure the miscarriage of any woman, whether she is or is not with child, unlawfully administers or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, shall be guilty of an offence triable upon indictment, and shall be liable to: (Amended 50 of 1991 s. 4)

(a) imprisonment for 7 years and to pay such fine as the court may award in the case of a woman, being with child, who with intent to procure her own miscarriage, has unlawfully administered to herself any poison or other noxious thing, or has unlawfully used any instrument or other means whatsoever with the like intent; and
(b) imprisonment for life and to pay such fine as the court may award in the case of any person who with intent to procure the miscarriage of any woman, whether she was or was not with child, has unlawfully administered or caused to be taken by her any poison or other noxious thing, or has unlawfully used any instrument or other means whatsoever with the like intent.

Section 47. Procuring drug, etc., with intent to cause abortion.
Any person who unlawfully supplies or procures any poison or other noxious thing or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she is or is not with child, shall be guilty of an offence triable upon indictment, and shall be liable to imprisonment for 3 years.

Section 47A. Medical termination of pregnancy.

(1) Subject to this section, a person shall not be guilty of an offence under section 46 or 47 when a pregnancy is terminated by a registered medical practitioner if 2 registered medical practitioners are of the opinion, formed in good faith that:

(a) the continuance of the pregnancy would involve risk to the life of the pregnant woman or of injury to the physical or mental health of the pregnant woman, greater than if the pregnancy were terminated; or

(b) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormality as to be seriously handicapped. (Replaced 13 of 1981 s. 4)

(2) In determining whether the continuance of a pregnancy would involve such risk of injury to health as is mentioned in subsection (1), account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(2A) Without prejudice to the generality of subsection (2):

(a) in the case of a woman who is with child before attaining the age of 16; or

(b) in the case of a woman who has been the victim of sexual intercourse which constitutes an offence under section 47, 118, 119, 120 or 121 of the Crimes Ordinance (Cap 200) and who has made a report to any police officer within a period not exceeding 3 months after the date upon which she alleges any such offence was committed,

a registered medical practitioner who is in doubt as to whether, in fact, the continuance of her pregnancy would or would not, involve risk of injury to her physical or mental health greater than if her pregnancy were terminated may, in forming an opinion for the purpose of subsection (1)(a), presume that the continuance of her pregnancy would involve risk of injury to her physical and mental health greater than if the pregnancy were terminated. (Added 13 of 1981 s. 4)

(2B) Subject to this section, a registered medical practitioner who terminates the pregnancy of a woman who he believes has been the victim of sexual intercourse which constitutes an offence under section 47, 118, 119, 120 or 121 of the Crimes Ordinance (Cap 200), shall not be liable to prosecution under sections 46 and 47; and it shall be presumed until the contrary is proved that he believed the woman to have been the victim of such sexual intercourse if the woman made a report to a police officer within a period not exceeding 3 months after the date upon which she alleges any such offence was committed. (Added 13 of 1981 s. 4)

(2C) For the purposes of sections 46 and 47, nothing in subsection (1), (2A) or (2B) shall be taken to authorize the termination of a pregnancy which is of more than 24 weeks duration, unless such termination is in the opinion of 2 registered medical practitioners formed in good faith, necessary to save the life of the pregnant woman. (Added 13 of 1981 s. 4)

(3) Except as provided by subsection (4), any treatment for the termination of pregnancy must be carried out in a hospital or clinic maintained by the Government or declared by the Director of Health by notice published in the

Gazette to be an approved hospital or clinic for the purposes of this section. (Amended L.N. 76 of 1989; 13 of 1999 s. 3)

(4) Subsection (3) shall not apply to the termination of a pregnancy by a registered medical practitioner if 2 registered medical practitioners are of the opinion, formed in good faith, that the termination is immediately necessary to save the life or to prevent grave permanent injury to the physical or mental health of the pregnant woman.

(5) The Chief Executive in Council may make regulations- (Amended 13 of 1999 s. 3)

(a) requiring any such opinion as is referred to in subsection (1) to be certified by the registered medical practitioners concerned, in such form and within such time as may be prescribed and requiring the preservation and disposal of certificates made for the purposes of the regulations;

(b) requiring a registered medical practitioner who terminates a pregnancy to give notice of the termination, and such other information relating to the termination as may be prescribed, to the Director of Health; (Amended L.N. 76 of 1989)

(c) prohibiting the disclosure, except to such persons or for such purposes as may be prescribed, of notices given or information furnished pursuant to the regulations. [cf. 1967 c. 87 s. 2 U.K.]

(6) Subject to subsection (7), no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorized by this section to which he has a conscientious objection, but in any legal proceedings the burden of proof of conscientious objection rests on the person claiming to rely on it. [cf. 1967 c. 87 s. 4 U.K.]

(7) Nothing in subsection (6) shall affect any duty to participate in treatment which is necessary to save the life, or to prevent grave permanent injury to the physical or mental health, of a pregnant woman.

(7A) Nothing in this section shall affect the provisions of section 47B or 47C. (Added 13 of 1981 s. 4)

(8) For the purposes of section 46 and 47, anything done with intent to procure the miscarriage of a woman is unlawfully done unless authorized by virtue of the provisions of this section.

Termination of Pregnancy Regulations.

Section 1. Citation.

These regulations may be cited as the Termination of Pregnancy Regulations.

2. Interpretation.

In these regulations "Director" (署長) means the Director of Health.

3. Certificate of opinion.

(1) An opinion referred to in section 47A of the Ordinance shall be certified in Form 1, Form 2 or Form 2A in the Schedule, as may be appropriate. (L.N. 50 of 1982)

(2) A certificate of an opinion referred to in section 47A(1) of the Ordinance shall be given before the commencement of the treatment for the termination of the pregnancy to which it relates.

(3) A certificate of an opinion referred to in section 47A(2C) or 47A(4) of the Ordinance shall be given before the commencement of the treatment for the termination of the pregnancy to which it relates or, if that is not reasonably practicable, not later than 24 hours after such termination. (L.N. 50 of 1982) (4) Any certificate referred to in paragraphs (2) and (3) shall be preserved by the medical practitioner who terminated the pregnancy to which it relates for a period of 5 years beginning with the date of such termination and may then be destroyed.

4. Notice of termination of pregnancy.

A medical practitioner who terminates a pregnancy shall, not later than 3 days after the termination, complete Form 3 in the Schedule and send it in a sealed envelope to the Director.

5. Restriction on disclosure of information.

Any information furnished to the Director in pursuance of these regulations shall not be disclosed except:

(a) for the purposes of carrying out his duties, to an officer of the Department of Health authorized by the Director; (L.N. 76 of 1989)

(b) for the purposes of carrying out his duties in relation to offences against the Ordinance, to the Secretary for Justice or a member of his staff authorized by him; (L.N. 362 of 1997)

(c) for the purposes of investigating whether an offence has been committed against the Ordinance, to the Commissioner of Police or a police officer authorized by him;

(d) for the purposes of criminal proceedings which have begun;

(e) for the purposes of bona fide scientific research;

(f) to the medical practitioner who terminated the pregnancy; and

(g) to a medical practitioner, with the consent in writing of the woman whose pregnancy was terminated.

6. Penalty.

Any person who contravenes any provision of regulation 3, 4 or 5 shall be guilty of an offence and shall be liable on conviction to a fine of $2000.

SCHEDULE

FORM 2 [regulation 3]

CONFIDENTIAL

Not to be destroyed within five years of the date of operation

OFFENCES AGAINST THE PERSON ORDINANCE (Chapter 212)

CERTIFICATE TO BE COMPLETED IN RELATION TO THE TERMINATION OF A PREGNANCY UNDER SECTION 47A(I) OF THE ORDINANCE

I, ...
(Name and qualifications of practitioner in block capitals)
of .....
(Full address of practitioner)
.....
and I, ...
(Name and qualifications of practitioner in block capitals)
of .....
(Full address of practitioner)
.....
hereby certify that we are of the opinion, formed in good faith, that in the case of the pregnancy of .....
(Full name of pregnant woman in block capitals)
of .....
(Usual place of residence of pregnant woman in block capitals)
.....

1. the continuance of the pregnancy would involve risk to the life of the pregnant woman greater than if the pregnancy were terminated;
2. the continuance of the pregnancy would involve risk of injury to the physical or mental health of the pregnant woman greater than if the pregnancy were terminated;
3. there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormality as to be seriously handicapped.

This certificate of opinion is given before the commencement of the treatment for the termination of the pregnancy to which it relates.

Signed ..... Date .....
Signed ..... Date .....

Note: For termination of a pregnancy in emergency under section 47A(4) and termination of a pregnancy of more than 24 weeks duration under section 47A(2C) of the Ordinance, use respectively Form 2 and Form 2A.

(L.N. 50 of 1982; L.N. 66 of 1982)

MACAU.
Decree-Law No. 59/95/M of 27 November 1995, as amended by Law No. 10/2004.

Article 1.
(Abortion consented)

1. Whoever, by any means and with the consent of the pregnant woman causes an abortion shall be punished with imprisonment up to 3 years.

2. If a pregnant woman consents to the abortion practiced by a third party,

whether by herself or others, it is punishable with imprisonment up to 3 years.

Article 2.
(Aggravation)

1. When abortion or the means employed result in death or serious harm to the physical integrity of the pregnant woman, the limits of the penalty to the one who did the abortion are increased by one third.

2. Aggravation is equally applicable (in determining the penalty) to the agent who is usually devoted to the practice of abortion or performing it for profit.

Article 3.
(Exclusion of criminality)

1. Termination of pregnancy is not punishable when performed by a physician or under his direction, in an established or officially recognized health facility, and with the consent of the pregnant woman, when, according to the state of knowledge and experience of medicine:

a) Constitute the only means of removing danger of death or serious and irreversible injury to body or to physical or mental health of the pregnant woman;

b) If it is shown to avoid danger of death or serious and lasting injury to body or to physical or mental health of pregnant women and is performed during the first 24 weeks of pregnancy;

c) After ultrasound or other suitable means evidence, according to the rules of the profession, there are (sufficient) reasons to predict that the unborn child will suffer from incurable form of disease or serious malformation, and is performed in the first 24 weeks of pregnancy with the exception of cases of non-viable fetuses, in which case the interruption may be practiced at any time; or

d) there are serious indications that the pregnancy resulted from a crime against sexual freedom or self-determination (and the abortion) is performed in the first 24 weeks of pregnancy.

2. Verification of circumstances that make non-punishable termination of pregnancy must be certified in a medical writing certificate and signed before the intervention by whom the medical (procedure), or under the direction, the interrupt is performed.

3. Consent is provided:

a) A document signed by the pregnant woman or at her request and, where possible, with at least 3 days before the date of the intervention; or
b) If the pregnant woman is under 16 or mentally incapable, and successively as appropriate, (consent must be secured from) the legal representative, in ascending or descending order (of relationship), failing that, for any relatives in the collateral line.

4. If consent cannot be obtained in accordance with the preceding paragraph and the actual termination of pregnancy is a case of emergency, the doctor who is aware regarding the situation decides, whenever possible, (with concurrence of) the opinion of one or more physicians.

Article 4.
(No documentation of the circumstances which exclude criminal liability)

The doctor who negligently (fails to complete the) documents verifying the circumstances that make non-punishable termination of pregnancy is punishable with imprisonment up to one year.

Article 5.
(Intervention of health facilities)

1. Where any of the circumstances described in paragraph, Article 3, paragraph 1: Thereof, the pregnant woman may request termination of pregnancy at an established or officially recognized health facility, delivering her written consent before the time of intervention, and the documents or medical certificates required by law.

2. Established or officially recognized health facilities shall take the necessary measures for the termination of pregnancy established legally under the conditions and time limits.

Article 6.
(Conscientious objection)

1. Physicians and other health professionals are assured the right to conscientious objection in relation to termination of pregnancy in the circumstances set out in Article 3, paragraph 1.

2. Conscientious objection must be expressed in a document signed by the objector and its decision should be immediately communicated to the pregnant woman or those in place can provide consent.

Article 7.
(Duty of confidentiality)

Physicians, other health professionals and other staff of health facilities shall be bound by the obligation of professional secrecy with regard to all acts, facts or information related to termination of pregnancy in the circumstances set out in Article 3, paragraph 1. To their knowledge in the exercise of their duties, or because of the terms and for the purposes of Article 189 of the Penal Code, they are subject to the disciplinary consequences of the offense.

Artigo 1.º
(Aborto consentido)

1. Quem, por qualquer meio e com consentimento da mulher grávida, a fizer abortar é punido com pena de prisão até 3 anos.

2. A mulher grávida que der consentimento ao aborto praticado por terceiro ou que, por facto próprio ou alheio, se fizer abortar é punida com pena de prisão até 3 anos.

Artigo 2.º
(Agravação)

1. Quando do aborto ou dos meios empregados resultar a morte ou uma ofensa grave à integridade física da mulher grávida, os limites da pena aplicável àquele que a fizer abortar são aumentados de um terço.

2. A agravação é igualmente aplicável ao agente que se dedicar habitualmente à prática de aborto ou o realizar com intenção lucrativa.

Artigo 3.º
(Exclusão da punibilidade)

1. Não é punível a interrupção da gravidez efectuada por médico, ou sob a sua direcção, em estabelecimento de saúde oficial ou oficialmente reconhecido e com o consentimento da mulher grávida, quando, segundo o estado dos conhecimentos e da experiência da medicina:

a) Constituir o único meio de remover perigo de morte ou de grave e irreversível lesão para o corpo ou para a saúde física ou psíquica da mulher grávida;

b) Se mostrar indicada para evitar perigo de morte ou de grave e duradoura lesão para o corpo ou para a saúde física ou psíquica da mulher grávida e for realizada nas primeiras 24 semanas de gravidez;

c) Após comprovação ecográfica ou por outro meio adequado, de acordo com as regras da profissão, houver seguros motivos para prever que o

nascituro virá a sofrer, de forma incurável, de doença ou malformação graves, e for realizada nas primeiras 24 semanas de gravidez, com excepção das situações de fetos inviáveis, caso em que a interrupção poderá ser praticada a todo o tempo; ou

d) Houver sérios indícios de que a gravidez resultou de crime contra a liberdade ou autodeterminação sexual e for realizada nas primeiras 24 semanas de gravidez.

2. A verificação das circunstâncias que tornam não punível a interrupção da gravidez é certificada em atestado médico, escrito e assinado antes da intervenção por médico diferente daquele por quem, ou sob cuja direcção, a interrupção é realizada.

3. O consentimento é prestado:

a) Em documento assinado pela mulher grávida ou a seu rogo e, sempre que possível, com a antecedência mínima de 3 dias relativamente à data da intervenção; ou

b) No caso de a mulher grávida ser menor de 16 anos ou psiquicamente incapaz, sucessivamente e conforme os casos, pelo representante legal, por ascendente ou descendente ou, na sua falta, por quaisquer parentes da linha colateral.

4. Se não for possível obter o consentimento nos termos do número anterior e a efectivação da interrupção da gravidez se revestir de urgência, o médico decide em consciência face à situação, socorrendo-se, sempre que possível, do parecer de outro ou outros médicos.

Artigo 4.º
(Não documentação das circunstâncias que excluem a punibilidade)

O médico que, por negligência, se não premunir com os documentos comprovativos da verificação das circunstâncias que tornam não punível a interrupção da gravidez nem os obtiver posteriormente à intervenção é punido com pena de prisão até um ano.

Artigo 5.º
(Intervenção dos estabelecimentos de saúde)

1. Quando se verifique alguma das circunstâncias previstas no n.º 1 do artigo 3.º, a mulher grávida pode solicitar a interrupção da gravidez em estabelecimento de saúde oficial ou oficialmente reconhecido, entregando logo o seu consentimento escrito e, até ao momento da intervenção, os documentos ou atestados médicos legalmente exigidos.

2. Os estabelecimentos de saúde oficiais ou oficialmente reconhecidos devem adoptar as providências necessárias para que a interrupção da gravidez se verifique nas condições e nos prazos legalmente determinados.

Artigo 6.º
(Objecção de consciência)

1. É assegurado aos médicos e demais profissionais de saúde o direito à objecção de consciência relativamente à interrupção da gravidez nas circunstâncias previstas no n.º 1 do artigo 3.º

2. A objecção de consciência é manifestada em documento assinado pelo objector e a sua decisão deve ser imediatamente comunicada à mulher grávida ou a quem no seu lugar pode prestar o consentimento.

Artigo 7.º
(Dever de segredo profissional)

Os médicos, os demais profissionais de saúde e o restante pessoal dos estabelecimentos de saúde ficam vinculados ao dever de segredo profissional relativamente a todos os actos, factos ou informações relacionados com a interrupção da gravidez nas circunstâncias previstas no n.º 1 do artigo 3.º de que tenham conhecimento no exercício das suas funções, ou por causa delas, nos termos e para os efeitos do artigo 189.º do Código Penal, sem prejuízo das consequências disciplinares da infracção.