



The Galle Medical Journal

Journal of the Galle Medical Association

Volume 30 Number 2 June 2025

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Editorial

Early diagnosis, constrained choice: The ethical paradox of foetal medicine in Sri Lanka

Immense strides made in the early prenatal diagnosis and treatment of foetal abnormalities have resulted in excellent outcomes. In this issue of the *GMJ*, Gnanarathne and Kariyawasam discuss the emerging role of first-trimester ultrasound in early identification of foetal abnormalities. The advances in early prenatal diagnosis (PND) - including first trimester screening, non-invasive prenatal testing (NIPT), and high-resolution ultrasound - allow for the detection of severe foetal anomalies with unprecedented accuracy and speed.

The pathways for treating foetal abnormalities encompass a spectrum of options, ranging from management during pregnancy to specialized medical and surgical interventions, and planning for complex postnatal care. When an abnormality is detected, there is prenatal management and counseling; foetal therapy (*in utero* treatment - both non-invasive and invasive [surgical]); planned specialized delivery (EXIT procedure - *Ex Utero* Intrapartum Treatment) and advanced postnatal surgery and care. These call for excellent specialization in spheres of obstetrics and neonatology and the development of focused specialty centres.

Prenatal management and counseling are the initial primary pathways focusing on accurate diagnosis, monitoring and preparing the family. They entail diagnosis and monitoring, multidisciplinary counseling, expectant management and termination of pregnancy (TOP), if indicated. This difficult option of termination is reserved for severe foetal abnormalities or for those incompatible with survival.

Although advances in early PND have been made, the Sri Lankan law has not evolved to respond to foetal abnormalities that require TOP. Our abortion laws are based on the Penal Code enacted 142-years ago in 1883, at a time modern medicine was non-existent. The Penal Code (Sections 303-306) strictly criminalizes abortion except to save the life of the mother. There have been previous attempts at amending this legal anomaly to permit TOP based on foetal abnormalities, rape and incest, but have not seen fruition due to a combination of complex factors. The Indian Penal Code which was enacted at about the same time has been amended to permit TOP going with modern medical advances. Although one can see a liberal stance towards TOP in the western legal systems, an evolving more conservative position is noticeable in the USA. The landmark case of *Roe v. Wade* liberalized abortion in the USA in 1972, but this liberal situation has been overruled in the case of *Dobson v. Jackson* Women's Health Organization in 2022.

The non-availability of the option of TOP for severe foetal abnormalities and situations of incompatibility with survival, puts advances of early PND in conflict with the law. This restrictive stance erodes into the foundations of the doctrine of informed consent, when options available for severe foetal abnormalities are being discussed. This situation also likely to promote unsafe and "illegal" TOP and have damaging affect the psychological health of pregnant women.

With the advances in early PND, time has come to initiate a dialogue in the medical and legal professional communities and society at large, to bring the law into alignment with modern medicine, women's rights and societal needs.

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