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**COURSE TITTLE: HEALTH LAW II**

**COURSE CODE: LPB 514**

ASSIGNMENT (ANSWERS)

1. The grounds for a lawful termination of pregnancy.

Under health law the termination of pregnancy is termed “abortion”. Abortion generally is a crime especially in Nigeria and therefore illegal as provided in the Criminal Code Act[[1]](#footnote-1) and it said to be morally wrong but not withstanding there are situations which serve as exception to the crime of abortion where a person shall not be guilty of the offence of abortion under the law. This exceptions include:

* where the pregnancy has not exceeded its 20th week and the continuation of that pregnancy would be of greater risk than if it terminated
* where the termination of the pregnancy is necessary to prevent or avoid permanent injury to the health of the pregnant woman
* Where the continuation of the pregnancy would involve the risk to the life of the pregnant woman greater than if the pregnancy were terminated
* Where there is substantial risk that if the child were born it would suffer from physical or mental abnormalities as to be seriously handicapped.

The court through decided cases have also, stated their stands to support abortion in exceptional cases. The Supreme Court decision created current abortion law in the U.S[[2]](#footnote-2) ruled that women had a constitutional right to abortion, and that this right was based on an implied right to personal privacy. The Court said that a fetus is not a person but "potential life," and thus does not have constitutional rights of its own. The Court also set up a framework in which the woman's right to abortion and the state's right to protect potential life shift: during the first trimester of pregnancy, a woman's privacy right is strongest and the state may not regulate abortion for any reason; during the second trimester, the state may regulate abortion only to protect the health of the woman; during the third trimester, the state may regulate or prohibit abortion to promote its interest in the potential life of the fetus, except where abortion is necessary to preserve the woman's life or health.

This case was also modified in the case of *Doe v. Bolton*t[[3]](#footnote-3) he Court ruled that a woman's right to an abortion could not be limited by the state if abortion was sought for reasons of maternal health. The Court defined health as "all factors physical, emotional, psychological, familial, and the woman's age – relevant to the well-being of the patient." This health exception expanded the right to abortion for any reason through all three trimesters of pregnancy.

Also, in the case *R v Edgal*, the appellant was convicted of supplying drugs to procure abortion contrary to section 230 of the criminal code. On appeal it was held by the West African court of Appeal in deciding the question of when it is lawful to procure an abortion that it is only lawful for the preservation of the life of the mother. In all other cases it is unlawful. Similarly in the case of R v Bourne[[4]](#footnote-4) it was held that the preservation of the life a pregnant woman should include safeguarding her physical and mental health

1. The potential father has no legal rights in the termination of the pregnancy by his wife or spouse lawfully. This is because the pregnancy then to affect the mother more as the unborn child constitute the integral part of the mother as she carries the baby in her body so, she can decide to invoke her bodily autonomy as a person and have an abortion done.

However even the courts have supported the decision that the fathers consent isn’t legally required as a woman may choose to terminate a pregnancy against the fathers objections and have treated father’s rights in abortion as secondary to those of the mother[[5]](#footnote-5). These legal reasoning is based on woman’s right to privacy in her medical decisions and the fact that the mothers[[6]](#footnote-6) are more directly affected by the pregnancy.

In a decided case[[7]](#footnote-7) the court reasoned that a husband’s refusal to consent would in effect veto a woman’s choice to terminate a pregnancy. While both perspective fathers and pregnant women have interest in the decision, where the two disagree, only one partner’s position can prevail. According to the court, since the woman actually carries the pregnancy, “the balance weighs in her favor “preventing the husband from vetoing his choice.

In the case of Paton v United Kingdom[[8]](#footnote-8) the husband sought an injunctive relief to restrain the defendants from terminating his estranged wife’s pregnancy but the court held that he has no legal right in law and in equity to stop his wife from having this abortion

In conclusion the act of abortion is seriously frowned upon but in situations where the pregnancy serves a threat in any way to the mother’s health or for any substantial reason it is lawful to be terminated and the potential father of the unborn child legally has no opinion to the decision made whether notified or not

**REFERENCES.**

* The Criminal Code Act, Cap 77 (1990).
* Find laws team of legal writers and editors ‘father’s rights and abortion’ 2018. https://family.findslaw.com/paternity/fathers-rights-and-abortion.html>
* Summary of Roe v wade and other key Abortion cases >[www.usccb.org](http://www.usccb.org)>

1. Section 228,229 and 230, CAP 77 (1990). [↑](#footnote-ref-1)
2. Roe v Wade.410 U.S 113 (1973) [↑](#footnote-ref-2)
3. 410 U.S 179 (1973) [↑](#footnote-ref-3)
4. Rv Bourne (1938) 3All ER 615(Eng) [↑](#footnote-ref-4)
5. Findlaws team of legal writers and editors ‘fathers rights and abortion’(2018)> [https://family.findslaw.com/paternity/fathers-rights-and-abortion.html>accesed](https://family.findslaw.com/paternity/fathers-rights-and-abortion.html%3eaccesed) 19th april,2020. [↑](#footnote-ref-5)
6. Ibid(2) [↑](#footnote-ref-6)
7. Planned parenthood of Missouri v Danforth (1976) [↑](#footnote-ref-7)
8. 1980 3 EHRR 408. [↑](#footnote-ref-8)