Brazilian women and abortion: a Bioethical approach to public health care

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Resumo O objetivo deste trabalho é refletir criticamente sobre a criminalização do aborto no Brasil. Utilizou-se uma abordagem metodológica orientada pelo trabalho de revisão bibliográfica a partir de análise bioética que contemplou a análise do tema proposto. Verificou-se que a gestação indesejada, a violência doméstica e a dificuldade de acesso ao sistema de saúde são fatores que expõem a mulher ao dano acessório. Concluiu-se que biopolítica embasada no patriarcalismo e no princípio da sacralidade da vida continua a exercer o controle sobre o corpo e a sexualidade da mulher, e se relaciona à proibição da indução do aborto, o que constitui um problema de saúde pública. Este trabalho, a partir do uso das ferramentas da bioética, volta-se a promover o desenvolvimento das relações humanas dentro dos conceitos de justiça, dignidade e igualdade, pelo uso da dialética entre os argumentos contra e a favor do aborto.

Palavras-chave: Aspirantes a aborto. Saúde da mulher. Bioética. Saúde pública.

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The abortion issue, in Brazil, has double approach. In one hand, technoscientific development taking place during the last decades provided an earlier diagnosis of foetal malformations and genetic diseases incompatible with out of the womb life, such as,, for example, anencephaly. This fact unleashed a series of lawsuits requesting permission for voluntary interruption of theses gestations, in countries with totally prohibiting or restrictive laws related to induced abortion.. Abortion of these foetuses relates to a procedure with medical indication aiming pregnant woman well-being and not to voluntary interruption of potentially viable foetal gestation, which is the emblematic point in abortion debate. In the other hand, such situations raise discussions at the National Congress, the Federal Supreme Court (STF) and in the media, involving professionals from different areas and the civil society

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related not only to abortion of foetuses due to problems that are incompatible with life, but as well with broadening of legislation or decriminalization of this practice [2].

Recently, induced abortion and conducted in an unsafe way was recognized worldwide as a public health problem due to the important number of complications, consequences (like, for example, infertility) and deaths (avoidable!) that can derive from it. As majority of cases take place in clandestinity and in unhealthy conditions, induced and illegal abortion is the fourth cause of maternal mortality in Brazil[3].

During the discussion of the law project decriminalizing abortion (PL 1.135/91), undertaken in the National Congress, in 2007, opposing voices to its approval evidenced that implementation of family planning programs, greater access by couples to contraceptive methods, and better quality of women and pregnant care services are sufficient measures to reduce effectively maternal morbimortality rates[4]. As causes for increasing women's fragility during pregnancy-puerperal cycle, exposing them to higher death risks, are: lack of information, low schooling level, malnutrition, low income, ethnic discrimination, absence of familiar support or from partner, and the degree of domestic violence exposition[5]. Nonetheless, the factors are also associated to unwanted pregnancy and, consequently, to the practice of abortion, and they evidence the relation between socioeconomic inequality, the difficulty in accessing health care services and higher *vulnerability status* of women facing an unwanted pregnancy.

Nogueira and Baptista [4], analyzing the political debate scenario of PL 1.135/91, found that patriarchal influence in Judge Jose Torres' speech and the frequent and emphatic use of religious argument.

Additionally, authors critically stress that the reporter of the subject already advocated his position – contrary to decriminalization of abortion – even before assuming the reporting condition. Therefore, one concludes that discussion on abortion undertaken in the National Congress was marked by particular actions of moral agents who used the privilege of their public voice position to contrarily act on private decision of morally vulnerable patients, in this case, women who want to interrupt their gestations, submitted to impotence regarding their own wishes, which blurs women's autonomy.

It is necessary, thus, to deepen knowledge about argumentation tools that guide the proposed topic by recognizing the existence, in contemporaneity, of a double face in its approach: one turned to the issue of abortion as public health problem; and the other, turned to a bioethical approach that assures neutrality in ethical thinking about the dilemmatic subject.

This work proposes deepening reflections on the issue. Its objective is critically analyze abortion criminalization in Brazil from the evidences about its relation to sexual and reproductive freedom of women, and maternal mortality rates issues – critical topics related to this paradigmatic situation –, as well as on how to conduct a bioethical analysis that articulates different tools to loosen existing stress, aiming at providing one more step for society toward developing human relationships within justice, dignity and equality.

Method

Using a methodological approach guided by a bibliographic review work from bioethical approach that contemplates analysis of topics proposed in database found in books, scientific magazine articles at Virtual Library in Health (BVS/Bireme and PubMed) basis, PhD and Master's degrees thesis and dissertations in the Coordination for the Improvement of Higher Education Personnel (Capes-CNPq) and its specific sites.

Three categories were built from data provided by articles – from which there is a critical reflection about this act. The first deals with epidemiological data about clandestine abortion as incidence and complications; the second deals about socioeconomic features of women, evaluating its importance for the increase in number of induced abortion; and the last one gathers factor that comprise the universe where woman willing to abort inserts. Later, a reflexive analysis about abortion was built, based in bioethical approaches, aiming at contributing for the development of profound thinking on the emblematic topic with the scope of moral.

Epidemiologic data for unhealthy induced abortion

Latin America is a region that records the second highest abortion rate, with almost all cases taking place in clandestinity. Eastern Europe has the highest rate and Western Europe the lowest. According to the United Nations Organization (UN) approximately,1 million abortion take place annually in Brazil and, only, 15% can be attributed to spontaneous causes, resulting in 1.2 million internships in the last five years[6] due to complications from illegal abortion, index recorded by the Unified Health System (SUS).

It is difficult, due to illegality, to measure accurately induced abortion incidence rates and psychosocial factors related to it. Moreover, the inequality of conditions in its practice due to socioeconomic differences, as the majority of studies was undertaken in public health network hospitals and clinics only recording cases where complications occur, usually in economically deprived women and arriving at these units. Thus, any figure will always be estimated or, better still, underestimated.

However, as the largest number of deaths from post-labor complications is present in countries where this procedure is illegal, that is, conducted without minimum safety conditions for women, one can presuppose that abortion rates in countries with restricting legislation are not lower than in countries where it is legal[7].

The increase in incidence of complication from abortion, in Brazil, is a phenomenon more evident during the last decades, pictured as the major causes of maternal mortality in the last 15 years[8]. Physical or psychic injuries characterize the consequences from abortion for women's health.

Physical damage, that is, iatrogenesis such as uterine perforations with injuries to adjacent organs, hemorrhages, and infections that may yield to consequences or to death, happens because health professionals in suitable conditions cannot conduct procedure. Legalization of abortion, in parallel, promotes reduction in percentage of complication, mainly for enabling earlier conduction of the procedure, in addition to permission for its undertaking in the health system, under specific technical standards[9]. Thus, women migration from countries with abortion restrictive legislation to those where procedure is permitted by law becomes a common practice[10].

Since psycho emotional problems may present before or after procedure, women choosing abortion need psychological support to deal with the loss [11]. Brazilian studies approaching abortion cases because foetus malformation found that negative feelings may appear since the

moment of decision for abortion and months later remembering of the experience may still persist. Nevertheless, majority of interviewed women states that she would have the same attitude in identical situation. However, only about half of them would advice abortion to women who had the same problem[12]. Therefore, one realizes that a woman understands decision for abortion as private and individual. There are not studies, in Brazil, analyzing rates of regret and women's psycho emotional factors that interrupt potentially viable foetuses gestations and the possible factors and damages related to such decision.

In countries where abortion is legal, it is possible to evaluate more accurately emotional disorders and post-abortion regrets. When risk factors for emergence of emotional disorders are evaluated, independently of the reason for conducting abortion, factors such as: living alone, little emotional support from family and friends, post-abortion adverse changes related to partners and religion were found [13]. These disorders are present in half of cases and in around one third of them presented under severe form. Some women questioned decision to abort and the majority does not consider repeating it if they become pregnant again. Comparison between studies with unviable and viable foetuses evidenced that regret rates was higher among those with viable foetuses, which suggest that possibility of the decision, in cases with potentially viable foetuses, may have greater influence from coercitive factors like family, partner and religion – more related to risk increase in occurring post-abortion emotional disorders.

Socioeconomic profile in Brazil of women who undertake abortion

The higher morbimortlity rates in post-abortion complications take place more frequently among women from less socioeconomic power class, evidencing that they submit themselves to more insecure and precarious methods because they cannot afford with cost of clandestine clinic, besides having more difficulties to access suitable care for treatment of complications[14].

The evidence that legal restriction promotes inequality of conditions under which abortion takes places is reached by analyzing social differences among women that undergo procedure in clandestine clinics and attended in public health units for complications. According to the local of occurrence, the profile of women who abort is:

a. In clandestine clinics: they attended high-school and post high-school, did not study anymore, were not married, were between 20-29 years old, without or with few children (maximum of two), 12% had already made abortion previously,

the majority of abortions undertaken between six and twelve weeks of pregnancy, did not use contraceptive methods, majority of partners either supported or were not aware of it [15];

b. In public units: ages between 20-29 years old, married, with up to eight years of schooling, had children already and Catholics [16].

In both places, evaluation of age among cared women's show greater occurrence of abortions (spontaneous or induced) in the two major range of fecundity of Brazilian women [17] (Figure 1). Therefore, women's sexual health programs should target women in the 20-29 age groups. These programs should not only aim to provide clarifications about contraceptive methods and assuring them access to those methods, but also to introduce them into reflecting about the sociosexual roles of women, considering that unwanted gestation and gender violence are two major causes directly related to abortion.

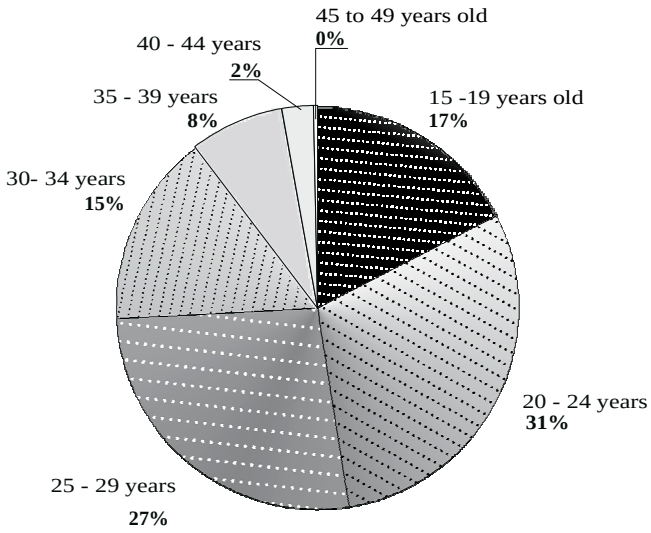

Figure 1. Brazilian female population fecundity rate in 2004, by age bracket
Source: Datasus. Accessed in 5.25.2008.

Besides difference of social classes, death causes distributions is different between black and white ethnic groups. Death rates due to external causes, pregnancy and labor complications, mental disorders, and badly defined causes are higher among blacks than among whites [18]. Although this finding seems obvious, as the majority of the socioeconomically destitute Brazilian population comprises of blacks and mixed race, illustrates that criminalization of abortion effectively contributes to lack of equal and fair distribution of possibilities of reproductive control among women from several social strata and different ethnicities, a counterpoint to bioethics principle of justice, as well as to equity [19].

At the institutional level, studies undertaken in Brazil evidenced its direct relation to woman's decision to abort in case of unwanted gestation, that is, more years of schooling, greater is the probability for a woman, in case of unwanted gestation, to abort [20,21]. Such event may relates to a greater autonomy development of these women, which made them more assertive in searching to enjoy their reproductive freedom rights by reflecting more critically over issues involving sexual and reproductive morality, undergoing less coercion from family, partner, socioeconomic conditions, religion and moral concession of society – which allows inferring that their decisions on abortion are more autonomous.

As the largest concentration of Brazilian female population with better educational level is found among women over 15 years old (Figure 2), this group has the age bracket with greater fecundity and incidence of abortion (20 – 29 years old). Thus, it is imperative to undertake studies targeted exclusively to evaluate these women educational, assertiveness, and autonomy development levels.

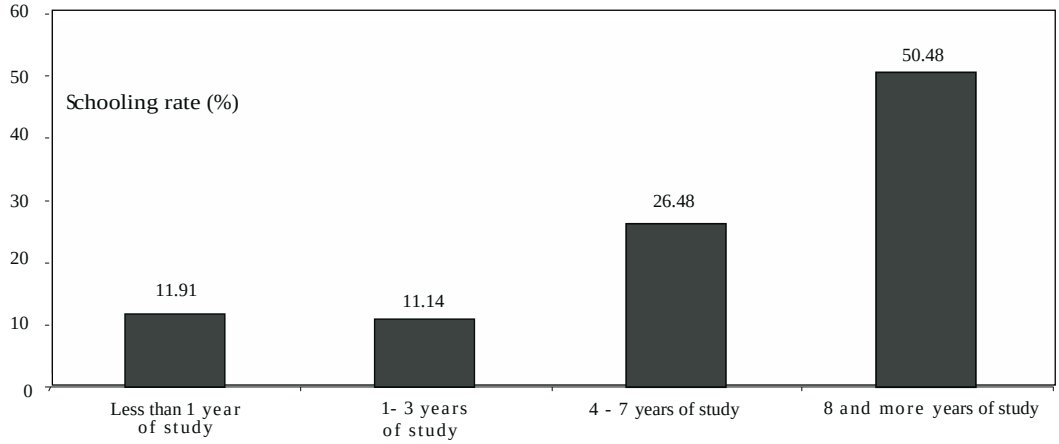

Figure 2. Brazilian female schooling rate (%) 2005 –15 years old or over
Source: Datasus. Accessed in 05.25.2008.

Despite the direct relation between increase in institutional level and increase of favorable opinion regarding legalization or decriminalization of abortion[22], education as understood in our country, according to Freire [23], does not provide bases for anyone to think critically or autonomously, been necessary – both for education and moral Development– a deconstruction of what currently is understood as education. Even currently medical school curricula, according to Rego[24], based in heteronymous education, do not collaborate toward physician's ethical formation, needed to face threshold bioethics issues, such as euthanasia and abortion. Such

pedagogical approach does not foster autonomous reflection, in addition to blurring critical analysis that pervade concepts related to morality, such as: responsibility, freedom, autonomy, justice, and protection of the vulnerable. Therefore, despite opinions of majority of gynecologists and obstetricians, that is, professional that face unwanted gestation or post-abortion complications cases oppose decriminalization of abortion under any circumstances, and few proposing to help a patient or family member do it, but majority of female physicians or physicians' wives have undergone abortion[25]. Dissociation between theory and practice seen in Brazilian society, where abortion is seen as a dilemma, it seems to be unsolvable case, independent of socioeconomic and institutional levels [25], since education is not guided to fostering reflection and autonomy.

Factors influencing the practice of abortion

Professionals, exercising their activities to promote women and pregnant women care, face with induced abortion cases or with the desire to do so, and are able to view factors related to such practice. Some are evident, other not. Nevertheless, in majority of cases, they are interrelated. To understand these relations is the basis both to discuss abortion and to develop public policies targeted to eliminate factors cooperating to occurrences of abortions, described as follows.

Unwanted gestation is the major factor related to occurrence of induced abortions, whose penalization does not respect women's basic rights, such as rights to health, autonomy, and free and voluntary motherhood. These topics were debated 4th World Conference on Women, undertaken in Beijing, China, in 1995[26]. This international document recommendation, acknowledged as integral part of human rights and women's empowerment, aimed at raising awareness among women on themselves and the context in which they live, in order to exercise freely their autonomy, anchored by the principles of justice and human rights, to promote sustainable and equalitarian development in all nations[27].

Gender violence should be considered as the second factor, specially domestic violence, frequent in our society, cause of changes in sexuality not just by physical and psychological violence, but by sexual violence as well – domestic rape –, which is not easily identified as such by victims themselves[28]. This fact, in addition to exposing women to psychosexual problems and to risks of sexually transmissible diseases (STD), may have as consequences a non-planned pregnancy. Therefore, it may occur in a very adverse context of their (married) lives or even against their will, and thus, possibly unwanted[29]. In the State of Rio de Janeiro, recent data show increase in gender violence incidence, evidencing that public policies to fight violence against

women did not yield expected results[30].

The third variable on abortion decision derives from patriarchalism – a power system that is the foundation for the Brazilian cultural formation, as evidenced by Gilberto Freyre, and it set sociosexual roles for men and women, both in rural and urban area [32]. In view of this influence in their beliefs and attitudes, women positioned submissively in relation to their partners, becoming victim both of moral and physical and/or sexual violence, recurrent in majority of cases[28]. Association of abortion incidence due to unwanted pregnancy with gender violence is a fact that is present in societies whose social-moral formation bases took place in the patriarchal system.

Another influent factor in abortion decision is access to contraceptive methods. According to the World Health Organization (WHO), prevalence in contraceptive methods usage and abortion rates are related inversely[33]. However, in some locations in Colombia, Mexico, and Brazil, this relation was not seen[34], which seems to show the difficulties of public policies targeting family planning decrease the incidence of unwanted gestations in countries with great socioeconomic diversity, mainly regarding access by couples to methods as well as to health system.

Factors related to regional distribution should be considered also. Some studies show that occurrence of induced abortions [35,36] takes place in less economically developed regions like metropolitan areas, where there greater access to information and to clandestine clinics. This distribution, centered in some regions, seem to be characteristics of countries with unequal distribution of income and resources offered by the government to the many regions. Unsafe abortion and its complications occur in two different conditions. One, in the large centers, where there is not access to pregnancy suitable planning, despite access to information been greater, although more funds to treat complications are available. Two, in rural areas, where there is less information and resources are scarcer both for suitable planning and to treat complications. However, inequality main point between these regions is the greater accessibility to more suitable means to treat complications, since women dwelling in poorer or underdeveloped areas have higher chances to become severely ill and, therefore, greater possibility of death for not receiving needed treatment in suitable time.

The choice for abortion may take biopolitics and biopower also occurring as factors. Subordination of scientific medicine to capitalist development as first State intervention over the individual is well funded, and it happened with socialization of the body, changing it into social body, which represents control of society over individuals[37]. Capitalism transformed the body into biopolitical unit and medicine was

the means through which Biopolitics began to exercise control of the individual's body. This power apprehended by the State, through medicine, nominated instance capable to exercise such control over the body and sexuality, and evidenced a new form of power over the individual: the *biopower* [38].

Foucault presents, from these reflections, the beginning of thought about biopolitics that, in one hand, may be a State practice serving, for example, to control health indicators, which are important to design public health policies [39], such as natality, for example. In the other hand, this device may aim at people's reproductive domination, by inducing women to the need (almost obligation) of countraceptive methods utilization when political interest focuses control of natality. Contrarily, by distimulating use of these methods as well as prohibiting abortion, in societies that need to grow demographically, as it occurred in Ancient Ages and, more recently, in some countries in Europe after World War II, where law did not allow abortion anymore [40].

Finally, although not less important, it should be considered influences from factors deriving from religious moral. Moral isolation that society places in women who abort derives from stereotyped classification that comes from religious moral and it is associated to biopolitical control of the body by medicine and by the State. This is another factor related to high incidence of complications and death by induced abortion, since it boosts women to undergo the procedure in a hidden fashion to ensure for their privacy and to run away from society's moral judgment[41].

A bioethical analysis of induced abortion

In clinical anamnesis, stories of women in face of unwanted pregnancy are specially contextualized, which generalizes inadequate and it does not help decision-making. However, it is noticeable that some conflicts faced, despite been personal, have common points and they do not depend on socioeconomic factors, such as for example:

a. moral conflict (to undergo or not to an abortion?), which evidences the existing tension between sacredness of (human) life and the quality (of own) life;
b. reasons that guide a pro or against decision. Lack of support from partner or family is one the major favorable implications. One perceives here some coercions on the autonomy of these women that can collaborate to limiting the use of this *prima facie* principle in analyzing the issue;
c. When to decide on not progressing with a pregnancy: how to do it? It is illegal. How to solve this problem? This situation shows counterposition between the principle of justice, associated to freedom of sexual and reproductive choices and the prohibiting or restricting legal norm.

These issues pervade all ethical discussion on clandestine induced abortion, since they encompass tension between the following bioethical principles: sacredness of life, quality of life, the *prima facie* principles of Beauchamp and Childress principlism, and justice also, as preconized by Amartya Sen. Therefore, it becomes imperative to reflect on each principle arguments related to this emblematic situation.

Sacredness of life principle

Catholic Church power over sexuality became evident when it promoted changes on the way of thinking about the act of abortion by banning it, and its classification as sin. Additionaly to abortion, Saint Augustine included countraceptive methods use, designating both as *sin against the sacrament of marriage*[42]. Thus, a new morality on abortion was instituted, based in the sacredness of [human] life, whose premise is *life is subject-of-a-life*, that is, it is always worth living, and as such, it must be protected, and it cannot be interrupted even by the individual's own will. For Durand[43],
The sacredness of life principle originated in eastern religious (mainly in Hinduism) and Jewish-Christian traditions, and it does not loose importance when moral and law separate from religion, since it seems to be related to the imperative duty of *not killing*, which not only protects and promotes human life, but prohibits any action that harms others.

One of the problems of this principle, in the abortion case, relates to the understanding on when human life begins. Biological and evolutional arguments, which proposed to explain the moral beginning of human life, counterposition among themselves and the understanding of life as *life of relation*. Relational view on the beginning of human life happens when a woman accepts herself as a mother and assumes a relationship with the embryo or the foetus, that is, assuming the potentiality of been a mother[44]. This is a decision act, more than a natural event and, therefore, eventually unwanted. At the start of a mother-child relationship, the ethical dialogue between both is established, and thus it is important to respect woman's autonomy about the decision to assume or not this potentiality, since it represents respect to this ethical commitment.

Additionally, according to Anscombe [45], the *shall not kill* moral norm, related to duty, has exceptions such as self-defense, in war, in concentration camp – when killing or lying to save innocent lives may be a fair action. Moreover, an unwanted pregnancy would it not be an exception status in a woman's life? However, biopolitics reduces human being to a biological body without historical and cultural characteristics, and without its rights (= from *bios* to *Zoë*), that is, nude life, the *homo sacer* [46]. Biopolitics, with the argument that pregnancy is sacred, based in sacredness of life principle, counter poses to abortion, not considering reason guiding woman's will to interrupt pregnancy [47].

In the debate of *abortion moral* presented by biopolitics and the control of the social body, one perceives a conflict to characterize

woman who wants to abort: is she the *moral agent* or *moral subject*? This determination is fundamental to bioethical evaluation of the topic. Been qualified as responsible for pregnancy, woman is set as agent, that is, she acted against her will by becoming pregnant because she did not use methods to avoid it happening. However, this analysis can (and it must) be questioned due to the following argument: interaction between responsibility and freedom [of choice] and effective access to information and family planning methods set by the legal ordaining.

Concerning the first argument, according to Jonas[48], responsibility relates directly to freedom; that is, the greater freedom, greater is responsibility for one's self, with other sensing beings, and with the environment. Sartre[49], when ontologically thought on being, expanded this relation: (...) *man, been condemned to be free, carries the weight of the whole world on his shoulders: he is responsible for the world and for himself as manner of being* (...). *In the other hand, such absolute responsibility is not resignation: it is simple logical claim of consequences of our freedom* (...). *The situation is mine because it is image of my free choice of myself* (...) [49].

Regarding the second, the law that regulates family planning in Brazil foresees insertion of information on methods in the public health services as well their distribution to help women avoiding unwanted pregnancy. However, information is not globalized and one does not perceive a quality of health care capable to broadly implement this assistance plan. The complexity of the situation is seen in face of the difficulty for women to access to the most diverse contraceptive methods and, consequently, be able to opt the moment when they desire (or not) to have children. In face of such constraint, abortion becomes an exclusion method, since in regions and countries where there are effective actions to avoid unwanted gestations, even with liberal legislation toward abortion, abortion rate is lower than in countries where this practice is illegal [50]. Thus, it should be asked: if factors such as difficulties in accessing health systems and countraceptive methods added to domestic violence intrinsic to patriarchal culture refrain women to exercise their free choices, how to responsibilize them totally for unwanted gestation?

Another argument against abortion– both used by legal norms and by religion – it is slippery slope, with the premise that they should not proceed under allegation that they could become precedent to other maleficent attitude to humankind. But, authorizations for abortion under special cases, such as maternal life risk, rape and foetal malformation incompatible with life, cannot be considered as facilitator for the slippery for all abortion cases since these have medical indication that do not converge with the to preserve a potential life (that of the foetus) in detriment of woman's health and even of her own life. Therefore, woman, as

a *being in the world*, must have her life valuated.

Quality of life principle

The quality of life principle, which is the main counterpoint to the sacredness of life principle, sets a value for human life, that is, in other to be worth living must have historical and sociocultural qualities. From this point of view, a woman is inserted already in the world with her social and cultural relationships that must be preserved. The axiom that is the foundation of this principle is woman's quality of life preservation, since the embryo or foetus does not have these relationships and, in the unwanted gestation case, there is not even the first relationship that could be attributed to it, which would be with his mother. However, the of a woman aggregates higher qualities to be preserved that those of embryos or foetuses – but to this principle universal recognition does not converge.

Given historical and cultural contingencies that conditioned the social roles attributed to women, the quality of life principle, particularly in this case, contrasted by some questioning, such as, for example: what would be the meaning of a life that is worth to be lived? Who establishes such meaning? Siqueira-Batista and Schramm [51] resort to Kant to answer these questioning: for an act to be genuinely moral, it must be undertaken freely by the ethical subject. It must derive from an authentic choice. Thus, a woman, considering the quality of life, must have the freedom to make her decisions while ethical subject, that is, to have autonomy.

Autonomy, vulnerability, and justice

Autonomy exercises a central role in Beauchamp e Childress [19] principlist model. It defines as the capacity of self-determination, free of external and internal controls. People with decreased autonomy are partial or totally controlled by others. The two basic conditions for the exercise of autonomy are: external freedom and the internal agency or freedom (that is, the subject must act intentionally). The most important, according to these authors, is that action is autonomous: that the moral agent acts intentionally, with comprehension and without external influences. Authoritarian, patriarchalism and paternalism are example of systems that do not allow for exercise of autonomy, at least not for all (male and female) submitted to them.

Consequently, event today one perceives difficulty for women to express autonomy in face of their partners. For example, during negotiation for male preservative use in sexual relations, even knowing that not using them there is the risk of sexually transmissible diseases infection[52]. This female autonomy blunt shows women's vulnerability to face emblematic situations such as gender violence and unwanted gestation, independently of socioeconomic class or educational level.

However, this vulnerability and greater fragility situation of the woman, since vulnerability status relates to becoming, that is, a situation that has the potentiality to turn into another. Schramm apprehends the difference between potential and act, proposed by Aristotle, to set vulnerability and vulnerability concepts, considering that this difference evidences relevant consequences in descriptions, normalization, and prescriptions for each case. According to author, it is pertinent to differentiate vulnerability (human being, animals, and environment universal characteristics) and vulneration (a de facto situation)[53]. Thus, humans will be vulnerable due to several contingences: social class, ethnicities, gender, conditions of life and health status.

Consequently, potentiality, from etymological standpoint, is an intrinsic feature of *vulnerability*, as any living being is vulnerable can be injured. Kottow [54] characterizes vulnerability as the anthropological characteristics of human beings, and he proposes the susceptibility concept, in as much as installed damage to social groups or individuals. Individuals who suffered any damage depriving them of their capabilities, according to Braz [55] and Kottow [54], which derive from their personal lives and from possibilities present in society (for example, health, education, housing, etc.), are said *excessive*, since they are harmed, that is, they are vulnerable and they are susceptible to other damages.

Regarding the status of *becoming* and potentiality, reversibility is another intrinsic characteristic to *vulnerability* status and it goes back to the idea of movement, of change, that is, vulnerable people and populations may leave this situation by increase in their self-determination capacity . This may occur through *empowerment* of these moral subjects with affirmative action developed and implemented both by government spheres and by skilled individuals in a fair society, according to the justice model of Amartya Sen's theory of capabilities[56].

According to author, there is only justice in society when the individual has freedom to exercise his capabilities, since *human capabilities constitute a major part of individual freedom* [57], that is, people's capabilities depend on social characteristics and possibilities of a context in which they are inserted, and, therefore, individual's total freedom come not only on his personal life capabilities. From this presumption, vulnerability is associated also to freedom deficiency to exercise his capabilities.

Thus, one perceives that some authors proposes pertinently differences in vulnerability concepts, and other more suitable vulnerability concepts to classify population victim of damages, but due to dissemination in academic and scientific of the expression vulnerability to characterize vulnerated, excessive or susceptible groups, use of this category also reveals convenient in bioethical discussions involving these groups. In the present discussion, one should keep in mind that women are susceptible to suffer accessories damages when they want

to interrupt a gestation, since, in as much as sociosexual minority, they are moral subjects especially vulnerable due to this condition. This understanding is important, as attempts to hide vulneration and its causes turn autonomy into a speech that makes victims accountable for their own injuries. The concepts of *vulnerability* and *autonomy*, been Latin American[58,59] bioethics dialectic arms, may be also bioethical principle guiding discussions about abortion.

Beauchamp and Childress Principlism

Using the fundaments of principlist ethics, abortion criminalization is contrary to the four *prima facie* [19] principles that outlines these parameters: moral agents prevent woman's exercise of autonomy who wants do interrupt her gestation; they do not evaluate benefits nor risks that abortion may bring both to woman and to society. Agents act paternalistically, under the argument that *they know what is best for all*, freeing themselves from preventing abortion damages under in clandestinity, in unsuitable conditions to woman's health. Criminalization, also, cannot comply to the principle of justice, as it penalizes woman under vulnerability status due to pregnancy, as if all had access to all available information and methods, inclusively by not considering their failure percentage, as none is 100% effective *in vivo*, collaborating to social inequality increase, as exposed above.

Additionally, one perceives, in practice, that even when autonomy undergoing influences by coercion mechanisms such as religious moral and legal norm, woman will abort if the other potential sources of coercion (family, partner, economic status, etc.) are favorable, that is, she will solve the tension between sacredness of life principle and quality of life principle relying in the structure that is stronger and more influent, who normally is the family or the partner. If, in the other hand, woman has her autonomous capacity developed, she will be able to choose freely and, if abortion is her option, she will do it. However, woman aborts or by the exercise of her autonomy and free choice or under heteronymous way, under influence of coercions.

The Brazilian morality

Brazil is multiethnic in its cultural formation: more than three million blacks brought in by the slave trade added to native indigenous and Portuguese (mainly) population. These ethnical matrices underwent a mixing process in relation to not only physical characteristics, but also culture and habits[60]. Currently, the country aggregates a still greater cultural mixing, considering other people who arrived later, like, for example, Orientals, Europeans from other regions (Italians and Germans), and several other groups of Arab descent. In face of undeniable ethnical and cultural multiplicity one should ask: why laicity did not constitute in the ordaining principle of the legal norms, ensuring sexual and

reproductive rights to all women in Brazil? Why, despite already centenary separation between Church and State, the sacredness of life principle continues to overlay the quality of life principle and autonomy in the Brazilian legislation regarding abortion? Why does the State deny legislating for the whole society, ensuring the right of safe abortion to those who choose this option, without such event forces any of them to undertake if it is contrary to their will or belief?

The Catholic Church is not able to exercise influence in public policies planning targeted to family planning and to control dissemination of STD/Aids, which are based in epidemiological studies on morbimortality to promote adequate guidance and distribution of contraceptive methods by the public power, including condom. In the case of abortion, in special, why the epidemiological analysis of maternal consequences and deaths caused by induced abortion, which relate to several factors already seen, among which stand out, in this country, socioeconomic inequalities, is not impartially appreciated by the public power that clearly has influences from the Church in its decision-making about this topic?

Brazilian morality (partner, family, religion, politics, etc.) and criminalization of abortion prevent women to exercise their reproductive rights in a free and autonomous way, placing them in a limbo between the right and wrong. And the legal morality, with its patriarchal basis cover by the religious moral, immerse in the thought that human life [embryo] is [more] sacred [than that women] and, consequently, should be protected. Such context collaborate to embarrassment and discrimination of women who voluntarily interrupts unwanted gestations, that is, they will not remain arrested, but they will be considered still as guilty and penalized for it, remaining with this stigma following them s in the event in Mato Grosso do Sul in 2008 [61].

Out of the discussion of data related to abortion, one finds that, regarding morality, it is unnecessary setting women's socioeconomic profile. To approach this topic within the ethical scope one should be considered just its feature as public health problem, since all are women in vulnerability status. Simply, women should be looked with compassion[62], sheltered63 and to have their sexual and reproductive rights ensured and respected with value judgment determination by third parties about a decision that is exclusively of private forum.

Final considerations

Currently, one lives in a world where information are unequally globalized, associating to a rupture of the praxis by dissociation of theory and practice. It is naive to analyze the situation of abortion without associating them to complexity of factors that surrounds it, beginning by the naïve belief in *globalized*

information, which implies believing that at the beginning of this century everyone should know how to avoid children. Even supposing that such fallacy would correspond to one truth, attributing this knowledge to the capability effectively realize contraceptive is equal to change potency in power. It implies in agreeing with constraints deriving from inequality to access public policies on family planning, as well as closing the eyes to the severe deficiencies in its execution related to constant supply of contraceptive methods.

Although it may seem surprisingly to those who, particularly in the large metropolitan areas, live under the auspices of the Internet, the world still is far from broad dissemination of information, mainly in countries and regions where access to communications did not reach an important layer of population, which is – always – the most destitute. Thus, one perceives to be a mere illusion the certainty that women, mainly those living in Latin America and in Africa, have the so-called *globalized information*, and also access to basic health care and education occurring in a precarious way and that the living conditions of these women is, often, genuinely unhealthy.

Arguments that incriminate women, victims of a unwanted pregnancy, are not in conformity with current global situation of female scope, since lack of conditions to exercise their free choices is almost eminent in the secular coercitive attributes of gender roles, which associate to restrictions deriving from their ethnicity and socioeconomic status in which they live. In this context that social formation still bases in patriarchalism, unwanted gestation and abortion are situation that expose women's vulnerability, increasing their difficulty in exercising autonomy.

Therefore, the abortion problem is not only a public health one due to deriving physical complications and deaths. Although such indicators necessarily should be considered, it is crucial to analyze the broader context, as paradigm involving the issue of abortion that pervade the formation of Brazilian society own morality, which is strongly influenced by patriarchal values. They are the basis in determination of sociopsychosexual roles for men and women in our country. The problem of induced abortion, taking place in unhealthy conditions cannot but to be articulated to society also, which constitutes a factor related to clandestinity of abortion.

The practice to *look the other*, as described in the levinasian meeting[62], and the *compassion look*, according to Siqueira-Batista[63] waken by compassion, make possible to evaluate without attachments of pregnant woman's dilemma who does not want to become mother in a set instance. To apply bioethical principles of justice according to Levinas' [64] sheltering ethics and Amartya Sen's [56, 65] theory in capabilities, as well as to respect autonomy and plurality, indispensable for the exercise citizen, may be an union point

between reason and individual feelings, and the humanizing values learned in the socialization process. As pointed by Cortina [66], moral values – freedom, justice, solidarity, honesty, active tolerance, availability to dialogue, respect for the humanity of the other and one's own – need to be undertake by each and, thus, tendency is to be universalized.

Bioethics, been applied ethics, is an area of knowledge in reflections about the paradigmatic case of abortion. And public health where dialectic of several knowledge take place, is the scope that shelter pertinently the moral problem of abortion. It is in confluence between these knowledge that can promote needed excellence conditions to base future public policies aiming at decriminalize abortion in our country, giving one more step toward equality, justice and human relationship development.

Resumen

Mujeres brasileñas y aborto: un abordaje de la bioética en la salud pública

El objetivo de este trabajo es reflexionar críticamente sobre la acusación del aborto en el Brasil. Se utilizó un abordaje metodológico orientado en el trabajo de revisión bibliográfica, a partir de un análisis bioético en el tema propuesto. Se verificó que la gestación indeseada, la violencia doméstica y la dificultad de acceso al sistema de salud son factores que exponen a las mujeres a daños subsecuentes. Se concluye que la biopolítica basada en patriarcalismo y en el principio de sacralidad de la vida continua ejerciendo control sobre el cuerpo y la sexualidad de la mujer, y se relaciona con la prohibición de la inducción del aborto, lo que constituye un problema de salud pública. Este trabajo, a partir del uso de las herramientas bioéticas, propicia el desarrollo de las relaciones humanas dentro de los conceptos de la justicia, dignidad e igualdad, por el uso de la dialéctica entre los argumentos pro y contra el aborto.

Palabras-clave: Solicitantes de aborto. Salud de la mujer. Bioética. Salud pública.

Abstract

Brazilian women and abortion: a bioethical approach to public health care

The objective of this work is to make a critical reflection about the criminalization of abortion in Brazil. A methodological approach used, conducted by bibliographic review, taking, as starting point, bioethical analysis for the analysis of proposed theme. It verified that unwanted pregnancies,

domestic violence and an inaccessible health system are factors which expose women to further damage. The conclusion was that the biopolitics based on patriarchalism and on the principle of the sacredness of life still exerts control over the body and sexuality of women, and is related to the prohibition of induced abortion, which is a public health problem. This work, through the use of the bioethics tool, seeks to promote the development of human relations within the concepts of justice, dignity and equality, using dialectics, presenting pro and against abortion arguments .

Key word: Abortion applicants; Women's health; Bioethics; Public health.

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