

Abortion from a bioethical perspective

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ABSTRACT

One of the main questions that guide Brazilian society is the abortion legality, regardless of any specific cause. According to the Penal Code of 1940, it is legal to interrupt pregnancy until its 12th week if it is a consequence of rape or if it will result in risk for the mother. In 2012, anencephaly and microcephaly were included in this category. Our study presents the bioethics discussion about abortion. It is an integrative review of literature, in which articles published between 2010 and 2021 were selected using PubMed, SciELO and BVS databases with the keywords: "bioethics" and "abortion". The contrary argument is guided by the discussion that a person is formed in the moment of fecundation, so that abortion violates the right of life. Others defend the theory of potentiality, claiming that every fetus is a human being in potential. The defense of decriminalization of abortion, on the other hand, relies on the idea that a human person is an anthropologic concept, thus requiring the social relation to make sense. The person's status would be acquired by social interaction. The defenders also emphasize that abortion is a serious health issue in Brazil due to the clandestine abortions, which cause excessive spending and high mother morbimortality. Lastly, some defend the abortion decriminalization based on the principle of autonomy. In conclusion, although abortion legality is a huge discussion since the 19th century, it is far from having a resolution, after all, solving the problem of abortion ethics involves considering moral and cultural diversity of the populations affected.

Keywords: Abortion; Bioethics; Moral; Obstetrics; Jurisprudence.

RESUMO

O aborto sobre a perspectiva bioética

Atualmente, uma das principais discussões que norteiam a sociedade brasileira é a legalização do aborto, independentemente de causa específica. De acordo com o Código Penal de 1940, é admitida por lei a interrupção da gravidez até a 12ª semana, desde que esta seja consequência de estupro ou acarrete risco de vida materno. Em 2012, incluíram-se nessa categoria situações de anencefalia e microcefalia. Este trabalho objetiva apresentar a discussão bioética a respeito do abortamento. Trata-se de uma revisão integrativa da literatura, em que foram selecionados artigos entre 2010 e 2021 por meio das bases de dados PubMed, SciELO e BVS, utilizando os descritores "bioethics" e "abortion". O argumento contrário ao aborto pauta-se na discussão de que a pessoa humana se forma a partir do momento da fecundação, de forma que o aborto caracterizaria uma violação do direito à vida. Além disso, mais pessoas defendem a teoria da potencialidade, a qual afirma que todo feto é um ser humano em potencial. A defesa da descriminalização do aborto, por sua vez, apropria-se da ideia de que "pessoa humana" é um conceito antropológico, necessitando da relação social para fazer sentido. O status de pessoa seria, assim, uma conquista pela interação social. Alerta-se ainda para o fato de que o aborto é um problema de saúde sério no Brasil, sendo a grande quantidade de abortos clandestinos importante causa de gastos excessivos em saúde e de morbimortalidade materna. Por fim, há quem defenda a descriminalização do aborto baseando-se no princípio da autonomia. Com isso, percebe-se que, apesar da discussão bioética sobre o aborto permear nossa sociedade desde o século XIX, esta está longe de ter uma resolução, afinal o problema da ética do aborto é localizado e qualquer tentativa de solucioná-lo tem de levar em consideração a diversidade moral e cultural das populações atingidas.

Palavras-chave: Aborto; Bioética; Moral; Obstetrícia; Lei.

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Introduction

Currently, one of the main discussions that guide Brazilian society is the legalization of abortion, regardless of specific cause. On the one hand, there are those who defend the prohibition of termination of pregnancy in any situation, arguing that this practice is “murder”, since it is a potential life and, therefore, configures an unethical action based on the principle of human heteronomy. On the other hand, there are those who argue that this decision should be up to the woman alone, due to autonomy over her own body, in addition to freedom of choice, something that is based on the principle of individual freedom, heir to the philosophy of Stuart Mill¹ and the principle of bioethics of individual autonomy. There are also those who are in the middle of these two sides, arguing that abortion is not unethical as long as the termination of pregnancy occurs within a certain period and for specific reasons. In Brazil, for example, this coincides with the 1940 Penal Code, in which it is admitted, by law and by demand of the pregnant woman, to interrupt a pregnancy until the 12th week if it was the result of rape or entails a risk to the mother’s life (more recently, in 2012, by jurisprudence, situations of anencephaly and microcephaly were included in this category, in which case it is up to the mother to decide).² This illegality, however, does not prevent the practice, being related to social inequality and remaining a global problem.³

Given this scenario, two concepts emerge that need to be clarified for a good understanding of the article: the concept of bioethics and abortion. In this sense, bioethics is “a toolbox [...] to analyze, describe, understand and try to resolve conflicts of interests and values that may arise in the relationship established between a health professional and service users”.⁴ Furthermore, according to the criteria of the World Health Organization (WHO) adopted by Brazil, abortion is characterized by termination of pregnancy until the 22nd week or by a conceptus weighing less than 500g.⁵

In addition, we need to make a brief history of how individual freedom rights have been developing in recent centuries to understand why this discussion is increasingly favorable to the decriminalization of abortion. In 1948, Article 1 of the World Declaration of Human Rights affirms that all human beings are born free and equal in dignity and rights.⁶ In 1994, at the International Conference on Population and Development, the importance of promoting gender equality was recognized, eliminating violence against women and ensuring they are able to control their own fertility.⁷ In 2000, the Human Rights Committee highlighted the fact that abortion bans create a threat to women’s lives.⁷ Hence the purpose of this article it is to analyze the relationship between bioethics and abortion.

Methodology

This is an integrative literature review, developed from the analysis of national and international databases. The research was carried out in four stages: (1) construction of the guiding question; (2) search for primary studies in databases; (3) categorization of studies; and (4) analysis. The guiding question of this work was about the bioethics of abortion. After identifying the research problem, the search was carried out in the databases of the Virtual Health Library (VHL), in the SciELO library and in the PubMed library. To carry out the search, the following descriptors (DeCS) were used: “bioethics” and “abortion”. 1,247 articles were identified and the following inclusion criteria were established: available online, carried out between 2010 and 2021, published in Portuguese and English and dealing with bioethics and abortion.

After applying the inclusion criteria described, 23 articles were selected. Based on the references obtained, the title and abstract were read, followed by material selection, extracting the research problem from the selected studies. Reading the selected works made it possible to organize the ideas in order of importance and then synthesize them. After systematic and interpretive reading, only seven articles were selected for results and discussion.

Development

Based on the references obtained, an exploratory reading and material selection were carried out. Reading the chosen works made it possible to synthesize and organize the ideas in order of importance, comparing the arguments of those who defend that abortion should be maintained as a crime and the arguments that defend the decriminalization of abortion.

Firstly, people who defend abortion as a form of “murder” argue that the human person is formed from the moment the sperm is fertilized with the egg, so the fetus would be a human person. Thus, the fetus should have the rights of a human person, which, from the moment abortion is allowed, are violated. The main right, which according to this argument would be violated, is the right to life, since, according to Article 5 of the Brazilian Constitution of 1988, “All are equal before the law, without distinction of any kind, guaranteeing the Brazilians and foreigners residing in the country the inviolability of the right to life.”⁸

In addition to this argument, more people defend the theory of potentiality, which states that every fetus is a potential human being, depending only on the time for this transformation to occur and, therefore, is a being that carries consciousness. This makes any attempt on the life of the fetus a crime.⁹

The other side, which defends the decriminalization of abortion, argues against the aforementioned positions through the idea that the “human person” is an anthropological rather than a legal concept that needs the social relationship to make sense. The status of a person, therefore, is not a mere concession, but, above all, an achievement through social interaction, which the fetus has not yet established. Furthermore, they argue, contrary to the theory of potentiality, that, in this way, sex cells would also be potential human beings, which weakens this argument, since human beings physiologically lose sex cells.⁹

Another important argument is the fact that abortion is currently a serious health problem in Brazil, considering that it is a frequent and persistent phenomenon among women of all social classes, racial groups, educational levels and religions. In 2016, one in five women, aged 40, had at least one abortion.⁴ Furthermore, the large number of clandestine abortions causes excessive health expenses and worsens the quality of life of these women, given that 48% – almost half – of the women were hospitalized in the last abortion.^{10,11}

Finally, there are those who defend the decriminalization of abortion based on the principle of bioethics of autonomy, which gives the patient the power to make decisions related to their treatment, in this case, the treatment of an unwanted pregnancy, which may have reverberations in the future of both the pregnant woman and the child.¹²

Final considerations

Given the above, it is clear that, despite the bioethical discussion on abortion permeating our society since the nineteenth century, this discussion is far from being resolved, since the problem of abortion ethics is localized and any attempt to solve it has to take into account the moral and cultural diversity of the affected populations, as a Christian religious person who strictly adheres to the doctrines of religion is likely to have an entirely different opinion and morality than a scientist or advocate woman of the feminist movement. Furthermore, abortion is one of the paradigmatic issues of bioethics precisely because it is the tragic essence of the moral dilemmas that, in turn, constitute the great conflict of bioethics, mainly because of the legal diversity on the subject, the argumentative multiplicity of the bioethical debate and the moral diversity existing in society, which prevents a common agreement between the parties.

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