

DEMOCRATIC CONSIDERATIONS REGARDING ABORTION – MORAL-SPIRITUAL POINTS, CONSEQUENCES AND LEGAL – CRIMINAL FRAMING

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Abstract

Everyone has the right to life. This right applies in practice from the moment of conception or when the first cells are reproduced. We, the young generation, should not have to be indifferent and should not admit any illegality at any time during pregnancy. Because abortion can leave a negative footprint for the rest of the life.

Every person is independent and value-creating. Because of her mother's negative will, doesn't mean she has to lose her life. Children, like adults, have the right to survival and development. Embracing the embryo from the mother's breasts means direct violation to the life and health of the person.

At first, it's like everything is fine and adjusted to all the positive requirements. But later on, after the challenge of abortion, the patients understand that things are not so "magical". There are situations in judicial practice, when at first pregnancy women have aborted, and after then they can't have children for the rest of their lives.

So, I want to make it clear that abortion is a very serious crime, identical to murder, which requires a permanent theoretical approach and a continuous information point for the young generation.

Keywords: *abortion, fetus, murder, victim, law.*

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1. Introduction

Since the appearance of the first human beings so far, society has been concerned with a series of bonds. One of the most valuable is "*leaving the descendants and legacy from father to son*". For the existence of this clause, it is necessary to conceive of a new human being, to treat it with caution and to ensure birth growth. The life of every person begins from the time of its conception, because as we already know, then cell reproduction, their specialization and their function begins. And, "for normal pregnancy evolution, it is known that normal sexual elements, integral uterine mucosa, normal placental morphogenesis, progressive uterine adaptation as well as adequate hormonal balance are required" (Beliş, 1992: 145).

Human personality is the only bearer and value-creating. However, in some cases, women no longer want, for various reasons, to give birth to a new

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predecessor. Thus, they resort to various methods to interrupt the pregnancy. In the literature, interruption of the pregnancy is carried out by abortion. The concept of abortion “is defined in medical and legal practice as the interruption of pregnancy throughout its development, from the first to the last month of the gestation period” (Plahteanu, 1994: 111). Analyzing the approaches of specialized literature, I would like to reiterate that the participants at the World Congress in Oslo, may 10-13, 1990, concluded that “an unborn child – is a human, whatever he may be, procreated naturally or artificially in or out of the mother’s womb before he or she was born” (Declaration of the Rights of the Unborn Child, 1990: 1).

2. Moral-spiritual aspects

At the current stage, women call for a wide range of methodologies to achieve abortion, both legal and illegal. In the years 2737-1696, the emperor of China, Shentlun, stated that the only legal instrument against the pregnancy is mercury. Later, between 1550 and 1500 BC, the Egyptians used the recommendations of “*crone midwives*”, prepared from acacia and colonized leaves, to interrupt the pregnancy. In early rural areas, women used some old styles to cut off pregnancies such as throws at some heights, vaginal valves, local anesthesia, rolling through hillsides, dilators, vacuum-aspirations, etc. Another cause that increases the number of abortions in the villages is that “women come in contact with a number of plants that may favor a spontaneous abortion: rubard, the wolf's apple - also known as the denominator, or the anthrax, the pepper, the soapwort, the bark or grazing of the earth, the myrrh, the fern, etc. Most grow through trenches or fields among the other plants that grow”(Roman, 2007: 81). In this regard, it is important to note that abortion in rural society is a common indicator. It occurs most often in unmarried women in regions where marital or citizen violence is on the agenda.

In Christian states, the ‘*Mystery of the Weeding*’ is one of the most preoccupied concerns of the Orthodox Church in the realm of its pastoral activity. It has the mission to protect the holiness they enjoy – Christian marriage. The *mystery of the marriage* is a divine work, thanks to which the grooms are born “*the second time*”, one for another. The essence of a marriage is its fruit, that is, children. The child's life starts from the moment he is conceived. We must not be indifferent and tolerate these illegalities because “children have the right to survival and development in all aspects of life: physical, psycho-emotional, cognitive, social and cultural”(Convention on the Rights of the Child, 1989: 2). Once it is conceived in the mother's womb, it appears as a living principle of its own. In this way, the fetus acquires a material-spiritual essence and own identity. But, regrettably, due to circumstances beyond the will of the parts, one of the great sins and passions that ruin marriage, destroying the Christian essence and creating heavy injuries in the order of social life, appears.

The violent challenge of destroying the soul of the flesh means the end of the child's life in the mother's womb. In this chapter, in order to plan the right to life of each child, the legislation in force guarantees the dignity and honor of every human being, and, „the attentiveness to the honor and dignity of the child is punished according to the law” (Law no. 338, 1994: 7). Regard on this, the theologian teacher, Leontin Popescu, contradicts these shameful facts of society and notes that “man has a unique position on the earth and in the whole of creation, therefore any attempt on human life is defiance and offense against God, violation of one of the fundamental commandments of the divine law, "Do not kill!" Life is the most precious right of God given to man, and no one, besides God, can suppress the life of man, not even man himself has the right to suppress his life, and even more no one can arrogates the right to suppress another's life” (Popescu, 2012: 98).

From a religious point of view, each woman has an obligation to respect the will of God and to give birth to the child. “In the Jewish religion, the embryo receives personality status after the end of the post-implantation period. Islam believes that the embryo has the right to personality after 40 days of fertilization, at which point the soul is installed in it. Induism claims that the reincarnation of the soul doesn't depend on the physical state, and the embryo doesn't have well-determined status. The Protestant Church has an ambivalent position” (Iliade-Tulbure, 2011: 117). In fact, abortion creates many more and more complex problems than those people claim to solve. Medical professors believe that “God himself intends to create a human being and that this creature, which is born in the mother's womb, is deliberately abortion-free, and this is nothing more than an assassin” (Iliade-Tulbure, 2011: 117). Researching some medical data found that repeat abortion is a substantial cause of cancer and uterine fibroids.

3. Scientific research

At the moment, some ladies are overwhelmed by anxiety, fear, and inner confusion when they make a decision to stop pregnancy. They face an emotional problem, becoming helpless, sad and surrounded by a shameful atmosphere. By reaching such a stage in life, to hide and interrupt the pregnancy, those individuals resort to some illicit deeds. In this context, I would like to point out that “unsafe abortion is the procedure of interrupting the unwanted pregnancy by people who do not have the necessary training and skills and / or under conditions that do not meet medical standards. Nearly half of the world's abortions (about 20 million a year) are considered unsafe, most of them being developing countries. Of all deaths related to pregnancy, 13% were the result of unsafe abortion, accounting for 67,000 women per year” (Bivol, 2013: 71). By resorting to such gestures, the perpetrators try by any means to keep away this sensitive and controversial theme from the eyes of the world.

The issue of abortion is an exhaustive one. It can be interpreted in various ways and can be caused by the following types:

1. "Early abortion – application of medical manipulation up to 12 weeks of gestation.
2. Late miscarriage – application of medical treatment from 12 to 22 weeks.
3. Complete Abortion – complete removal of the conception product.
4. Incomplete abortion – partial or total detention of the conception product.
5. Criminal abortion – interruption of pregnancy performed by incompetent persons, without medical standards.
6. Abortion caused – interruption of pregnancy through medical manipulation.
7. Spontaneous abortion – interruption of pregnancy without specialized medical intervention (loss of pregnancy).
8. Septic abortion – pregnancy termination by specialized medical interventions, with association of infection”(Pruteanu, 2013: 80-81).

So, I want to reiterate that no matter which abortion mode will be used to interrupt the pregnancy, it is a crime before the Lord and sooner or later each will respond for his deeds.

Thus\so (prin urmare), depending on the type "selected" to commit this act, calculating the duration of pregnancy - abortion can be done by various methods:

- A. "**Abortion up to 8 weeks** is done by:
 - Intercept method.
 - Adjustment of menstruation or vacuum-suction.
 - Administration of Prostaglandins and Mifepristone (RU486).
- B. "**Abortion at 8-15 weeks** is done by:
 - Vacuum-aspiration method.
 - Surgical method.
- C. "**Abortion 16-24 weeks** is done by:
 - Dilation and evacuation method.
 - Surgical method.
 - Inspiration techniques with saline, prostaglandin solutions, with or without urea.
- D. "**Very late abortion: 25-26 weeks** is performed by instillation techniques with saline, prostaglandin, with or without urea”(Palade, 2006: 88).

A woman's decision to get an abortion is an easy one that does not require much sacrifice and courage. But, however, I think that in such a context, it would be a priority to identify a better solution and relate to the social-existing situation. It is important to realize that the circumstances that have been created, it targets both partners, is not just the fault of the female genre. Abortion can be marked throughout the rest of your life (negative footprint). This deed can have far worse consequences than other illegal actions oriented against the person's life or health. Because, not once did happen, that during the

first pregnancy the woman went to abortion, and then she could not have children for the rest of her life. In this hypostasis, I would like to illustrate that “abortion is not just a simple medical procedure. For many women, it is an event that radically changes their lives through its serious physical, emotional, and spiritual consequences. Most women who are now suffering the consequences of abortions say they want to know all the truth about abortion before doing this wrong step” (Dobrea, 2013: 77).

The Romanian authors draw attention to the fact that abortion can be accomplished by both chemical, mechanical and physical means. Thus, we note that “chemical ones are medicines, hormones, vaccines, various organic or inorganic combinations, plant extracts, administered locally or generally. Mechanical means include strong massages of the region, mechanical perforation of membranes, intrauterine injection of various solutions for the production of uterine contractions and the expulsion of the fetus. Physical means refers to local hot baths associated with other processes” (Groza, 2007: 135). Another way to detach the fetus from the female *body is safe abortion*, performed in specialized medical clinics using ultrasound or electric current under anesthesia and counseling pre / post abortion woman. The pre-abortion counseling explains the steps and procedures that will be taken so that the woman can cope with the emotions and sensations that will overwhelm her during the procedure.

In addition to the abovementioned methods and procedures, abortion can be classified as a spontaneous and provoked abortion. Spontaneous abortion is often called pathological abortion. In the literature, the following sentence is distinguished: “spontaneous abortion can be generic, maternal causes, paternal causes, ovarian causes due to hormonal balance and immunological abortion” (Dermengiu, 2011: 119). By analyzing the classification of spontaneous abortion, we can deduce that the abortion, in turn, may also be divided into legal abortions (on request), accidental or empirical.

Looking at the hierarchy listed above, I would like to point out that a significant role in the discontinuation of pregnancy is also the dilectal abortion. In order to elucidate a more detailed and in-depth theme of this pregnancy termination mark, Professor Natalia Drugescu, states that “dilectal abortion is forbidden in all countries of the world.

The indications of therapeutic abortion are varied across different legislations. In the vast majority of countries, abortion is limited to cases of strict necessity allowing the interruption of pregnancy only when the life of the pregnant woman is in danger and can not be eliminated by other means. In other Scandinavian states and some on the American continent, therapeutic indications extend to some diseases or situations capable of generating embryos” (Drugescu, 2001: 125). In addition to the set of damages listed above, with regard to the issues and the negative consequences, the intentional task of interrupting the pregnancy may leave some fingerprints irreparable for the life

and health of the woman. Abortion caused dilectually leads to long-term suffering or even serious illness, such as:

1) “*Hemorrhage\bleeding*. Blood loss becomes serious and dangerous in itself unless it is properly treated to remove it. Hemorrhage can be complicated with other serious injuries, usually traumatic.

2) *Air embolism*, is a serious complication of intrauterine interventions. It is believed that 70-100 ml of air introduced into the vascular bed produces fatal embolism. In the case of hyperoxide hydrogen injections, ozone gas is released; death can usually occur quickly, evolving with precordial pain, dyspnea, collapse. Embolization can occur in two phases, the fatal accident occurring after body position changes.

3) *Inhibitory shock*. This tanatogenetic mechanism can be admitted exceptionally, when neither the air embolism nor the signs of another mechanism are found; the trigger-triggered reflex of deadly inhibition starts from excited uterine interceptors through forced excitement. In such cases, the pregnant woman dies.

4) *Poisoning*. We have shown in the previous subchapter that toxic substances taken for abortive purposes can cause the woman's death; we encounter serious dystrophic lesions in the liver and kidney. Diagnosis is difficult, especially if the anamnesis is hidden.

5) *Infections* are the most serious complications of criminal abortion, in which the sterility of the instruments is dubious or non-existent, and the emptying of the uterine cavity is done slowly.

6) *Traumatic injuries*. Their predilection is found in the back of the vagina, the posterior wall of the cervical canal, the inner uterus and the back of uterus. Perforations by puncture or scraper, grabbing, may intersect the parameter, adjacent organs (bladder, rectum, intestines), or even more distal organs of the abdomen (stomach, liver), and even the perforation of the diaphragm can be met” (Ander, 1966: 145-151).

In some cases encountered in practice, to release responsibility for these illegalities, women are motivating that an internalized fetal death has occurred in various causes. In this regard, a detailed study and research is being carried out in the framework of permanent legal medicine to establish the causal relationship between death and abortion. It is that “the causal relationship between abortion and death is based on corroborating clinical, anatomopathological, bacteriological and toxicological data. The most common causes of death in empiric abortion are hemorrhagic complications, septic complications (pelviperitonitis, septicemia), gastrointestinal and amniotic embolism, intoxication and toxico-septic shock” (Vieru-Socanu, 1997: 152). As we have already noticed, the primary consequence of abortion is the death of a new generation. In this context, I reiterate that women are confronted with a lot of emotions caused by the eventual interruption of pregnancy. The majority of them are forced to make such a

decision as a method of contraception, which they consider to be optimal for a more prosperous future.

In practice, an essential focus is placed on the concept of artificial interruption of pregnancy in late term. This methodology assumes that “the choice of the method of interruption of pregnancy - correlates with the gestational term. Up to 18 weeks, surgical discontinuation is performed by the dilatation and evacuation method, which is less dangerous than medical interruption” (Palade, 2006: 82). However, there is also a legal provision to voluntarily interrupt the course of pregnancy in a safe way, which means that “the voluntary interruption of the pregnancy is carried out in the medical institution providing this kind of services, only by specialists in obstetric-gynecological, at the choice of the pregnant woman, regardless of the place of living or the residence visa” (Order of the Minister of Health no. 647, 2010: 9-10).

It is true that no law can prevent a woman from giving birth or keeping the child, but an attempt - a change of mentality – must exist!

Laws that prohibit and punish abortion do not call into question the rights of women, but the right to life of the child conceived. They say that no one can afford the life of an innocent, defending the equality of the right to life of all human beings. Abortion can not be considered a woman's right. The law must punish all crimes, otherwise the weak and innocent are victims of defiant defenses more powerful than they are.

The sphere of reproduction in the Republic of Moldova is a medical-social problem, and, „abortion continues to be a still quite common method of family planning, causing real risks for women's health”(Government Decision no. 768, 2011: 33). The vast majority of women resort to abortion on the grounds that the fetus was conceived as a result of unplanned preventive or unwillingness to establish a family.

Liability before the competent authorities for this specific act is incriminated in art. 159 PCRM (Penal Code of the Republic of Moldova, 2002), where we can see that the illegal challenge of abortion is recorded in a variant and an aggravating version. Since, „the body of the fetus is in the body of the woman (mother), the material object of the abortion offense is bivalent, being represented by the body of the pregnant woman and the body of the conceptual product, since abortive maneuvers can cause injury to either the mother or local or to the fetus (directly or indirectly)”(Iftenie, : 66).

If we refer to the neighboring state, we can see with certainty that first of all, abortion is incriminated as an aggravating circumstance in art. 192 para. (1) lit. "C"(Law – The Romanian Penal Code), which may occur as a result of the blows or other acts of violence that cause physical suffering. Also, in order to respect the right to life and birth of every citizen, the Romanian legislation provides for a separate specific norm, art. 199 RPC (Law – The Romanian Penal Code), which aim is to prevent the interruption of pregnancy.

Teachers in the Republic of Moldova, Sergiu Brînză and Vitalie Stati, think that “giving birth to a human being is a personal act, not a social act. The consequences of this act are more borne by the woman and, when she doesn’t want to support them, society, which does not contribute effectively to relief these difficulties, has no right to impose against her will the obligation to have children”(Brînză, 2015: 392).

Conclusion

The right to life is one of the fundamental rights of the human being, including the unborn. This right is guaranteed by a series of local and international documents. The fetus is therefore a human being from the end of the 8-week pregnancy to the expulsion as part of the process of birth, the latter marking the beginning of the extrauterine life of the newborn child.

Abortion is a factor of imbalance including evolution and birth rate, which directly affects the contemporary world and our descendants. *Finally*, I want to mention that no person has the right to own the superiority and "ownership" of another person. The embryo!, or the unborn baby doesn’t belong to the mother's complex of organs, the latter being a unique, distinct being, possessing its own genetic individualization.

Bibliography

1. Ander Z., Bilegan I., Molnar V., (1966), *Legal Medicine*, Editura Didactică și Pedagogică, Bucharest.
2. Beliș V., ș.a., (1992), *Legal Medicine*, Editura Teora, Bucharest.
3. Bivol V., (2013), *Abortion - Current Problem of Society*, In: Materials of the International Conference on Criminology: "Criminality in the Republic of Moldova: Current Issues and Solutions", Editura Tipografia “Bons Offices”, Chisinau.
4. Brînză S., Stati V., (2015), *Criminal Law Treaty*, Special Part, Volume I, Editura F.E.-P.”Tipografia Centrală”, Chisinau.
5. Dermengiu D., (2011), *Legal Medicine - Course Notes*., Editura Universitara, Bucharest.
6. Dobrea A., (2013), *Abortion - pros and cons*, In: Materials of the International Conference on Criminology: "Criminality in the Republic of Moldova: Current Issues and Solutions", Editura Tipografia “Bons Offices”, Chisinau.
7. Drugescu N., (2001), *Legal Medicine - Course for students*, Ed. Printech, Bucharest.
8. Groza I. L., Astărăstoae V., (2007), *Introduction to legal medicine for lawyers*, Editura C.H.Beck, Bucharest.
9. Iftenie V., Boroi Al., *Offenses of harm and harm to bodily or health integrity, Legal framework, Forensic issues*, Editura Juridică, Bucharest.
10. Iliadi-Tulbure C., Ostrofeț, C., (2011), *Abortion at the request of bioethics and religion*, In: Survival strategy from the perspective of bioethics, philosophy and medicine, Editura Print-Caro, Chisinau.
11. Palade Gh., ș.a., (2006), *Family Planning. Contemporary methods of contraception. Abortion*, Editura Centru Editorial-Poligrafic Medicina, Chisinau.
12. Plahteanu M., (1994), *Course in legal medicine*, Editura Timpul, Iasi.
13. Popescu L., (2012), “Abortion in terms of Christian morality”, In: *Survival strategy from the perspective of bioethics, philosophy and medicine*, Editura Print-Caro, Chisinau.

14. Pruteanu V., (2013), "Abortion through the perspective of moral-spiritual conception", In: Materials of the International Conference on Criminology: "*Criminality in the Republic of Moldova: Current Issues and Solutions*", Editura Tipografia "Bons Offices", Chisinau.
15. Roman N., (2007), "Abortion and infanticide in the Romanian rural world from the first half of the nineteenth century", In: *Studies and material of modern history*, Volume XX, Editura Academiei Române, Bucharest.
16. Vieru-Socanu R., ș.a., (1997), *Legal Medicine*, Editura Risoprint, Cluj-Napoca.
17. Declaration of the Rights of the Unborn Child, adopted at the Provita World Congress in Oslo on 10-13 May (1990).
18. Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November (1989), ratified by the Parliament of the Republic of Moldova on 12 December (1990), in force for the Republic of Moldova on 25 February (1993).
19. Penal Code of the Republic of Moldova no. 985-XV of April 18, (2002). In: Monitorul Oficial of the Republic of Moldova, (2002), no. 128.
20. Law no. 338 of 15 December (1994) on the rights of the child. In: Monitorul Oficial of the Republic of Moldova, (1995), no. 13.
21. Government Decision no. 768 dated 12 October (2011), regarding the approval of the National Strategic Program for the demographic security of the Republic of Moldova (2011-2025). In: Monitorul Oficial of the Republic of Moldova, (2011), no. 182-186.
22. Order of the Ministry of Health no. 647 of 21 September (2010) on carrying out the voluntary interruption of the course of the load safely. In: Monitorul Oficial of the Republic of Moldova, (2010), no. 241-246.
23. Law - The Romanian Penal Code, accessed on file:///C:/Users/IgoR/Desktop /Noul%20cod%20penal.pdf (view on 12. January (2018).