Ethics of abortion: the arguments for and against

Summary

In England, Scotland and Wales legislation has facilitated the process of procuring an abortion to the point at which, in 2007, it appears to have been effectively assimilated into contemporary life. However, despite the legal acceptance of abortion it remains an ethically contentious subject. Arguments in favour of, or in opposition to, abortion can arouse vociferous and, on occasions, extreme reactions. At the heart of the abortion debate lie questions concerning rights, autonomy and the way in which society views disability (if a pregnancy is terminated for this reason alone). It is important that health professionals comprehend the basis of the abortion debate, from the perspective of their profession, society as a whole and the individual woman who may have had or is considering an abortion or has been affected by the subject in some way. This article examines some of the key ethical issues concerning abortion.

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Keywords

Abortion; Codes of conduct; Conscientious objection; Ethics; Law

These keywords are based on the subject headings from the British Nursing Index. This article has been subject to double-blind review. For author and research article guidelines visit the Nursing Standard home page at www.nursing-standard.co.uk. For related articles visit our online archive and search using the keywords.

IN 2004, MORE THAN 185,000 abortions were carried out in England and Wales (Department of Health 2005). Abortion remains, however, a controversial and extensively debated subject. Central to the ethical debate concerning abortion are considerations of autonomy (of the woman) and rights (of the woman and the unborn child). The maternal-fetal relationship and assessing the best interests of potential children also provide considerable scope for ethical discussion.

A fundamental ethical feature of abortion is the perceived morality – or otherwise – of actively ending the life of an unborn human being. The process of deductive reasoning clarifies the most common anti-abortion argument:

- Premise A – the fetus is an innocent human being.
- Premise B – it is morally wrong to kill an innocent human being.
- Conclusion – it is morally wrong to kill a fetus.

Such reasoning can also be applied to support a pro-abortion viewpoint:

- Premise A – the fetus has no moral status.
- Premise B – it is not morally wrong to destroy something that has no moral status.
- Conclusion – it is not morally wrong to destroy a fetus.

The logical conclusions drawn from these examples indicate that the moral debate must focus on the accuracy of the premises. There is little point arguing that abortion, or any other issue, is morally right or wrong without making reference to the supporting criteria for the particular viewpoint. Therefore, to support one or other of these conclusions it is necessary to accept the accuracy of the preceding premises.

Furedi (2000) notes that: ‘Today, there are fewer “fundamentalists” on either side… Even most of those who campaign for tighter legal restrictions concede that there are circumstances when abortion may be legitimate.’ However, although the abortion debate may appear less emotional than it was once, the fundamental issues and arguments remain as heartfelt as ever. Although abortion has been legal in England, Scotland and Wales for nearly 40 years, many people consider it a taboo subject, which hinders open discussion (Williams 2006).

A broad range of ethical concepts, principles and beliefs are evident in the abortion debate. Only a small number are addressed in this article. Some of the other prominent ethical issues are outlined in Box 1.
The legal position

The deliberate termination of a pregnancy was made illegal in the mid-19th century when section 58 of the Offences Against the Person Act 1861 offered protection to the fetus in its early stages of development. The Infant Life (Preservation) Act 1929 suggested that the termination of a pregnancy might be legally permissible if the woman's life was at risk. It established a time limit of 28 weeks within which abortion was allowed.

Before the Abortion Act 1967, it is believed that between 100,000 and 150,000 illegal or 'back-street' abortions were taking place each year in the UK, resulting in approximately 40 deaths a year and many more injuries (Education for Choice 2007). The Abortion Act 1967 (amended by the Human Fertilisation and Embryology Act 1990) applies to England, Scotland and Wales and indicates when an abortion may lawfully be carried out. The act, as amended via section 37 of the Human Fertilisation and Embryology Act 1990, permits abortion when 'the pregnancy has not exceeded its twenty-fourth week and the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman or any existing children of her family'.

By identifying a 28-week time limit, the Infant Life (Preservation) Act 1929 introduced viability as an essential legal consideration. The subsequent reduction in the cut-off point to 24 weeks reflected technological developments. However, as scientific advances enable babies to survive outside the womb at earlier stages of development, determining a specific point of viability becomes increasingly problematic (Hurst 2005).

In Northern Ireland, the law relating to abortion is contained in sections 58 and 59 of the Offences Against the Person Act 1861, and in section 25(1) of the Criminal Justice Act (Northern Ireland) 1945. In January 2007, the Department of Health, Social Services and Public Safety (DHSSPS) issued draft guidance outlining the law relating to termination of pregnancy in Northern Ireland to identify good medical practice in the context of abortion (DHSSPS 2007).

In recent years, the publication of high quality images of the developing human fetus have raised awareness of the realities of fetal development. This has coincided with moves towards reviewing existing abortion laws (Linden and Marsden 2006). In the House of Commons in 2006, MP Nadine Dorries introduced a Termination of Pregnancy Bill proposing a reduction in the time limit for abortion to 20 weeks and a 'cooling-off' period of seven days following the first point of contact with a medical practitioner about a termination (Commons Hansard 2006).

The moral status of the fetus

Identifying the 'moral status' of the embryo/fetus may be crucial when assessing the ethics of abortion. For example, when does the embryo/fetus acquire 'moral value' and, beyond this point, is it wrong to interfere with it? A difficulty in choosing a point during the process from conception to birth beyond which abortion should not be permissible is that it is a continuous development and there is no clear point of distinction other than birth. Developmental stages such as conception, human appearance, sensitivity to pain and viability have been suggested as indicators of when such 'status' or 'value' is acquired (Hunt 1999).

The application of viability to the assessment of status (as implied in current legislation)

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**Ethical issues associated with abortion**

**Life versus choice**
The use of the terms 'pro-life' and 'pro-choice' to represent opposing positions in the abortion debate does not necessarily assist in clarifying the arguments, for it is quite possible to be both pro-life and pro-choice. For example, a pro-life campaigner may also be an advocate for freedom of choice in areas other than abortion because such a standpoint is generally supportive of concepts such as individual rights. Similarly, a pro-choice supporter may, at the same time as supporting abortion, adopt a generally pro-life viewpoint opposing, for example, the legalisation of euthanasia.

**Technological advances**
Increasing technological advances have meant that abortion and, more importantly, the abortion debate are linked to issues such as the use of tissue from aborted fetuses for beneficial or therapeutic purposes. The moral assessment of this procedure relates directly to the status accorded to the human fetus.

**Fathers' rights**
The rights of fathers, or prospective fathers, have become increasingly recognised and discussed in recent years. Claims that the prospective father should have an equal say in abortion decisions (Hill 2001) reflect an increased recognition of individual autonomy in all aspects of healthcare provision.

**Confidentiality and consent**
Issues of confidentiality and consent affect all areas of healthcare ethics. The sensitivities surrounding abortion demand that individual privacy is protected and that information is shared solely on a 'need-to-know' basis. In addition to the requirements for legally valid consent that accompany any health intervention, consent is also an important consideration with regard to minors and when an abortion is performed as part of another procedure. For example, in 1995, a doctor was acquitted of performing an illegal abortion after he performed a hysterectomy while suspecting the patient was pregnant (Dyer 1996, Puxon 1996).
is that viability is an imprecise indicator and is relative to availability of skills and resources to keep the fetus alive outside the womb. An alternative view is that there is no particular point at which value is acquired but, as the embryo/fetus develops, it becomes increasingly wrong to kill it. Again, there is the potential for different evaluations of wrongness from case to case, depending on the circumstances.

**Maternal versus fetal rights**

Arguments relating to abortion tend to originate from two main positions: a woman's right to choose and the right to life of the fetus. From the perspective of the pregnant woman, it may be claimed that it is her life and her body and therefore she has a moral right to choose what happens to it. Feminist activists have argued that for a woman to have equal rights regarding sexual freedom, abortion must be freely available (Furedi 2000). In all other situations, where individuals are deemed competent to make informed decisions, their autonomy is respected and they are allowed to decide what happens to their body without being forced to act against their wishes.

If a fetus has a right to life that is equal to that of any other human being, it may be claimed that society has a moral duty to protect it (Rumbold 1999). This issue is key to the arguments about abortion, since either the life and rights of the fetus and pregnant woman are equal or they are not. The argument that the fetus's right to life is equal to the woman's has been disputed, since the fetus may be considered only a potential life which is reliant on the pregnant woman for existence. The woman is already an individual, fully formed life and must, according to this view, have preference over the potential life of the fetus (Singer 1993).

**Disability**

It has been claimed that current abortion legislation discriminates against those with a disability; in other words, it is legal but unethical (Lewis 2003). Under the amended abortion legislation – the Human Fertilisation and Embryology Act 1990 – medical termination of pregnancy is permissible at any time (no upper limit) during a pregnancy if ‘there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped’.

This sanctions abortion, up to the moment of birth, on the grounds of ‘serious handicap’. The implications of this are clear: ‘...in England children capable of being born alive may be killed providing they are disabled’ (Brazier 2003).

Consequently, being ‘handicapped’ (the term used in the act) affects a developing human being’s (legal) right to life up to the moment of his or her birth. But how do we define ‘handicapped’? Does it mean physically impaired? If so, what constitutes a ‘serious’ physical handicap? Does being handicapped imply that the child would be ‘socially disadvantaged’ as a result of, for example, disfigurement?

In 2003, it was reported that a woman chose to abort a fetus after finding out it would be born with a cleft lip and palate, although the pregnancy had passed 24 weeks. In response, a curate – who had herself been born with a jaw deformity – decided to pursue a judicial review of the decision by police who, she claimed, sanctioned an ‘illegal abortion’ by failing to investigate a pregnancy termination after the legal time limit (under section 37(1a) of the 1990 Act). She questioned the interpretation of ‘serious handicap’ and suggested that it amounted to unlawful killing. The Crown Prosecution Service decided not to prosecute, but identified a need for more guidance (Meikle 2005).

**Conscientious objection**

Abortion is one of only two areas where a health professional may exercise the right to a conscientious objection. In accordance with the Abortion Act 1967, the professional may legitimately avoid participation in the procedure, including the administration of drugs that will lead to the termination of pregnancy. However, any conscientious objection does not extend to nursing the patient before, during or after the procedure, other than direct involvement in interventions that will lead to the termination of pregnancy. This is clearly outlined in the Royal College of Midwives’ (1997) position statement and in the Nursing and Midwifery Council (NMC) (2006) advice sheet on conscientious objection.

Professionals who have a conscientious objection must report it at the earliest possible moment, but have a professional and legal responsibility to continue to nurse the patient to their best ability, until alternative arrangements can be made. Professionals may not differentiate between women receiving care based on their reasons for opting for termination of pregnancy. For example, a professional may not choose to care for a woman who is having an abortion because she risks her life by continuing with the pregnancy, but choose not to care for a woman who is having an abortion because it is not financially viable for her to have a baby. Nor would it be acceptable for a professional to choose to withhold information about options relating to pregnancy termination through conscientious objection, since this could not
be included under the specification of ‘direct involvement’. The second area in which a conscientious objection may be raised is the participation in technological procedures to achieve conception and pregnancy, which also involves the disposal of embryos (NMC 2006).

Having expressed a conscientious objection, a professional remains accountable and by law in England and Wales may be called on to justify and provide proof of his or her objection, for example, religious beliefs that view abortion as unacceptable (NMC 2006). However, in Scotland, when legal proceedings are undertaken, a conscientious objection may be sworn under oath in a court of law. By taking the oath, the objector does not then need to provide any additional proof of his or her objection (NMC 2006).

Conclusion

The nature of abortion and the decision-making process it involves can be particularly sensitive issues for all involved. The abortion debate is not a simple one and is not reducible to simplistic pro-choice or pro-life standpoints. It is essential that health professionals understand the issues behind the arguments and are able to support and inform their patients when required. The debate will continue and, perhaps, the ethical issues will be discussed philosophically without a conclusion being reached that is acceptable to all. The law and professional guidelines direct nurses’ actions but, ultimately, a moral position on abortion must be individually constructed NS

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