

FETUS-ABORTION: IS IT VIOLATING HUMAN RIGHTS?

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ABSTRACT: *Abortion today is a burning issue. The question related to it was raised by Feminists - whether a woman has right over her body or not? A fetus is developed within the body of a woman hence the concept of abortion is related with the notion of feminism closely. It is moral to use if the life of the mother is in danger. But one can illegally use this medical process to abort only female child (female infanticide). Thus there is high chance to misuse this medical tool. However in this present dissertation I want to focus on the question of abortion from the point of view of human rights.*

KEYWORDS: Abortion, Female Infanticide, Fetus, Feminism, Human Rights.

INTRODUCTION

Due to the time of pregnancy when the fetus is bring out of the womb of the mother then the process is known as abortion. In this present dissertation we are not emphasizing over the procedures of abortion instead that of the moral aspect of it. The moral dichotomy of abortion is regarding the question whether we can call it as moral or not. Every individual being has the right to live. A fetus is a budding individual. It has every potentiality to blossom as an individual. Killing of it is quite similar with the killing an individual.

Moral Criterions of Abortion:

There are two moral criterions regarding the question of abortion. They are as follows –

1. Abortion is always illegal.
2. Abortion is always legal.

The first view says that abortion is illegal as it brings abrupt end to the fetus that has all potentiality to be grown as a human being. We have to protect the rights of live of everyone. As a fetus has the possibility to be grown into an individual hence we cannot deprive its right of living. Therefore abortion of a fetus is always illegal.

The second view says that a fetus is developing inside the womb of the mother. It itself has no power of thinking or reasoning. The decision of having it or not hence very easily depends upon the mother who has given her womb to it. Hence abortion of a fetus is always legal.

Abortion & Feminism:

In the view of feminists, every woman has the right over her body. A fetus developing inside her is also her own body part. Hence whether to give birth to it or not is completely her own choice. It will be unethical to force an unwanted child over a woman who is unwilling to have it. Actually there point of view has some logic. In some grave situation like rape, gang rape or marital rape the women victim is forced to keep her child if she is not granted to abort it. She psychologically hates the person who fathered that child. Hence it is not possible for her to

love that child. It will remain unwanted forever. In these special cases abortion should be granted.

By the way I am deadly against the use of abortion as a tool. Nowadays, if we make abortion available for all, it is possible that a girl just for fun can go to sex with anyone and when gets pregnant with the child can try to abort it. In the name of feminism we cannot grant them the opportunity to kill any unborn child just for establishing her rights over body.

Necessity of Abortion: It's Legality:

The concept of abortion can be considered moral in one aspect while immoral from another aspect. Let us first start to discuss the point of view of those who are in favor of safe abortion and evaluate their arguments.

- *Women's Right to Life & freedom of Choice:*

Women have their individual right to life. She is free to choose whether she wants to have the child or not. She has to enjoy complete freedom in her decision. If she does not want to have a child then none could force her to do so. She has freedom of choice whether to terminate or pregnancy or keep it.

However the critics somewhat fear the misuse of this law. A woman, as stated in the previous subsection, can use this law to feel free to do sex with anyone she wants. She can use this law as the predicament of her enjoyment of life without taking responsibility of being settled down with a child. Hence this rule should be strictly restricted to those women who are victims of some notorious crimes committed against them, such as rape, gang-rape, marital rape, domestic violence. Even in those cases the decision of abortion is completely nested upon the judicial system of the country where the suffering woman has to appeal. None, neither doctors nor family members, can take the help of sex-determination test to abort the female feticide inside the womb of the mother.

- *Women's Right of Health:*

Women are the mother's of a nation. Hence their health has to be secured for the sake of a bright future of any country. If a woman is diagnosed with severe diseases then it will be alarming for her to be pregnant. In such case, if somehow she becomes pregnant, then she can abort the fetus before birth. Also if a fetus is diagnosed with the symptom of any incurable disease then she should opt for abortion of the child. It is believed that if a mother is not healthy then the child will also be deprived of health. In the same way if for the sake of the mother a fetus has to die in the mother's womb then we have to accept in as an urgency according to the rules of medical ethics.

This argument is one of the most strong points raised by the supporters of abortion. Every person in the world has the right to enjoy good health. A mother is not only a womb; rather she is an individual being. Hence she also has every right to enjoy her good health. If pregnancy endangers her life then it will be completely ethical to terminate her pregnancy.

- *Women's Right of Decision & Right over Body:*

Those who are in favor of accepting abortion thesis strongly claimed for the freedom of choice of women. In one aspect this point will certainly looks similar with that of the first one.

However it is different from other point of view. Women should enjoy freedom of choice and her right of life and when to get pregnant that time is dependent upon her and not on outside factors or family members. A woman is an individual being who have reasoning power like man. She has complete right over her body. She is also sensitive and reasonable human being. Hence it can be considered that she can perfectly decide when to get married and have children. Her parents, in-laws or spouse cannot take the decision on her behalf as it will overrule another right i.e. the right of decision. Therefore it is completely admissible that she has the right to say no to pregnancy whenever she wants.

Critics also can also refute this right by declaring it as one of the silly feministic excuse. A girl, as evaluated by them, can go on enjoying her life with one or more partners without taking the risk of pregnancy via the help of this right. By the way in my opinion this argument has nothing unusual in it. Suppose a teenage girl by mistake got pregnant and she is unable to bear her pregnancy in the fear of family as well as the society then what can she do if she is not granted to abort her unborn child. Social condemn can harm her family reputation along with her own self-esteem. In that case abortion should be permitted. Let me give another example. A wife, brutally tortured by her husband ever since her marriage in the name of dowry, trying desperately to abandon her marriage when after some time discover that she is pregnant with a child what should she possibly do? She cannot be ready to give birth to the child instead abortion will be the easy way to get rid of it. Hence it will not be right to claim that abortion is immoral in either case.

Illegality of Abortion:

Abortion, as shown in above cases, is completely ethical. Then the next question is when should we consider it as unethical? There are some instances regarding the immorality of abortion –

- *If it is not permitted by the Mother:*

Abortion is illegal if the mother does not permit for it. Some arguers say that the mother, who bears the fetus inside her, have complete freedom to decide whether she wants it or not. If she permits to abort then it is legal. But if any of her family members, be it the in-laws or the spouse, decide to terminate her pregnancy on her behalf without consulting her then it is completely illegal. In such cases the risk of female feticide is much higher.

- *If it is permitted by the Mother for her own profit:*

In today's world unfortunately it is true that human beings become selfish in nature. A mother can also be selfish in respect for fulfilling her own desires. A woman if she wants to terminate her pregnancy just for the sake of her own benefit then the use of abortion should be considered as unethical. A woman is condemned to terminate her pregnancy only on the basis of enjoying sexual pleasure. It is an illegal offence and that woman could be punished by the legal system of that country where she resides.

- *If abortion is the means of terminating only female fetus:*

Unfortunately in India abortion is mostly used as a tool of female infanticide. Female children are unwanted in most Indian families. The ratio is quite high not only in low class people but also in the case of highly educated class. Mostly people don't want to have a girl child because after giving her proper education at the time of her marriage the parents are bound to give high amount of dowry. Sadly the custom of giving dowry at the time of marriage is practised in

most Indian families till today. On the contrary if a family has a boy child then there will remain high chance of taking dowry from the side of the bride. Hence the use of abortion is secretly using by most Indians as the means of female feticide.

- *If abortion is used for earning:*

In developing countries, like China, Japan, India, abortion stands as a means of earning of livelihood for some persons. There are many clinics which practice illegal abortion. Girls in these countries get involved into relations more frequently than pervious centuries. Some of them get impregnated in this process. To continue the social prestige of the family they are bound to take the medical help of these illegal clinics supporting abortion. But the fearsome fact is that these clinics support unhygienic abortion procedure which some time lead to the death of the girl. This practice is illegal as neither the medical council nor the judicial system of these countries ever permits them. In India there are many such clinics approximately the number is near 1,00,000. The ratio is quite alarming.

Complications regarding Legality of Abortion:

Even in today's world maternity is thought to be a proud moment of a woman's life. Every woman wants to become mother at least for one time in her life. But there is complication regarding the legality of abortion. These criterions are –

- *To save the life of the Mother:*

This is a complicated case. In some cases at the time of pregnancy there arises complication where we cannot save both the child and the mother. At least one of them has to sacrifice his or her life for the sake of the other. Now the question is whether we have to sacrifice the life of the unborn fetus or the mother in whose womb it resides? The easy answer is to sacrifice the life of the fetus as it is not considered as a living being by most of us. Even if the mother decides to sacrifice her own life for the sake of her unborn child the doctors in most countries try to save her life considering the same above argument.

Now the question is how to decide when to put the end of the life of the child growing inside the womb of the mother? It is a very tricky question. When with every possible medical tests the situation indicates to this as one and only option to save the life of the mother then only we have to use it. If there is any possible road open with then the doctors has to follow them before taking this drastic step. Abortion in those cases has to be the treated as the ultimate solution.

- *To save the Mental Health of the Mother:*

This is also another complicated situation. Pregnancy is overwhelming experience for most women. But the women who are rape victim cannot accept it in this way. A child is a bundle of joy only in the case of those women who enjoy marital bliss. A rape victim is always looked down upon by the society and if she becomes impregnated then the situation become unnecessary complex. For her the child is unwanted for whom her mind, body or soul is completely unprepared. If she continues her pregnancy then she will turn into a mental patient. Hence it is legal for her to appeal within the three months for terminating her pregnancy.

There is also exception of this rule. In few cases it is seen that after giving birth to the child a mentally ill rape victim woman gains her mental stability once again. Sometimes women even being rape victim try to keep the child. But as I told earlier these are the exceptional cases.

- *To save the Mother from unwanted Pregnancy:*

If a woman is a victim of domestic violence then she may not be in favor of bringing the child into that atmosphere. In that case even being completely aware of the value of motherhood the woman sacrifices her chance to become the mother in real life. Her point of view here is completely justified as the children born and brought up in nasty quarrelsome atmosphere will mostly suffer in their later lives.

There is also complication in implementing this rule. How could we decide the intensity of the quarrel of spouse that will help to terminate the pregnancy of the wife? There is certainly no such criterion at all for determining it. We should be careful enough that no woman can misuse this rule for enjoying her life.

Human Rights vs. Abortion:

Is there consciousness in a fetus? Can we consider it as an individual human being? These questions are related with the concept of human rights while considering the use of abortion.

There is large controversy in this point. Some says that when the sperm is injected inside the vagina and when it got related with the egg of the mother from that time we should consider a fetus as a living object. So if we destroy a fetus from the womb of the mother then it seems quite similar with that of killing of an individual. The taking of an individual life is prohibited as it has life then the taking the life of a fetus should also be prohibited as it also shows the sign of life from the third months in the mother's womb. But some critics claim that as seed is not similar with the tree the fetus is not similar with individual. A fetus can be similar with an individual only after it takes birth. Before 3 months the fetus shows no sign of life inside the womb of the mother. Hence the fetus-abortion does not seem equal to individual-killing to some critics.

Some critics against the theory of abortion proclaim that a fetus has no consciousness so it is not immoral to destroy it. It is completely unlike individual. An individual can have consciousness that lacks in the case of the fetus. Hence if there arises a situation where we have to destroy it for the sake of the health of the mother then we should go for it. Now the supporters of abortion thesis claim that argument as an absurd theory. A person in coma, seems devoid of any sign of consciousness, can awake at any moment. Even if we think that the person in coma will never wake up but in some few cases such persons, after 4-8 years, suddenly been awakened from their dogmatic slumber. The same thing can happen in the case of fetus. It also has hidden consciousness factor lying within unless it cannot move inside the womb of the mother since 12 weeks. So considering from the side of human rights the abortion of fetus seems totally illegal.

CONCLUSION

Actually, it is a highly debatable issue whose answer is not known till now. If consider from the side of human rights then it seems illegal. Abortion seems urgent in some cases but the unnecessary abortion of the fetus is strictly prohibited for the welfare of human society.

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