



Original Article



The Autonomy of the Patient in Voluntary Termination of Pregnancy Care: What is the Position in the Holy Texts (The Torah, Bible and Koran)?

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Objectives

To understand the impact of ideological variables on fundamental freedoms.

Methods

A comparative study of European legislation on the right to an abortion.

Summary

The principle of personal autonomy in medical law has historically been defined in two ways: the impossibility of considering the human being as one thing and of harming his physical integrity and human tissues. The principle of unavailability of the human body makes the individual autonomous. Concerning abortion care, these two principles are forgotten in most countries of the world (60%, UN). On the contrary, the status of women is equal to that of the embryo in those countries where abortion is prohibited (e.g., UAE, USA, Poland). Women's autonomy does not have the same consideration as that of the individual in most countries of the world. The interpretation of the holy texts served as justification for this difference in treatment. The analysis of holy texts and jurisprudences will make it possible to distinguish the theory of origin from the effectiveness that has been achieved in practice.

Keywords

Abortion; Health Law; Theology; Voluntary Termination of Pregnancy; Women's Rights

Methodology

The methodology is based on 3 steps.

This is a literature review from 2007 to 2017 on the history of women's autonomy in abortion. The author then turned his attention to the search for the legal basis for women's autonomy in Europe, through recent and old case law. Finally, the author sought the theological foundations *stricto sensu* of the holy texts (Torah, Bible, Koran) concerning the permissiveness of abortion (VTP care, voluntary termination of pregnancy care).

The objective is to analyse the legal norms aimed at putting the status of women on an equal footing with the status of the embryo. The woman carries the embryo, not the other way around. The historical interpretation of the holy texts served as a legal basis for giving as much importance to women as to their living tissues. This analysis legally demonstrates how it has been possible to give the same legal value to the “thing” attached to the human body. It is not a question of hurting by naming “the thing” but the embryo is legally a thing, a *res nullius* until birth. Finally detached, the embryo becomes a human being in the eyes of the law. The legal principle of the unavailability of the human body protects the fundamental rights of human beings by making all products (or things) of the human body unavailable and inalienable. To violate this principle would be to bring the human body under control, dominated by any force whatsoever. It is one of the oldest principles of law. The principle of human dignity therefore depends on the principle of the autonomy of the person, it is inseparable from it.

Introduction

One woman dies from Voluntary Termination of Pregnancy care (VTP care) every 9 minutes worldwide [1], despite the fact that it is prohibited by 60% of countries [2]. Among the 40% of countries that do allow VTP, porous legislation is often only a showcase of women’s rights. Rarely applied, their lack of effectiveness has as a corollary a subjectivization of the principle of autonomy of the will of patients in VTP care.

90% of doctors in Italy or Poland refuse to practice VTP care for “religious conscience”. Of the 7 billion people in this world, 2 billion are Christians, 1 billion are Muslim, and 16 million are Jewish. Religion influences the majority of the countries of the world on the legislation of the abortion. What is the position in the Holy Texts (the Torah, Bible and Koran) about this medical act?

It was in the hospital setting that VTP care was able to enter controversially. At a time when the contours of consent were still vague, those of VTP care were even vague. Although the methods of access to VTP care have diversified, especially through medication, the porosity of consent prior to the act of abortion reveals the lack of legal protection. For example, there is no control commission to verify and sanction when appropriate the veracity of the informed consent of the patient collected by the medical profession. This absence appears to be the fruit of the juxtaposition of irreducible axiological opinions concerning the value of the patient’s autonomy and, more specifically, the pregnant woman during the VTP decision. VTP care is disparate from one legislation to another in Europe

and this lack of harmonization echoes a legal floating as a right and a medical flotation as care. Nourished by a desire for objectivity, the aim of this research is to bring a legal reflection on the subject of medical responsibility in the case of autonomy vitiated during the VTP decision. This theological approach to VTP intends to shed light on an ever-vivid debate that touches the foundations of the unavailability of the human body and the freedom of the human being.

“Pregnancy and its interruption are two contradictory movements. But from the point of view of the unconscious, they are linked by the same symbolic function: they speak of an inconceivable, of a rupture to be made, of limits to be found. A desire can be expressed in the body but not in the head” [3].

The reduction of the vitiated autonomy of the patient by the creation of the right to abortion

Impact of the creation of the right to VTP care (Voluntary Termination of Pregnancy care) on the autonomy of the minor and anthropology of the autonomous woman: This work leads to a questioning of traditional patterns anchored as untouchable because emanating from religion. This reflection plunges to the rediscovery of the recognition of the principle of autonomy of the will of the woman. The desire born of the necessity for a woman to stop her pregnancy and her “two centimeters of marine smell” exists since the beginning of time [4]. The disappointment of an offspring who is not prone to gratitude to the one who has mobilized her whole body, her bowels and suffered hours during childbirth, will push the woman to think twice before repeating the experience [5]. The act of VTP (Voluntary Termination of Pregnancy Care) still remains an object of taboo and contempt in developed societies [6]. It is this dynamic of meaning that reiterates the desire of the woman for autonomy in relation to her own body. At the heart of the quest for women’s autonomy during the abortion decision, the contradictory movement between the desire for maternity and the desire for abortion reveals a biased autonomy according to the grounds invoked during the collection of consent. In particular, the difficulty of obtaining consents when the patient is a minor.

Among the 139 million pregnancies each year worldwide, 45 million will end with VTP care [7]. Three million of these VTPs concern young women aged 15 to 19 years [8]. The young age of a patient is a reason for discernment in the hospital [9]. The capacity for discernment is defined as the ability to manifest the individual will. When the patient is a minor, her consent does not require the authorization of her legal guardians under a special medical liability. The minor’s autonomy for medical acts, including VTP care, gives him/

her the possibility of using it without the consent of his/her parents, and even without their knowledge as the doctor in this case is bound by the law governing the confidentiality of medical information [10]. Discerning but minor patients, such as adolescent girls, cannot consent alone, although “their rights do not suffer from any representation because of their close connection to the personality” [11,12]. In other words, it is not because a person is a minor who is legally incompetent that he/she must be excluded because of a “presumption of incompetence” [13]. The very notion of autonomy cannot be dismissed. It is not because a patient is vulnerable that she is incapable. From now on, the special medical responsibility of minors in the hospital is based on the delictual responsibility of the loss of luck [14]. However, the justification for the violation of the integrity of the human body demonstrates a restrictive view of the autonomy of the patient’s will as, in practice, the right to VTP care has been recognized late in Europe and remains controversial.

One of the main reasons for this controversy is the millennial symbolism of “mother with child”, a concept deeply rooted in our cultural unconscious [15]. The Arab, African, Asian, Latin or Western dimension transforms this paradigm into a universal dogma across all religions and thought patterns [15]. What is less obvious is to reflect the right of the woman to break the mythological matrix and to recognize her own autonomy.

All polytheistic and monotheistic religions possess cults with a sacred image of mother with child, all of which are disturbing in their resemblance to each other. In -3000 BC, the Sumerians worshipped the goddess Inanna, goddess of life [15]. In -2000 BC, the Babylonians and Assyrians built temples to the glory of Istar, goddess of life, death, war and love [16]. However, her cultural and mythological activity will never be equalled by a goddess in the Middle East. In -1000 BC, ancient Egypt worshipped Astarte, virgin mother, goddess of fertility and love. The mother goddesses, Isis and Nephthys, have the power to resurrect the dead, themselves daughters of the goddess, Nut, creator of heaven.

Similarly, voodoo pantheon cults of African countries celebrate all kinds of mother-goddesses with angelic or demonic powers [17]. In the pre-ancient period, VTP care was an individual act in a still clannish and non-societal world. The mental universe of the clans, mystifying the mother-goddesses, influenced the recognition of the autonomy of the pregnant woman, especially during antiquity.

In ancient Rome, Venus, the goddess of love and fertility, was worshipped for millennia with immense temples built to her glory and that of her son [18]. In ancient times, the sages of ancient Greece considered VTP care as a normal practice

[19]. Indeed, Aristotle advised to limit births, Plato wished mandatory abortion for women over 40 years old, and Socrates wrote that “the role of midwives is to facilitate abortion when the mother wishes” [20].

The alleged prohibition of giving an “abortive pessary” to women in the Hippocratic Oath concerns the prohibition of a dangerous practice by doctors, but does not concern the right of “midwives” for millenia to help women undergo an abortion [20]. The very term “wise woman” comes from antiquity and from the perception that it was wise for women to help one another [21]. Although abortion is limited to defined cases without being legal, there is a relative autonomy of the woman over the control of her body to avoid being subjected to unhappy marriages and repeated pregnancies [22].

However, the festive and joyful gods of antiquity and the free mother-goddesses gradually gave way to an increasingly patriarchal and obsessive God over the control of women’s bodies. Never has such an obsession with sexuality be found among men. It was considered indeed necessary to control these sinners, devils by nature. With the advent of Christianity in the West, then of Islam in the East, and the announcements made to Mary, Sarah, Hagar and others [23], the ancient worship of mischievous goddesses who confidently took their destiny into their own hands gave way little by little to much more scrupulous frightened virgins. The historically patriarchal aspect of our societies largely transcends the female sphere, only to impose itself in the medical world. Medical control has long implied the “paternalistic” notion of disempowerment and patient submission [24]. In the 20th century, the influence of law in the medical field through the appearance of the medical contract at the hospital allowed the recognition of the patient as a subject of law. This medical rationality has created an unprecedented situation that has forced medicine to share its autonomy with patients.

Impact of the decriminalization of the right to VTP care and the theology of the autonomous woman: Consent implies the manifestation of the will, hence the emanation of autonomy. The notion of autonomy gradually appears in the hospital as a patient’s right [25]. Yet, it does not allow de facto recognition of the right to abortion [6]. Although the patient is recognized as autonomous, this autonomy remains partial with regard to her ability to self-diagnose a VTP treatment. In Eastern European countries, abortion has been both erected as care by medical authorities and legalized as a fundamental right by authorities since the 1920s [26]. In Western Europe, abortion was neither a care nor a right until 2010. The current procedure of applications for VTP care in France, Poland or Switzerland suggests the recognition of the autonomy of the woman in the abortion decision through its decriminalization,

i.e., the disappearance of VTP from the Penal Code. The provisions no longer condemn the patient who has carried out VTP outside the legal framework. This reformulation makes it possible to establish abortion as a fundamental right. The woman's body becomes unalterable, unavailable and non-patrimonial and she is free to dispose of it as she wishes [27]. However, the absence of consent remains framed, in particular by the French Penal Code, which sanctions non-compliance with the information procedure in Article 223-10. Although decriminalized, abortion remains an exception to the principle of the right to life, which still prevails in Article 16 of the Civil Code, the principle of which is reproduced in Article L2211-1 of the Public Health Code [28]. The decriminalization of abortion in France, resulting from the Aubry law of 2001, was followed in Switzerland by the law of "Solutions of the deadlines" of 2 June 2002 [29].

By contrast, the penalization of VTP has been introduced in Poland since the reform of 6 June 1997 [30]. The law completely penalizes abortion, which is now governed only by the Penal Code. Penalization is defined as extracting the civil or medical elements of a law and submitting it only to penal provisions (The penalty is aggravated by Article 153§2 that mentions up to 10 years' imprisonment for persons who assisted an illegal abortion when the fetus was developed) [31]. From 1997 to 2017, Polish legislation has penalized VTP care, although abortion was legal as early as 1950. Only medical terminations of pregnancy are allowed, but closely supervised. Articles 152 and 153 of the Polish Penal Code condemn the woman to 3 years of imprisonment and the "accomplice/s" having helped to undergo VTP care to terms of imprisonment ranging from 8 to 10 years.

Judaism has combined together the Egyptian and Greco-Roman myths for thousands of years, thus offering a range of possibilities of emancipation to women in the logic of the cults of the time [32]. Judaism has perpetrated the tradition of free women for many millennia. Bathsheba [33], Solomon's mother, asserted herself in a male universe and became the mother of the King of Israel, the greatest representation of "mother with child" among the Jews [34]. In the Torah, the prophetesses, Judith and Deborah [33], are strong role models who decided upon and controlled their own fate. Thus, it is easier to understand the progressiveness of Jewish thought regarding women's freedom over their bodies and their autonomy. The rabbinic law, the halakha, approves abortion and this is clearly defined in the Torah in the book Leviticus (24-17), *Lav nefesh hu*: "If a woman has a difficult delivery, we can remove the fetus in the uterus and take it out limb by limb because her life comes before that of the fetus" [35]. The human embryo is not considered a viable being, but of

"dubious viability" (The Torah specifies that the embryo is considered as a mere appendix of its mother: "Ubar yerekh 'imo". Niddah 44B). Immanuel Jakobovits, a major thinker and philosopher within Jewish society, stated: "In Jewish law, the right to destroy a human fruit before birth is absolutely irrelevant to theological considerations. Neither the question of the soul before birth, nor the question of salvation after death, has any influence on the subject" [36]. Contrary to popular belief that the sacred scriptures of the Holy Books (the Torah, Bible and Qur'an) significantly restrict the right of women, in reality, the legacy of deities of empowered and self-sufficient women continue to refute this notion.

Jesus, of Jewish culture, knew only the Torah. We can deduce that he adopted a priori the same philosophy on the status of the embryo as his community and family [37]. None of his words were against the right to VTP care and the autonomy of the woman, even though the status of the embryo is irrelevant in the Torah. The injunction of Jesus "Let the little children ..." [38], does not specify whether they are born children or human embryos. The famous Swiss Protestant philosopher, Hans Saner, was openly favourable to the right to VTP care and wrote: "In some cases, there is more courage and love to take responsibility for an abortion than to let the world come into the world lives threatened." [39].

In response to the question "why are the rights of women born in the West?", the French historian and philosopher Frédéric Lenoir answers: "Jesus [40]. When Jesus was teaching and discussing his vision of the love of the world to a Jewish group, a woman was included among the men. Her sister, present in the house, was shocked by this attitude, interpreted as a lack of virtue, and asked Jesus to intervene so that her sister could come to join her to help cook the meal [41]. He answers that her sister is right to be with him and the men in order to listen and discuss, and that it is she who should join them. Similarly, the passage in the Bible on the adulterous woman is a feminist teaching [42]. While villagers want to kill the adulterous woman, Jesus asks them not to judge others and to judge themselves first. The adulterous woman is also stunned by this reaction of Jesus and his lack of reproach to her. Likewise, Jesus does not judge Mary Magdalene, an alleged former prostitute [43]. Jesus showed respect for the autonomy of the women who crossed his path and demonstrated a non-judgmental attitude enriched by his spiritual truths born from Jewish thought and his upbringing by a Jewish mother.

Myriam (in the Muslim and Jewish religion) or Mary (for Christians), a young Jewish virgin and half human, half goddess by the birth of the divine child (Note that Protestant thought, born in the 16th century, rejects the idea of a virgin woman having had a child, a concept consecrated by Catholics and

Orthodox Christians), protector of all the women of the Earth, is also the one who works miracles as can be observed by the countless incarnations, places of pilgrimages and figures of her worldwide. According to the famous psychoanalyst, Carl Gustav Jung, this symbol of the mother-goddess corresponds: "To the primordial experience of the man in his life and his early childhood dependent on the nourishing and protective function" [44]. Following the announcement of her pregnancy by the Angel Gabriel and without asking her husband for advice, Mary goes alone to her cousin Elisabeth to celebrate this event between women, including her mother, Saint Anne [45]. Despite Mary's assertive personality (Further information and reading: The Christian prayers "Ave Maria" are the contraction "of Eva in Maria", that is to say that in giving birth to Jesus. Mary broke the sin of Eve in the Garden of Eden. Thanks to Mary, women are no longer sinners and she allowed them all to be forgiven. By contrast, the Koran openly acknowledges that Eve (Hawâ) and Adam are both fishermen. They both bear the weight of the faults committed. Hawâ bears no responsibility alone for Muslims. Biblical texts, read and recognized by Jesus, were interpreted by Christian's centuries after the death of their prophet by bringing all the original sin of men on Eve, a woman [46], the woman's vision of power will not be the one held over the centuries. On the contrary, Mary will contribute to the example of an unreachable woman. Her virginity gradually became an obsession, reflected also in the image of the "Holy Family" as all virgins, (Jesus, Joseph, Mary, and even Saint Anne, the mother of Mary, is virgin, for Orthodox Christians), thus giving a negative image to women, who are considered as imperfect and impure, because they know sex by marriage and are therefore no longer in the image of the Blessed Virgin, virgin even in marriage.

The symbols of the heroic female model were inevitably virgins. Saint Teresa of the Child Jesus, Saint Rita and Saint Bernadette were virgin women in a convent, practicing chastity and obedience to men, the only and unique representatives of the cult. Joan of Arc, a warrior virgin, was also the object of a cult of divine martyrdom following her death in the 16th century. This also tended to reinforce the idea of sexuality under the control of a judgmental God who had become intrusive in the lives of women and would dislike the idea of women's freedom. The representatives of the cults have gradually stripped the virgin goddesses of all the characteristics of power and free sexuality linked to the ancient deities. Instead, they created an erased and passive being, which particularly irritated 20th century feminists, such as Simone De Beauvoir or Marina Warner. Yet Bible texts respect and encourage women to be free.

The Muslim religion carries innovative and feminist ideas. The Qur'an recognizes the freedom of women through the

Queen of Sheba: "She is filled and has a magnificent throne" [47]. A woman of character who leads the kingdom of Sabat, she draws attention by the power of her kingdom and her authority. During her conversion to Islam, a sensual passage explains that she is stripped, a symbol of freedom [48]. The religion of the Prophet Muhammad is not synonymous with frustration and guilt as some representatives of the Muslim faith would have us believe, but a religion of "refinement, love and feminism" [49], according to the Muslim theologian and thinker, Malek Chebel. The erotic, sensual, open and apologetic passages of women are innumerable in the Koran and it clearly states the right to abortion until the fourth month of pregnancy: "The soul is breathed into the fourth month - 120 days" [50]. Regardless of the biblical texts, the myth of the virgin and debauchee persists [51]. The cults of virginity and "obedience" challenge even today the societal representations of women [52]. Future generations of women will still possibly be automatically classified into two categories: the dangerous Bathsheba, whom we cannot trust and whom we must punish, and the saints, inevitably submissive.

Although women's bodies, with their attributes, have not always been considered as a handicap, they have formed the basis of some forms of informal power related to the representations of a restricted woman's autonomy [52]. The interest of this reflection is analyzed in the very term, not generic, of the autonomy of "women", demonstrating that women are not considered as a universal subject. Autonomy is defined as "someone's ability to be autonomous, to not be dependent on others, and to function or evolve independently of anything else" [53], an unenforceable perception for women in patriarchal societies, such as we see today. Therefore, it becomes necessary to clarify the concept of "autonomy" in the "yard" of women. The issue of the legalization of VTP care in the 1970s in Western Europe and the decriminalization of VTP in 2010 has led to a much broader goal than the liberalization of VTP and the disorder of official medicine [25,54].

Reduction of the vitiated autonomy of the patient by the effectiveness of the right to abortion

Impact of the effectiveness of the right to VTP care on informed consent and the duty to inform: The anchoring of universal autonomy to the hospital was born from the movement of the autonomy of women to win the universal sphere. The VTP decision of the woman at the hospital helped to nourish and enrich the reflection on the notions of information and consent. Although information and consent, form the basis of women's autonomy in the abortion decision, they do not benefit from any state body with the ability to control public VTP centers and private institutions. There is

no control tool to implement adequate and timely sanctions for changing know-how and skills. Under these conditions, the duty to inform the patient [55] remains limited in view of the difficulty of measuring infallibility and to sanction it, if necessary. The concept of informed consent remains a highly problematic concept, but an absolute social norm [56]. However, this idea of transparency runs counter to the paternalistic medical tradition, which makes the physician a strategist of the therapy where the patient is an object and not a subject [57]. The doctor remains master of what he/she wishes to reveal to his patient, as emphasized by the Professor Xavier Bioy: “The relationship is necessarily dissymmetrical in terms of knowledge, a relationship profane expert” [58,59]. Consequential responsibilities for non-respect of autonomy in the decision to abort involve the commitment of special medical liability. In particular, in the case of loss of autonomy, the obligation to provide information is fraught with ambiguities because simply informing about the information is already an irreversible contribution by making the patient aware of all that he/she knows [57]. In the case of the commitment of medical responsibility, the Code of Health oscillates between the need to inform and the possible respect of the need of ignorance [60].

Impact of refusal of care on the effectiveness of the right to VTP care: between individual freedom and common social coherence: The reminiscences of the medical authority and the relative effect of the responsibilities for the autonomy of the pregnant woman are still visible, especially in the judicial translation of the ignorance of a refusal of care [61]. In this case, refusal of care limits the individual autonomy of the patient. The European Court of Human Rights (ECHR) has had the opportunity to recall that the use of the conscience clause by the majority of doctors practicing in a territory should not be the pretext to significantly reduce access to VTP care [62]. The problem between the “overuse” of the clause and the lack of access to care has remained a real public service issue since European legislation on the right to abortion, and the objection may become a recurrent means of depriving patients of their autonomy to dispose of their bodies as a fundamental right [63]. In Italy, the situation has worsened [64]. The use rate of the clause increased from 58% to 69% between 2003 and 2007 and increased to more than 80% in 2015 [65]. It is now virtually impossible to undergo an abortion in most cities in Italy and the exercise of this right is constantly under threat. The few doctors who accept women requesting VTP care have great difficulty in obtaining RU 484 for drug-induced VTP [66]. In everyday practice, they receive all kinds of impediments from anti-VTP movements [67] in the vicinity of hospitals, family planning centres, as well as street protests. In 2017, an Italian woman was refused care from 23 hospitals in several

regions before a doctor accepted. Thus, the right to VTP becomes ineffective and the rate of illegal VTP increases [68].

However, the status of the embryo has not always been considered as a socially tangible entity around which political and ideological interests crystallize [69]. This axiological pluralism of contemporary Western societies is characterized by a constantly resurgent conflict of private interests and competition between conflicting individualist values. For the author Dimitri Tsarapatsanis: “This context of axiological pluralism makes impossible a public argument binding de facto the assent of all social actors” [69]. On the other hand, the moral ideals of ancient Western societies legitimized good and social justice in order to allow the political expression of common social interests that may be legally binding.

The famous Dominican theologian, Saint Thomas Aquinas, canonized and considered as one of the greatest teachers of Christian and Catholic philosophy, and also proclaimed Doctor of the Church by Pope Pius V, was clearly in favour of the right to VTP [70]. In the 13th century during the period of Catholic obscurantism, he wrote: “The animation of the soul does not appear until the fourth month of pregnancy” according to the principle of “anima” or “mediate animation” that he developed, making a clear distinction between the body and the soul. He specified: “that a fruit which does not see itself, does not feel, does not know itself, and cannot have a soul” thus positioning himself from the same point of view as Muslim theology (4 months delay). This vision is open to women’s rights and in accordance with biblical texts. By contrast, the principle of “immediate animation”, of “sacrificed gametes”, (estimated at 100,000 million spermatozooids emitted during a union) would be as many people “sacrificed” according to Tertullian [71], a 3rd century Christian of Berber origin. This theory was forgotten until the 16th century when the papal arbitrator struck in 1588 with the publication of the bull *Effraenatum* papal bull stating that all women who underwent VTP justified excommunication and all adulterers deserved hanging: “This was the signal of a frightful slaughter. We hang, we burn in all Christendom” [67].

However, in 1591, Pope Gregory acceded to the pontifical throne and cancelled without warning the decisions of his predecessor in order to stop the barbarities towards women. Until the end of the century, and under the influence of Saint Thomas Aquinas, no law repressed abortion and no court condemned women throughout the European Christian kingdom who sought to free themselves, with the exception of ephemeral royal edicts or the papal bull that lasted a few years [72]. Miscarriages were common and it was almost impossible at the time to distinguish a natural from an induced miscarriage [73]. Pierre Robin, a midwife who practiced at Reims (France)

in 1770, declared: “The miscarriages caused represent only 4% of my activity”, thus equating the word “induced miscarriage” with a VTP, an activity which he made no attempt to hide.

In the 20th century, under the influence of Pope Pius IX, the thesis of “immediate animation” was reaffirmed and taken up by all successive popes, imposing the dogma of the soul instilled in the stage of “conceptio”, that is to say gametes (spermatozoa and oocytes). The *Evangelium vitae* of John Paul II in 1995 definitely buried the positive Christian thought of Saint Thomas Aquinas and women not submitting to unselected pregnancies would be excommunicated without warning, deserving death and hell. Similarly, the 2007 communication by Benedict XVI “recognizing” the validity of the theory of Tertullian helped strengthen the dogma of “immediate animation” [74].

The quest for a certain degree of coherence between interpretative controversy and legal norms highlights the deep disagreements over the normative process of recognizing women’s autonomy in the VTP decision [75]. Subjective health, calling into question the principle of unavailability of the woman’s body, requires more and more legal solutions to engage medical liability [27].

Conclusion

One of these legal solutions is during the consultation at the pre-VTP phase in recognition of the fact that the patient in need of VTP care is under stress, shocked by the announcement of the pregnancy and damaged in her self-esteem by this unexpected contraceptive failure, often accompanied by a life failure (relationship conflict with spouse, family, personal situation). The patient has only a little time to make her decision. The counsellor is the first person encountered in the VTP circuit where the patient needs to be particularly reassured, listened to, informed and supported [76]. However, the feeling of being judged is the most repeated emotion expressed by patients. The link between supply and demand for care is sometimes altered by opposing reactions between what the medical profession perceives to be balanced care and what the patient really expects. The harmonization of these interests is complex because they concern personal freedom. In the end, does the law really offer autonomy for women who use VTP care? The answer to this question concerns the woman’s autonomy and therefore her dignity.

The successive inconsistencies of jurisdiction in terms of the commitment of medical responsibility have further plunged the right to abortion in a kind of vulnerability that gradually delegitimizes the foundations upon which the law was based. The status of the woman’s autonomy in the abortion decision suffers from legislative and jurisprudential hesitations. The woman needs special protection, especially during the time of the VTP

decision, because of her strong vulnerability due to the influence of her surroundings or her condition caused by an accidental pregnancy. Thus, the difficulty of controlling effectiveness in law and the implementation of special protection come up against discursive struggles. The conceptual foundations of these current struggles around the need to engage medical responsibility in the VTP decision need to be addressed with a focus on the qualification and legal treatment of women’s autonomy.

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