

Abortion in Brazilian Bioethics

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Brazilian bioethics became consolidated in the 1990s. It was during this time that teaching and research centers were instituted, associative groups were created, and the first papers of Brazilian authors were published. In Brazil, the first years of teaching and research in bioethics were marked by a strong influence of the United States, particularly in the theoretic and thematic fields. Among the main topics of discussion were subjects related to the end of life and to research involving human beings, and bioethics was then chiefly influenced by Tom Beauchamp and James Childress's theory of the four principles.¹

This initial theoretic and thematic cornerstone marked Brazilian bioethics to such an extent that for many years young researchers considered the theory of the four principles and bioethics to be the exact same thing.² This misunderstanding was not limited to Brazilian bioethics; however, as countless other countries in the periphery of bioethics underwent similar processes. This becomes clear upon analyzing the first bioethical publications.³ The initial influence of the theory of the four principles conferred on Brazilian bioethics a thematic characteristic that still persists.

The fact that the theory of the four principles is intended as a set of tools to intervene in cases of moral conflict in health is an object of continuous seduction to Brazilian bioethics practitioners. Unlike in other countries, where the main agents of bioethics are social scientists, philosophers, or theologians, bioethics in Brazil is dominated by biomedical professionals. This difference establishes a sort of task division between central bioethics and bioethics as practiced in Brazil: scant space is reserved for theoretical discussion, and emphasis is placed in judging the political strength that results from bioethical intervention in health matters.

As a whole, Brazilian bioethics cannot be considered to be theory producing, nor is this its true ambition. However, if on the one hand the secondary role assigned to theory in Brazil has been one of the characteristics of Brazilian bioethics since the beginning, on the other hand an intense politicalization has made itself felt in the area over the past few years. The curious thing is that such politicalization of Brazilian bioethics has largely occurred in subjects of international bioethics—that is, subjects that make possible a dialogue between the bioethics of Brazil and that of other countries. Topics such as euthanasia and research with humans that are typical of bioethical debate in the United States are currently also on the Brazilian bioethics agenda.⁴

As a consequence of the theoretic and thematic influence of other countries, some subjects were left aside by Brazilian bioethics research. Abortion is one of them. Save for rare exceptions represented by feminist bioethics researchers, the subject of abortion is dealt with as an issue of insoluble moral conflict—that is, a situation in which bioethics serves as a mere instrument of reflection rather than as an instrument of political intervention. Although abortion is a topic of mandatory discussion in all Brazilian bioethics academic programs, it is always dealt with in the context of moral-dilemma rhetoric. As a result, the bioethical debate on abortion in this country includes neither ethical serenity nor intellectual or political commitment.

Brazilian bioethics tends not to consider it its duty to intervene in the discussion of the illegality of abortion. This is evidenced by priority given to the discussion of matters such as the regulation of research with human subjects or the organ market, for example—subjects that can certainly be considered as controversial and challenging as abortion. Brazilian bioethics has so far addressed abortion as mind exercise rather than as a situation that demands an urgent bioethical reflection and intervention. In a context of political and intellectual apathy, the matter turns into one of the greatest challenges facing Brazilian bioethicists, particularly considering the absence of international bioethical reflections that foster dialogue or sustain intervention actions.

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It would be no exaggeration to say that the bioethical apathy that exists regarding the challenges imposed by the subject of abortion is a characteristic of international bioethics and is not restricted to Brazilian bioethics. There are two basic reasons for this. On the one hand, abortion was not included in the top list of situations of moral conflict that propelled the rise of bioethics in the United States in the 1960s and 1970s. Rather, it was the narratives of biomedical experiments with human beings, particularly concerning the trials of Nazi medical crimes, and research with vulnerable populations in the United States that served as the central subjects for the political and later academic structuring of bioethics.

Although abortion was a subject of fervent political discussion in the 1970s, it was not a primary subject for bioethical discussion in the United States, a fact that was reinforced by the Supreme Court's decision to consider abortion an issue of intimate nature, left unpunished in most situations. This does not mean that abortion was never a subject of bioethical discussion in the United States; rather, it became a relatively more important bioethical subject in the 1980s with the popularization of prenatal diagnosis and selective abortion, and when the clinical genetics became a new specialty of prenatal care. However, the point of view adopted by American bioethicists differed radically from that which traditionally reigned in the abortion debate, having at its argumentative basis the morality of the fetus.⁵ In many countries where bioethics was first structured, the research and political approaches on abortion were discussed in a context in which abortion was legal. Although there was no ethical consensus regarding the morality of abortion, a legal structure that allowed for the expression of different moral standards was in place.

The second possible explanation for the distance of international bioethics from the subject of abortion can be found in the epistemological foundation of bioethics as a subject that is basically anchored in moral and political philosophy. A large part of bioethical theories are liberal in origin. In other words, whereas there is a great consensus surrounding the importance of such ethical principles as autonomy and equity, moral pluralism is continuously reviewed and reinvigorated as a value in this context.

This does not mean that the subject of abortion is not present in other moral negotiations. On the contrary: discussions on the morality of abortion are among the most difficult and delicate moral thoughts, but no one currently searching for an effervescence of ideas on the subject need look at the community of bioethical practitioners. Feminist bioethics researchers are certainly an exception to this phenomenon, but this is owing more to an overlap between their identities as feminists and bioethics practitioners than to their considering bioethics to be a privileged space for the discussion of abortion.

At the same time that feminist bioethics recognizes how important the liberal principles of autonomy and equity are to bioethics, it brings women's subjects to the center of bioethical discussion, particularly those related to social and biological reproduction. As a consequence, the abortion debate has become a feminist subject in bioethics, especially of feminists in countries in the periphery of bioethics.⁶ Except in feminist bioethics and women's movements, abortion is therefore mostly a subject circumscribed to the legislative and religious spheres. And given the incipience of Brazilian bioethics, and even more so of feminist bioethics, debating abortion in Brazil is a dangerous and delicate matter from a political and legal point of view because of the influence and permanence of certain religious premises in this field.⁷

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Unlike what happens in countries where bioethics first developed, in most Latin American countries abortion is considered a crime.⁸ A regional distinction exists regarding restrictive legislation on abortion, and Latin America is one of the areas presenting the greatest resistance to changing this prohibitive legislation. Specialists on the subject consider the political and moral influence of the Catholic Church in the region to be one of the explanations for this phenomenon. The recent growth of certain Pentecostal churches, particularly in Brazil, have served to strengthen this anti-abortion religious intransigence. For peripheric bioethics researchers, especially Latin American researchers, abortion is above all a continuous sociological and epidemiological demand.

Reports of women caught in *flagrante delicto* in illegal abortion clinics, high maternal mortality rates due to abortions performed in unsafe conditions or to the lack of medical care, or simply stories of women who become pregnant as a result of sexual violence in their homes make the headlines in Latin American countries.⁹ Abortion is a daily subject in the Brazilian printed press, and a great spectacularization can be seen in the way the subject is handled. In this sense, in spite of the apathy of international bioethics on the subject, in Latin America there is a social and cultural demand for the inclusion of abortion among fundamental political and sanitary matters that require the immediate attention of bioethics.

Abortion is a crime in Brazil except in two situations: when the life of the mother is at risk, or when the pregnancy is the result of rape. If on the one hand discussion on the ethical and sociological anachronism of this regulation is growing due to the fact that it dates from 1940, on the other hand there is also a movement that pushes for legislative regression, proposing the total prohibition of abortion with the end of the current exceptions. The Penal Code classifies abortion as a crime against life, this being the main legal argument used against women who procure an abortion or against those suspected of having had one.

Even though both penal exceptions have been provided for in the Penal Code for over 50 years, it was only at the end of the 1990s that the country actually started discussing the importance and need of implementing biomedical services for women who were victims of violent sexual crimes to ensure their safe, fast, and dignified access to abortion. During this time abortion was intensely debated, for it coincided with the visit of Pope John Paul II to Brazil.¹⁰ It is interesting to note that, although this was a period of intense strengthening of Brazilian bioethics, very few national bioethicists stood out as reference and consultation sources for debate and political negotiation on the subject.

These two sides of the national political debate on abortion made bioethics—and more specifically, feminist bioethics—take on a strategic reflexive role. Bioethics has been slowly becoming a necessary and indispensable legislative tool in many developed countries. A paradigmatic example of the political strength this subject has achieved can be found in the creation of national bioethics consultation committees in the mold of the committee instituted in France in 1983. In Brazil such a committee is yet to be created. An effort was made to regulate such a committee through a presidential administrative order in 2002; unfortunately, this merely resulted in the temporary institution of an interministerial committee connected to the Ministry of Health. This contrasted radically with the original spirit of bioethics consultation committees that were intended foremost as spaces of free reflection and discussion on subjects of fundamental importance for the whole population, not just for the area of health.

However, unlike other fields of knowledge, bioethics bases its intervention in collective, plural, and democratic reflection processes, thus rendering the decisionmaking process as representative as possible. For this reason, in Brazil a national bioethics consultation committee must necessarily confront the subject of abortion, and, unlike what has happened in the country so far, this must be a fraternal dialogue among different moral communities in which the various premises of well-being of each are given equal consideration. Some communities will certainly not find this an easy or pleasant exercise. However, it is absolutely necessary to ensure the full implementation of such constitutional principles as freedom and dignity. I have no doubt that this process will allow bioethics to become a meditative and pacifying instrument of the different moral standards that participate in the discussion of abortion in Brazil.

Notes

1. Diniz D, Guilhem D, Garrafa V. Bioethics in Brazil. *Bioethics* 1999;13(3/4):244–9; Anjos MF. Bioética no Brasil: algumas notas. In: Barchifontaine C, Pessini L, eds. *Bioética: Alguns Desafios*.

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- São Paulo, Brazil: Loyola; 2001:65-74; Pessini L, Barchifontaine C. Bioética: do principialismo à busca de uma perspectiva Latino-Americana. In: Costa S, Garrafa V, Oselka G, eds. *Iniciação à Bioética*. Brasília, Brazil: Conselho Federal de Medicina; 1998:81-98.
2. Diniz D, Guilhem D. *O Que É Bioética?* São Paulo, Brazil: Ed. Brasiliense; 2002.
 3. On the concepts of central and peripheral in bioethics, see: Garrafa V, Diniz D, Guilhem D. Bioethical language, its dialects and idiolects. *Cadernos de Saúde Pública* 1999;15(S1):35-43.
 4. For an analysis of bioethics constitution process in the United States, see: Andre J. *Bioethics as Practice*. Chapel Hill: University of North Carolina Press; 2002.
 5. Parens E, Asch A. *Prenatal Testing and Disability Rights*. Washington, DC: Georgetown University Press; 2000.
 6. Diniz D, Ribeiro DC. *Aborto por Anomalia Fetal*. Brasília, Brazil: Letras Livres; 2003; Baltar MI. A questão do aborto no Brasil: o debate no Congresso. *Estudos Feministas* 1996;4(2):381-98; Católicas pelo Direito de Decidir. *Aborto Legal: Implicações Éticas e Religiosas*. São Paulo, Brazil: CDD; 2002.
 7. To illustrate how dangerous discussing the issue of abortion in a Latin American context can be, note that I was dismissed from my position as a Graduate Professor at the Catholic University of Brasilia. The reasons presented to my peers, as well as the rumors that circulated then, indicated that it was "intolerable that a professor who discusses the ethics of abortion be employed by a Catholic University." A suit was filed against the Brazilian State, demanding the enforcement of the constitutional right of academic freedom.
 8. Alan Guttmacher Institute. *Aborto Clandestino*. New York. Alan Guttmacher Institute; 1994.
 9. In Brazil, the sequelae resulting from abortions performed under unsafe conditions are the third most frequent cause of maternal mortality.
 10. Although the Brazilian State is officially laic, the Catholic Church has a strong influence on State decisions.