EDITORIAL

MATERNAL MORTALITY, UNSAFE ABORTION, UNWANTED PREGNANCIES AND THEIR SURROUNDINGS IN UGANDA: ARE WE SURE THAT WE NEED LEGAL ABORTION?

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"Maternal mortality in Uganda, is at unacceptably high levels. A sizeable proportion of it is caused by consequences of abortion (either spontaneous or induced). Induced abortion is occurring now as it has always occurred in all cultures and societies and in all ages. A fatal outcome of induced abortion for the mother is quite often due to a poor handling of the procedure of abortion, conducted by non skilled medical staff and in unsafe environment, concealed from sight for fear of the harshness of the law which condemns it as a criminal act. Therefore, if abortions are happening with such frequency and have such dramatic consequences for the woman undergoing it through unskilled hands, if a good number of maternal deaths could be averted by making abortion safer, if the harshness of the law is the major cause for its non-safety……… why not adopt a pragmatic approach and bring abortion out from the concealment of crime to the light of a legitimate health service, providing it in a safe environment and by skilled hands? This will take us a long way in bringing down maternal mortality rates and decreasing the burden of suffering carried by women."

This is a simplified version of a line of reasoning that seems to have a convincing force: it is in fact the gist of the argument that has led to abortion's legalization in most countries of the world where this has happened. It is also the line of thinking that underpins the report prepared by the Alan Guttmacher Institute *"Unintended Pregnancy and Induced Abortion in Uganda – Causes and Consequences" (Guttmacher Institute, 2007)*, recently presented by the Uganda's Ministry of Health to public opinion. The presentation of this report was accompanied and followed by several calls for action towards "legalisation" of abortion in Uganda. In the last months several articles have appeared in the press, either in favour of or against legalisation, showing that the topic is "hot" and quite controversial. We are still far from a widespread consensus on the need of legalising abortion but it is sure that discussion will continue. Experience in other countries has demonstrated that this line of reasoning may eventually obtain consensus also among those who, per se, strongly disapprove of abortion and would not have recourse to it. This has happened elsewhere and may also happen in Uganda.

Yet, the majority of the people of this world, women or men, young or old, religious or un-religious, asked what they think about the suppression of the baby's life in the womb, will certainly answer that it is a bad thing, something wrong, something against nature, or simply, call it a sin. It is really difficult to find one person stating that abortion is something good in itself. Regardless of how the feeling gets expressed, it is clear that there is a certain level of awareness in all of us, an elementary piece of evidence, pointing to the fact that induced abortion is wrong. In all democratic countries, numbers count: in no way can legislation be "passed" without, at least, a silent consent of the majority. To make something wrong "legal", you need to make it acceptable, or at least "tolerable", by the majority of the population. It is necessary to reach a point where, even though not thoroughly convinced, the majority of the population are at least in such state of "suspended judgement" that makes them prone to keep quiet in front of a law they do not approve of. This happens when the consequence of the "wrong" done has some aspects of "good" in it. In our case, the decreased risk for the life of the mother and the preservation of her

health would be the good achieved through the wrong of "safe" and legal abortion.

What we are seeing in these days in Uganda has already happened in many other countries in the world. Africa and South America are arriving at it now, but the process through which tolerance for induced abortion is built in public opinion is – *mutatis mutandis* – more or less the same. It follows what we could call a "health concern approach". It starts from studies that show how frequent abortion is, how dire its consequences are, how it victimises twice a weak and vulnerable social group, how unjust it is that the highest risks are carried by the poorer strata of the population, while those who have money can easily "buy" their safety, placing themselves beyond the reach of the law……… This adds an element of missed equity that in the current "equity sensitive" environment calls for urgent redress.

The basis of these studies and their scientific accuracy are sometimes shaky and not infrequently tend to magnify the size of the phenomenon under study that, by its nature, is difficult to assess (Nathanson, 1997). In fact pages 9 and 29 of the report quoted above offer an interesting insight on the limitations of the studies carried out and clarify the numerous and incremental assumptions of the methodological approach. It could not be otherwise, given the difficulty of obtaining "hard" data on a hidden phenomenon: the authors of the report quite honestly declare both. But when numbers start moving from scientific magazines and reports to the public press, scientific accuracy loses its importance. Eventually, what matters is how often certain numbers are quoted. Outside the scientific arena, the continuous repetition of an information, rather than its verification and replicability, makes it true. In a nutshell, this approach leads to the conviction that abortion happens frequently, it hits badly the poor and weak, it is a cause of bad health and mortality, it adds misery to misery…..hence it is morally unacceptable to leave things as they are. As the law, in all its harshness, has failed to prevent it, the least we can do is limiting its bad consequences by making it safe. It remains something bad but it requires tolerance. After all, those who do not want to abort, remain free not to…..

Let us try, for a moment, to think in different terms. Supposing the problem of "legalisation of abortion" was presented to public opinion, right from now, as a "rights issue", would it be likely to obtain large consensus? By presenting abortion as a "rights issue", we mean presenting it by placing the accent on the right of self-determination of women and of total control over their sexuality. Alien as it may appear in the larger Ugandan context of today, this approach co-exists and intermingles with the more visibly fronted "health concern" approach. In societies where abortion has been legal for some decades, it is quite clear that it is nowadays referred to, perceived and justified as a "rights" issue. Tolerated, at the beginning, out of a "health concern" also by many people otherwise opposed to it, it is now a question of the "right" to choose whether to have or not a baby. If the issue were presented to Ugandans right now in these terms, it would have no chance of gaining the necessary large consensus for a change of legislation. The culture of Uganda and of Africa at large is "naturally" open to life and values it as a good in itself, regardless of its quality or functionality. Fronting the right of women to choose whether to accept or reject a baby in their womb does not stand, now, any chance of success: hence posing the problem in these terms is accurately avoided by the pro-abortion activists.

Yet something happened in 2003 at a conference in Maputo, Mozambique, that has dramatically changed things and should cast a new light on the under-standing of what is really at stake nowadays. Few people know about it and those who – although largely opposed to abortion as such - are prone to feel tolerant of a more permissive legislation, should take a closer look at the new scenario and its radical implications. It is something that will have such important consequences to deserve a very unusual specific mention in the Year's Opening Official Address of Pope Benedict XVI to the Diplomatic Corps of all the countries accredited to the Holy See in 2007 (Benedict XVI, 2007). Why such concern? This is because, for the first time in history, there is a text of International Law, i.e. the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa – signed in 2003 in Maputo by the representatives of the majority of countries of Africa – where medical abortion is mentioned as a reproductive right of women (African Union, 2003). (The protocol was adopted by the AU Assembly on 11th July 2003. Of the 53 member States, 43 have signed the Protocol. Botswana, Central African Republic, Cape Verde, Egypt, Eritrea, Malawi, Mauritania, Sao Tome', Sudan, Tunisia have not signed it. It came into force on the 25th November 2005 after ratification by 16 member States. As of now, it has been ratified and acceded by 20 States. Uganda has not yet ratified it and, hence, it is not yet legally bound by its provisions, although there are moves towards this).

Of course, this talk about abortion is mentioned in the context of an otherwise commendable document, to the point that one could be tempted to say that, after all, abortion is a minor issue in the document, and it should not raise a lot of fuss. But alas, law experts know that a text of International Law is not the same thing as a Conference Report, or a Declaration or a Solemn Commitment. The Maputo Protocol, as the document is called, being a text of International Law, *demands compliance* from the countries that have signed it, if they ratify it without expressing their reservations on certain sections. In all the history of the United Nations, despite the fact that the Cairo and Beijing Conferences had managed to bring to the fore and give support for the legalisation of abortion, never have the words "abortion" and "right" been associated. One may wonder why there would be such semantic prudence from a body (i.e. the UN) whose agencies have, otherwise, gone a long way in promoting abortion. It is simply because the legally conscious mind knows what it could mean if a text of International Law – henceforth normative for the entire world or (as it is the case for the Maputo Protocol) for a large number of countries - decided to declare, as matter of fact, that the right to life is no longer an absolute and basic human right (as Defined by the 1948 UN Charter of Human Rights), by affirming a contrary right (i.e. that of the woman to decide whether the child has to live or not). This is the sad – and dangerously confused - situation we have plunged into since 2003. It is only a matter of time for its consequences to become patent: in several countries, one or two generations down the line and abortion's legalisation, the suppression of the life of the embryo or foetus will no longer be perceived as an objective wrong. The change of legislation has eventually affected a cultural perception.

Do we want a glimpse at the possible scenario in few years from now? If abortion is a right of the woman it must be 1) legal, 2) accessible without barriers, 3) it cannot be denied.

1. In Uganda we are now dealing with the first of these three points. It is largely presented as an issue of health concern demanding tolerance from the law rather than a right issue demanding respect and dutiful compliance. We are talking and discussing the first when we should already be looking at the issue, with all its implications, from the second perspective.

2. A lot could be said on what is possible to do or not to do for the second, in real life. We know that with the current spending for health we cannot even guarantee that women who want their baby can safely deliver in a health unit where they will receive all the needed medical assistance; one wonders what the opportunity cost of "safe" abortion will be.

3. The third is the most worrisome of the points for the health personnel and health care setting: will doctors and other health staff be "forced" by law to administer abortions? How strong will the right of their conscience and their commitment to the Hippocratic Oath be in front of this newly defined right to demand the death of a baby? And what about health care institutions: we are thinking here of the large network of faith-based health care institutions whose identity and mission explicitly consider life – right from conception – as sacred and uphold the right to life of the unborn as absolute: will they have to comply with the newly defined right?

There we are: enough about health and legal concerns or scenarios. After all, the strongest argument against legalisation of abortion stems from the simplest of evidence. With all our legitimate concerns about mortality, health and rights of women, we seem to have forgotten that there is another subject in the equation, who happens to be the most defenceless: the tiny human being that grows in the womb of his/her mother: what about his/her health and right to life? Abortion means 100% mortality for this human being. However, ideally, progress in civilisation means, among others, that the most defenceless form of human life gets the highest degree of protection, if necessary, also through a legislation that considers – as it should do - any action positively undertaken against this life as a crime. This is the understanding that human reason can easily grasp as a most fundamental piece of evidence. When other considerations take the upper hand in a given society, this very society has planted the seed of its own destruction. There are doors that should not and cannot be opened, no matter what seemingly good reasons may lie behind our arguments. Legalisation of abortion is one such door. If and when they are opened, they lead to a slippery slope at whose bottom end lie euthanasia, eugenics and, ultimately, the rule of violence. This is already happening in some countries.

Lastly, an afterthought for the health professionals: social consensus around, and the privileged position accorded to, the medical and health professions in general stems from a rule that Hippocrates, the father of modern Medicine and head of one of the earliest known medical schools, so wisely condensed twenty

five centuries ago: in a solemn Oath that generations and generations of doctors have proclaimed at their entry in the profession. In this oath the medical professional solemnly commits in front of God that he will always operate in order to preserve life and that he will never intentionally snuff the human life entrusted to his care (*"……….I will give no deadly medicine to anyone if asked, nor suggest any such counsel, and in like manner I will not give to a woman a pessary to produce abortion."……)* (Hippocrates, 400 BC) The reassurance that society needs to give trust and respect to the health professionals is an absolute certainty about their fundamental commitment to life. When this commitment is no longer absolute, when it is not demanded and protected by the Law or when, worse still, its contrary is demanded, the fundamental tenet upon which the contract between the medical profession and the society in which this is exercised ceases to be. Perhaps these considerations should offer us some food for thought.

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