CCNE's response to the President of the Sénat and to the President of the Assemblée Nationale regarding extension of the gestational age limit for elective abortion

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CCNE was questioned by the President of the Sénat, on October 4, 2000, and by the President of the Assemblée Nationale on October 5, 2000, concerning a draft law on the extension of the legal gestational age limit for elective abortion. The risk of a shift to eugenic practices, that could occur as a result, was specifically mentioned. The request did not involve any general consideration of the principles adopted by the 1975 law.

This proposal for an extension of the legal gestational age limit to 12 weeks is the result of a desire expressed by society rather than the consequence of medical or scientific progress. That being so, it may be debatable whether the subject is directly within CCNE's purview.

**However, the President of the Sénat's request raises the issue of whether an extension of the gestational age limit could bring about a shift to "eugenic" practices because of technological and scientific advances, particularly as regards medical imagery. That is a subject which is fully within CCNE's field of competence.**

CCNE considers that any collective institutionalised policy which aims to encourage the appearance of certain characteristics or eliminate other characteristics which are viewed as undesirable, can be described as "eugenic". As far as this country is concerned, there does not appear to be any threat of eugenic behaviour, and although the issue is referred to frequently in current discussions, it is mostly as an expression of unease. Selective eugenic practices, based on genetic science, and part of a general policy, would be discriminatory and contrary to human dignity, and therefore as such to be condemned. Elective abortion meets none of these criteria. A practice which simply responds to individual wishes is therefore not eugenic.

However, pregnancy is increasingly medicalised in our society (with the development for instance of vaginal ultrasound examination). The frequency and improved efficiency of prenatal screening tests can lead, when a risk is revealed or a serious handicap is discovered, to terminating a pregnancy, a procedure which is increasingly acceptable to society. Such behaviour seen as a whole, could at an extreme be viewed as a form of eugenics, but so far there are no statistics or epidemiological studies to demonstrate that the number of elective abortions has risen as a result of the discovery of "anomalies". In this respect, although malformation is on the whole rare (only 1 to 3% of pregnancies are involved), there is a need to distinguish between serious defects - which the 1975 law on medical abortion refers to - and minor anomalies such as harelip or malformation of the fingers. The latter may be more easily detectable after the 10th week, although this is far from being certain. The theory that couples would want a "perfect" child which could lead to more numerous elective abortions is not supported at present by any quantitative evaluation. However, vigilance on this subject is advisable.

It is also surmised that if parents discover that the child's sex is not what they wanted (not of course taking into account sex-linked chromosomal diseases), then they might consider this sufficient reason for elective abortion. Such discovery, which is already available as of the 8th week of pregnancy through trophoblastic biopsy (although this procedure is not entirely risk-free), has not led to any misuse. It is now more accessible and devoid of danger between the 10th and 12th weeks because of improved ultrasound examination. To consider that the possibility of easier or routine discovery of a child's sex or of a minor anomaly would be reason enough to prevent the extension of the gestational age-limit, strikes CCNE as excessive and to some degree derogatory in regard to the dignity of women and couples. To believe that pregnancy is experienced in so opportunistic a fashion, and that continuation or termination would depend entirely on that discovery, is injurious and designates them as potential wrongdoers .

**Therefore, the risk of a shift to eugenic determinism as mentioned in the request for CCNE's opinion seems unfounded.**

CCNE is aware that the medical and legal liability of ultrasound examiners, who will be asked questions which they cannot and will not be able to answer with certainty, may be intensified. However, CCNE considers that fears regarding increased medical liability cannot constitute an argument to prevent extension of the termination limit.
Nevertheless, more than 5000 women a year seek elective abortion beyond the legal limit of 10 weeks, so that they try to obtain treatment abroad and inequality of access may result in social discrimination. CCNE considered motivations and objective reasons which might lead them to do so. Such requests for elective abortion are mainly based on psychological and social distress. There is a considerable gap between a distraught under-aged girl hardly aware of the significance of amenorrhea and later afraid to make her pregnancy known, and a woman or a couple discontinuing contraception for a variety of reasons or practising it carelessly. It is understandable that extending the gestational age-limit appears justifiable in the first case, but shocking in the second case where elective abortion becomes a form of contraception or abortion for reasons of pure convenience. Between these two extremes are diverse cases of late discovery of a pregnancy : some women experience rare menstrual cycles or become pregnant post-partum; others have episodes of bleeding which closely resemble monthly periods; women over the age of 40 may underestimate the risk of pregnancy, etc. This diversity of situations - the above list is far from exhaustive - are so many quandaries for the medical profession and for society, who are unable to propose concrete alternatives to elective abortion.

**In fact the issue is not so much a question of eugenics as one of technical and social facilities to be made available.**

Diverse views have been voiced by experts on possible changes in the implementation of elective abortion as a result of the limit being set at the 12th instead of the 10th week. Late terminations require adequate hospital facilities which at present are lacking in this country. The medical team which is under obligation to provide full information on proposed techniques, should have the opportunity of establishing at this point a real dialogue on the significance of possible anomalies, the benign or easily corrected nature of which could be the subject of a degree of persuasion.

Moreover, it is the collective duty of the community to provide care and counsel to pregnant women who are alarmed or fearful of giving birth because they are not sure they could cope due to moral, physical, or financial distress. As things are, not enough public money or attention is given in this respect to institutions authorised to practise elective abortion. Existing arrangements and structures designed to counsel distressed pregnant women should be reinforced so that those who want to continue a pregnancy could be helped to do so. Society's lack of esteem for structures and people in charge of elective abortion, damages their capacity to perform.

**Suggestions have been made to broaden the scope of therapeutic abortion instead of extending the gestational age-limit for elective abortion.**

Therapeutic abortion would become a possibility in cases of psychological distress, according to procedures involving third parties (family planning organisations, etc.). Should that course be followed, in fact a fuller range of medical conditions would prevail instead of a woman's own decision. Although this method would seem at first glance to solve some of the difficulties, it would also change radically the spirit of the 1975 law in that it would re-establish society in a supervisory role. The law does recall in its Article I that "it guarantees respect for the human being as soon as life begins", but goes on to recognise that women are entitled to decide on the subject of elective abortion on the condition that they are fully informed. Legislators specify that distress is solely a matter for a woman's personal appreciation.

In the case of medical abortion, since therapeutic grounds are what justify the procedure in the eyes of the law, doctors are empowered to subordinate the decision to abort to medical appreciation. This transfer of responsibility from mothers to other actors is precisely what could lead to a true shift of emphasis away from the law's intention, because distress is not specific to any particular phase of pregnancy. Likening distress to therapeutic reasons would distort the legal foundations of the 1975 law and lead to serious and damaging confusion exposing women to discrimination and random decisions.

**Would extending the limit to twelve weeks settle the matter once and for all ? Is there not a risk of increasing the number of abortions ?**

The risk of a cascade of demands to extend the threshold beyond twelve weeks for one reason or another is certainly worthy of consideration. However, it does seem minimal in this context in view of physiological and psychological changes during pregnancy. In any event, society can hardly refrain from setting limits, even though it is clear that they can only be arbitrary and contingent, and that exceptional cases will probably continue to disrupt them.

The extension only concerns fairly restricted numbers of women, i.e. 3 to 5000 women out of the 200 000 undergoing elective abortion per year in France. There are no indications that extending the limit could be the direct cause of an increase in numbers since it remains traumatic and increasingly so as pregnancy continues. Extending the limit could increase the time available for some women to enter into a more meaningful dialogue with their physicians since this is all too frequently neglected whereas the law specifically calls for it. In this way, the extension could paradoxically help to encourage decisions to keep a child. The numbers and proportions of women deciding to induce abortion in this country are greater than in other European states (the number is estimated at more than 200 000 a year, of which 170 000 are registered, i.e. almost 1 pregnancy in 5). Such figures are unacceptable and are contrary to both spirit and letter of the 1975 law. Responsible public health policies cannot blissfully absolve themselves of the distress experienced by thousands of women every year. Rather than attempting to solve the problem by constructing time limits and legal barriers, it would be preferable to use educational facilities in institutions or associations to facilitate to the utmost a better understanding of meaningful emotional and sexual relationships and of motherhood and fatherhood. That should be the basis for supplying information about contraception both before and after sexual intercourse, and on the psychological and organic risks involved in elective abortion. Excessive recourse to elective abortion is strong evidence of inadequacy in the way of handling and offering contraception in France. In a more enlightened society as regards contraception, the injury inflicted by a termination of pregnancy would have less impact. The issue of extending coverage for oral contraception cannot be ignored in this context. Society and the authorities are accountable as regards taking steps to inform young women - nor should young men be forgotten - about the risks and consequences of unwanted pregnancies.

This debate on the extension of the time limits for elective abortion should also revive interest on the circumstances and causes which motivate more than 200 000 women a year to terminate a pregnancy. **CCNE considers that ethical debate should bear on an earlier phase and not just on a prolongation of the time limit set by law.**
The above text was approved by all of the forty members of CCNE, except one.

Because of membership renewal procedures, seven members were unable to participate in the drafting of the document.

The following experts were heard : Professor Israël Nisand and Professor Michel Tournaire, Ms Monique Canto-Sperber and Ms Elisabeth Sledziewski.

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