CASE REPORT

Termination of Pregnancy for a Muslim Rape Victim and Dilemma in Malaysian Setting: A Case Report

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Abstract

This case report highlights on the dilemma in making a decision for termination of pregnancy (TOP) for a muslim rape victim in Malaysian setting. We report a case of 17 year-old student at 7 weeks of pregnancy after being gang-raped, who, together with her parents, had requested for a TOP. Psychiatric assessment showed that the patient suffered from a major depressive disorder and post-traumatic stress disorder which justified termination of pregnancy on a psychological and clinical basis. However the available Malaysian Islamic fatwa had caused some uncertainties on the final decision making. This case demonstrated on the needs to understand the relevant issues beyond clinical judgment in relation to TOP in our setting which encompasses the legal provision, ethical obligation as well as the needs for a clear religious understanding and stand to support the medical decision.

Keywords: Termination of Pregnancy, Abortion, Rape, Muslim, Islam

Introduction

Abortion is a widely used term amongst the general public, defined as the removal of a fetus from the uterus prior to viability. Termination of pregnancy (TOP) refers to therapeutic abortion performed usually to preserve the mother’s life. Worldwide, an ongoing public controversy exists over the legal, ethical and religious issues of abortion.

Case Report

A 17 years old student was referred in view of her request for TOP. She recently discovered her pregnancy and ultrasonography confirmed a viable fetus at 7 weeks. She was gang-raped earlier. Following the incident, she had frequent nightmares, flashbacks and re-experiencing of the event. She was easily startled and would avoid walking alone. She was depressed with insomnia, poor appetite and had significant weight loss. She stated that she would not be able to love the baby. She felt hopeless and worthless but not having suicidal ideation. Her decision for TOP was fully supported by her parents. Mental state examination showed a teenager dressed moderately with a muslim hijab, depressed but rationale about her decision,
understood the procedure and the risks.

It was obvious that the patient suffered from significant symptoms of major depression and post-traumatic stress disorder (PTSD), fulfilling the criteria for respective diagnoses. She was at a high risk of a worsening psychiatric condition requiring intensive psychiatric management. However, although there was a psychological basis for TOP; the patient, the family and the therapist being all Muslims; would want to be certain about the Islamic stand in Malaysia. She was referred to the hospital’s religious officer for opinion.

Based on the Malaysian Fatwa Committee on TOP due to rape; 1) it is prohibited to terminate pregnancy more than 120 days as it is considered as a crime against the unborn baby as the soul has already entered the foetus, except abortion to save the mother’s life. 2). aborting foetus before 120 days is permissible if the foetus is defective and terminally ill that it could seriously harm the mother\(^1\). The fatwa is literally silent on psychological indications.

The religious officer recommended a referral to the local religious department for a consultation. By then, the family became distressed as they anticipated a long process that might be inconclusive thus causing more agony. The patient’s mother was so distressed and admitted due to severe hypertension. They rose up the possibility of higher medical risks if they opted for TOP outside the government hospitals.

So, this was a muslim raped victim, requesting a TOP at a gestation less than 120 days. She had the psychological ground and fit the legal provision which allowed TOP based on the opinion of practitioners, formed in a good faith that the continuance of the pregnancy would involve risks including mental risks to the mother greater than if it was terminated.

However, with the silent fatwa, do you decide to allow or not to allow or remain in between? The authors purposely end the case report here for the readers to ponder while appreciating the dilemma faced by the treating team in reaching the final decision.

**Discussions**

Beyond the clinical judgment, psychiatrists should be aware of the heavy legal, ethical and religious obligations associated with TOP.

**Psychological indications:** The best practice in making clinical decisions involves finding a balance between risks and benefits. Continuing or terminating a pregnancy imposes certain risks, physically and psychologically. Psychological trauma of rape encompasses a broad spectrum of psychological reactions and psychiatric morbidities\(^2\). An unintended pregnancy causes impaired mother-child relationship quality and risks of poorer infants’ physical and mental health\(^3\). Conversely, TOP may expose women to grief and regret. However, Bonevski & Adams (2001) found that legal TOP carried out for various reasons rarely caused negative psychological consequences\(^4\).

**Legal and ethical provision:** According to the Malaysian law, abortion is legal if: 1) a medical practitioner registered under the Medical Act 1971 undertakes the procedure; 2) the practitioner is of the opinion, formed in good faith, that the continuance of the pregnancy would involve risk to the life of the pregnant woman, or injury to the mental or physical health
of the pregnant woman, greater than if the pregnancy were terminated. Ethically, an informed consent must be obtained following adequate counseling.

**Religious provision in Islam:** In a review by Bonevski & Adams (2001), religious objections to abortion were the trigger for negative outcomes. For the Muslim practitioners, the Islamic ruling on TOP contributes a great weightage in decisions exceeding other judgments. Islamic views are shaped by the Quran, Hadith and fatwa (the opinions of religious scholars). The Quran make it clear that the basic Islamic principle concerning abortion is that it is forbidden because Islam gives a very high priority to the protection of life. Kiarash Aramesh (2007) reviewed the viewpoint of scholars from different Islamic jurisprudence and found that abortion is permissible only in very narrow exceptions. Different schools of Muslim’s law hold different views. Most scholars only allow abortion before the time of ensoulment and when physicians declare with reasonable certainty that the continuation of pregnancy will endanger the woman’s life or put her in intolerable difficulties. A hadith suggests that the moment of ensoulment is 120 days.

In Indonesia, abortion due to rape is allowed before 40 days. Yusuf Al Qardhawi (2002), approved a fatwa allowing TOP for raped Bosnian Muslim. Muhammad Sayed Tantawi (2004) issued a controversial draft law allowing raped women to abort even after 120 days, provided that they are "of good reputation, chaste and pure". Both are leading scholars in the Sunni jurisprudence dominantly practiced in Malaysia.

There is a need to provide solutions that would not contradict Islamic principles. Although there is no accurate Malaysian data, pregnancies through rape are believed to be on the rise, so as cases of abandoned babies and possibly illegal abortions.

**Conclusion**

A multidimensional viewpoint on TOP for rape victims is very important for a comprehensive clinical management. The multidisciplinary medical professionals and the religious authorities need to establish a clear stand to facilitate patients’ management.

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