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Opinion
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Social Consensus is Required for Legal Induced Abortion

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BACKGROUND

After the Korean Constitutional Court ruled the prohibition of induced abortion unconstitutional on April 11, 2019, the National Assembly is tasked to revise the induced abortion prohibition law by the end of 2020, which allows for medically-assisted abortion. Pro-choice and women's groups have demanded that exceptions be added to the new abortion law including allowances based on the pregnant woman's socioeconomic condition.

In revising the abortion prohibition law, significant attention must be paid to the ethical, cultural, and medical concerns surrounding the new law. Therefore, I would like to review the arguments regarding the use of induced abortion from medical and ethical point of view.

PERMITTED PERIOD OF INDUCED ABORTION

The Mother and Child Health Law, which was enacted in 1973, allowed induced abortion until the 28th week of pregnancy, and was revised to the 24th week of pregnancy in 2009. The permitted period of induced abortion is presumed to have been based on the timepoint at which a newborn would be able to survive outside of the womb. However, significant advancements in neonatal intensive care unit (NICU) technology have been developed in recent years. It may therefore be necessary to adjust the permitted period of induced abortion, as survival of premature babies less than 24 weeks is now possible.

When determining the permitted period for induced abortions, both the difficulty of the procedure and the health of the woman should be considered. The permission of induced abortion will be divided into two categories; parental request due to socioeconomic problems and medical judgment related to maternal and fetal health. In terms of the difficulty of the operation and the health of the woman, complications from induced abortions are less likely to occur in the first trimester of pregnancy. From a strictly medical standpoint it is therefore better to perform induced abortions in the first trimester of pregnancy when chosen for socioeconomic reasons. In particular, the eight weeks after fertilization (10 weeks of gestation), a period known to be relatively safe for induced abortion, is most appropriate. The eight weeks after fertilization is the embryonic period during which organs begin to form. In this period, fetal organs are not yet fully functioning, marking an important psychological barrier, which means that parents and obstetricians may feel less guilty about aborting a fetus, a distinction

that can have a significant effect on mental health.[1] Furthermore, ossification, which begins eight weeks after fertilization, has not yet started during this period, thereby reducing the technical difficulty of the operation compared to later stages of pregnancy.

Induced abortion required due to a medical condition is more common after the first trimester of pregnancy, which increases the difficulty of the operation. Therefore, the side effects of the procedure are relatively higher than those of early pregnancy, which requires strict induced abortion guidelines. Abandonment of a fetus who is likely to survive after childbirth may cause other ethical problems and should be approached discreetly. Advancement of neonatal intensive care has allowed units to save premature babies delivered as early as 23 weeks. Therefore, in cases of induced abortion due to medical issues, such procedures should not be performed after 20 weeks from the date of fertilization (22 weeks of gestation).

There may be a debate regarding how to do if induced abortion is required between 10 to 22 weeks of gestation due to socioeconomic problems. From a medical point of view, abortion after 10 weeks of gestation is not recommended due to the higher incidence of complications associated with the operation. Nevertheless, it should be decided through social consensus based on consideration of the safety of the operation, the health of the woman, and the rights of the fetus.

INDUCED ABORTION DUE TO MEDICAL REASONS

In the current Mother and Child Health Law, induced abortion is restricted to parents with genetic disabilities, infectious diseases, or other risk factors affecting maternal health. In this law, specific genetic abnormalities were defined such as achondroplasia and cystic fibrosis, and infectious diseases were limited to rubella infection and toxoplasmosis. However, in addition to the genetic abnormalities and infectious diseases, there remains a variety of fetal malformations not listed in the original law such as acrania and alobar holoprosencephaly that are not survivable. However, in reality, it is difficult to codify all possible diseases that are critical to the survival of the fetus in the law. It is therefore necessary to establish procedures enabling induced abortion with the consent of expert medical professionals.[2]

CONTROVERSY AS TO WHETHER TREATABLE FETAL MALFORMATION SHOULD BE ELIGIBLE FOR INDUCED ABORTION

Concerns exist regarding the increased acceptance of induced abortion in cases of treatable fetal malformations. In reality, public sentiment in Korea, combined with inadequacies in the domestic child rehabilitation medical infrastructure and support system, have led to a large proportion of treatable fetal malformations resulting in induced abortion. Many obstetricians may refuse to perform abortions in these cases; however, parents are likely to continue to demand them citing economic hardship, which could lead to problems with future medical laws. To resolve these problems, it may be a good idea to establish a neutral judgment procedure, similar to that in England, where abortions may be carried out after agreement from two physicians.

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CONSCIENTIOUS OBJECTION TO ABORTION

Most obstetricians face ethical problems every time they decide to perform an induced abortion. It gets notably worse when making decisions that go against their religion and belief. In the current Mother and Child Health Law, there are obstetricians who will not perform them as a medical assistant according to their conscience and brief because medical assistance for induced abortion is illegal.

However, since the current domestic medical law stipulates that medical treatment should not be rejected without justifiable reason, any amendment to the law allowing induced abortion may pose problems for obstetricians who could potentially be required to perform an abortion against their conscience if a patient requests it. To solve this problem, conscientious objection to abortion should be allowed. Conscientious objection to abortion refers to the right of physicians to refuse medical assistance in abortion, in accordance with their personal beliefs.[3] Pro-choice advocates argue that conscientious objection to abortion reduces the number of hospitals willing to perform abortions and reduces the accessibility of medical facilities for pregnant women.[4] This claim is not without merit; however, every human has the right to live by their own conscience and values.

Another medical problem is that if conscientious objection to abortion is not guaranteed, the medical students who are not comfortable with induced abortion will not apply for the discipline of obstetrics and gynecology, ultimately leading to a lack of excellent obstetricians.

Abortion is an ethical issue that transcends common social divisions, such as race, region, or age, and opinions are divided on this subject according to philosophy, belief system, or religion. In Korea, the Constitutional Court ruled that the prohibition of induced abortion is constitutional seven years ago, but induced abortion has been instated as a legal practice. While objections surrounding abortion are likely to persist, reasonable acceptance criteria should be established based on social consensus. This social consensus should also include a rational approach to the above-mentioned questions from a medical perspective.

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