

FIGO Human Rights and Women's Health Case 5

No easy choices for a pregnant teenager

This case highlights the right to autonomy in health care decision-making, which is a central component of the rights to life, privacy, and liberty. This right includes the individual's right to make informed decisions about her body, to determine the number and spacing of her children, and to be free from coercion, discrimination, and violence in health matters. States may not restrict a woman's access to health services or to the clinics that provide those services because she does not have the authorization of her husband, partner, parents, or health authorities; because she is unmarried; or simply because she is a woman.

In relation to autonomous decision-making, international human rights law requires states to apply the principle of "evolving capacities", which relates to the adolescent's acquisition of sufficient maturity and understanding to make informed decisions on matters of importance, without the authorization of her parents or guardians, regarding sexual and reproductive health services. (CEDAW Gen Rec #24, 1999; UN Committee on Rights of the Child 2003)

Learning objectives

For physicians to competently apply this principle to daily practice they must be able to:

- Acknowledge and respect decisions that patients make about their own health care.
- Explore medical, social, and cultural considerations affecting patient decision-making.
- Evaluate the capacity of an individual at any age to make his or her own informed decisions.
- Ensure that the "best interests" and evolving capacity of the child are considered in obtaining consent from children and their legal guardians.

Note that although the case highlights the right to autonomy, it also addresses a variety of other ethical, human rights, and policy issues. Similarly, although the medical issues of the case focus on complications of unplanned pregnancy and abortion, the standards of practice that address informed consent and consider the evolving capacity of children are applicable to many clinical situations.

Case study

O.P., an unmarried 15-year-old high school student, finds herself pregnant by her 17-year-old boyfriend of several months. She estimates she is 10 weeks pregnant and visits a doctor to ask for an abortion.

O.P.'s parents have made it very clear that they would no longer allow her to live at home and would withdraw all financial support were she to become pregnant before marriage. O.P. has always aspired to attend college and graduate school. Her family



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knows about her relationship with the young man but they are unaware of its sexual nature. In her country, the law requires parental consent in all health care services for minors under the age of 16 years. It also provides for abortion for any woman upon request, up to 12 weeks of pregnancy. However, the doctor refuses to perform an abortion for O.P. unless one of her parents provides consent for the procedure.

Questions for discussion

1. What are the medical issues in this case? Specifically:

a. What are the health risks and benefits of a termination procedure at 10 weeks' gestation?

At 10 weeks' gestation, evacuation of the uterus is a simple procedure. However, it does carry a low risk for bleeding, infection, damage to the uterus, perforation and associated long-term complications of any of these problems, including reduced fertility. Early termination of a pregnancy, in the hands of a competent practitioner, is known to be one of the safest medical procedures that can be performed.

The benefit is that the adolescent will not have to bear a pregnancy or raise a child that she does not desire. Her risks for pregnancy-induced conditions such as pre-eclampsia and complications of labor are zero.

b. How do these risks change if the procedure is delayed for a further 4–6 weeks?

This answer may differ in different countries. All risks increase (social and medical). As her pregnancy becomes obvious, she may lose her home and she may have to leave school. As the pregnancy advances, the risks of termination described above increase. In some countries, the legality of abortion changes after the first and into the second trimester, at which time she is faced with continuing the pregnancy or seeking an illegal and unsafe termination.

c. What are the health risks if this girl undergoes an unsafe abortion?

The health risks of unsafe abortion include a significant increase in the risks that are associated with any surgical procedure, including bleeding, infection, and injury to organs. She is at increased risk of sequelae such as sepsis, infertility, chronic pelvic infection, fistula as a result of perforation of bowel with peritonitis, and bowel injury.

d. What are the likely health and social outcomes of a pregnancy for this 15 year old?

Her risk is increased for obstetric complications such as pre-eclampsia, eclampsia, preterm delivery, low birth weight, and very low birth weight. She also risks rejection by her family, termination of her education, ostracization from her family and/or community, whether she gives up the child or raises the child as a teenager.



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Pregnancy-related deaths are the leading cause of death for adolescent girls in developing countries.

2. Using the Integrated Human Rights and Health Checklist, identify the human rights that were infringed in this case.

What is most obvious is that O.P. is being denied the right to make her own decisions about her health and to decide on the number and spacing of her children. By refusing to perform the abortion, the physician is also denying O.P. her right to health and her right to the benefits of scientific progress. By refusing to provide this service that only women and girls need, her right to nondiscrimination on grounds of sex and age is breached as well.

Adolescents are particularly vulnerable to the consequences of unintended pregnancies for numerous reasons. They may lack the information and/or services necessary to prevent pregnancy and they are also more likely than older women to be subjected to coerced sex. Lack of evidence-based sexuality education and requirements for parental consent for contraceptive and abortion services are health barriers adolescents face throughout the world.

In relation to autonomous decision-making, international human rights law requires states to apply the principle of "evolving capacities". This principle relates to the adolescent attaining sufficient maturity and understanding to make informed decisions on matters of importance, without the authorization of her parents or guardians, regarding sexual and reproductive health services. Thus, states must systematically consider the adolescent's evolving capacities and should ensure that appropriate services are made available to them independent of parental or guardian authorization. Adolescents need to be recognized in their family environment as active rights holders who have the capability to progressively become full and responsible citizens when given proper guidance and direction.

3. How does the law in your country/state/province recognize the principles of evolving capacity or best interest of the child as it applies to medical care?

Most countries specify a minimum age for requiring parental consent for health care services. Recognizing the sensitivity of the issue and the health and psychological effects on teenage girls who undergo illegal abortions to avoid parental or guardian knowledge, some countries have specific laws on abortion, some with lower ages. In any case, the best interest of the child and the principle of evolving capacity (that a child may have the capacity for decision-making) should always govern. Laws can be confusing, however; they should be clarified, with an emphasis on judging each child based on her individual level of maturity.

Even where parental consent is not required, prohibitive costs and stigma around adolescent sexuality may deter adolescents from seeking services. Human rights



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bodies have called on states to strictly respect adolescents' right to privacy and confidentiality with regard to advice and counseling on health matters. Health care providers should be trained to provide information and services to adolescents according to these principles and to ensure that youth-friendly, confidential reproductive health services, including family planning services, are available to adolescents from different socioeconomic backgrounds.

4. How do your responses to the above questions guide your support of O.P.'s decision-making authority free from parental consent?

The resolution of this case implies that the physician must break the law in order to respect the patient's rights. The facilitator-teacher will need to be very sensitive to the conflicts between the law in this case and the requirements of ethical professional behavior. It is important to acknowledge that this a real dilemma in the world and that the discussion may be difficult, resisting easy resolution, but that it is essential that human rights and dignity are held high in our profession.

Decision-making needs to follow ethical and legal principles. Recognizing that "not all that is ethical is legal and not all that is legal is ethical", each student will need to consider how to reconcile his or her personal beliefs with ethical practices and state policies. The discussion may progress from assessing the rights that are more easily protected, such as the right to information and the right to benefit from scientific progress, and then advance to those that are more sensitive, such as nondiscrimination and autonomous decision-making. Discussion should also include obligations and avenues to address conflicts that arise from the differing policies of individuals, health care systems, and states.



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References

Pregnancy termination and adolescent pregnancy

Academy of Medical Royal Colleges. Induced Abortion and Mental Health. London, UK: Academy of Medical Royal Colleges; 2011.

http://www.aomrc.org.uk/doc_details/9432-induced-abortion-and-mental-health

Broecker JED, Hillard DTA. Pregnancy in Adolescence. In Global Library of Women's Medicine. London, UK: Foundation for the Global Library of Women's Medicine; 2009.

http://www.glowm.com/section_view/heading/Pregnancy%20in%20Adolescence/item/413

Guttmacher Institute, International Planned Parenthood Foundation. Facts on the Sexual and Reproductive Health of Adolescent Women in the Developing World. New York, NY, and Washington, DC: Guttmacher Institute; 2010. <http://www.guttmacher.org/pubs/FB-Adolescents-SRH.pdf>

Ipas. Adolescents, Unwanted Pregnancy and Abortion: Policies, Counseling and Clinical Care. Chapel Hill, NC: Ipas; 2004.

<http://www.ipas.org/~media/Files/Ipas%20Publications/ADOLPOL-E04.ashx>

United Nations Population Fund (UNFPA). State of the World Population Report. Motherhood in Childhood: Facing the Challenge of Adolescent Pregnancy. New York, NY: UNFPA; 2013. <https://www.unfpa.org/swp>

World Health Organization (WHO). Adolescent Pregnancy, Fact Sheet No. 364. Geneva, Switzerland: WHO; 2012.

<http://www.who.int/mediacentre/factsheets/fs364/en/index.html>

World Health Organization (WHO). Safe Abortion: Technical and Policy Guidance for Health Systems. Second Edition. Geneva, Switzerland: WHO; 2012.

http://www.who.int/reproductivehealth/publications/unsafe_abortion/9789241548434/en/

World Health Organization (WHO). Unsafe Abortion: Global and Regional Estimates of the Incidence of Unsafe Abortion and Associated Mortality in 2008. Sixth edition. Geneva, Switzerland: WHO; 2011.

http://www.who.int/reproductivehealth/publications/unsafe_abortion/9789241596121/en/index.html

Addressing human rights



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Cook RJ, Erdman JN, Dickens BM. Respecting adolescents' confidentiality and reproductive and sexual choices. *Int J Gynecol Obstet* 2007;98(2):182–7.

Center for Reproductive Rights (CRR). *The Reproductive Rights of Adolescents: A Tool for Health and Empowerment*. New York, NY: CRR; 2008.

<http://reproductiverights.org/en/document/the-reproductive-rights-of-adolescents-a-tool-for-health-and-empowerment>

Grover A. Report of the Special Rapporteur on the Rights of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health. Sixty-sixth session. A/66/254. August 3 2011. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/450/87/PDF/N0945087.pdf?OpenElement>

International Federation of Gynecologists and Obstetricians (FIGO). Committee for the Study of Ethical Aspects of Human Reproduction and Women's Health. *Adolescent youth and reproductive health care and confidentiality (2008)*. In *Ethical Issues in Obstetrics and Gynecology*. London, UK: FIGO; 2012:28–31.

<http://www.figo.org/files/figo-corp/English%20Ethical%20Issues%20in%20Obstetrics%20and%20Gynecology.pdf>

International Planned Parenthood Federation (IPPF). *Understanding young people's right to decide: How do we assess the capacity of young people to make autonomous decisions*. London, UK: IPPF; 2012.

http://issuu.com/ippfresources/docs/ippf_right_to_decide_05/1

International Planned Parenthood Federation (IPPF). *Why is it important to develop capacities for autonomous decision-making?* London, UK: IPPF; 2012.

http://issuu.com/ippfresources/docs/ippf_right_to_decide_02/1

Ipas. *Adolescents, Unwanted Pregnancy and Abortion: Policies, Counseling and Clinical Care*. Chapel Hill, NC: Ipas; 2004.

<http://www.ipas.org/~media/Files/Ipas%20Publications/ADOLPOL-E04.ashx>

United Nations. Committee on Economic, Social and Cultural Rights, General Comment No. 14 (Article 12, Right to the highest attainable standard of health. E/C.12/2000/4. New York, NY: United Nations; 2000, paras. 22-24 and 35.

United Nations. Committee on the Elimination of Discrimination against Women (CEDAW). General Recommendation No. 24: Women and Health (twentieth session). A/54/38/Rev. 1. New York, NY: United Nations; 1999, paras. 8, 12(d), 14, 18 and 23.

United Nations. Committee on the Rights of the Child. General Comment 4 on Adolescent Health. CRC/GC/2003/4. New York, NY: United Nations; 2003, paras. 9, 12, 28, 33.

World Health Organization (WHO). *Safe Abortion: Technical And Policy Guidance for*



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Health Systems. Second Edition. Geneva, Switzerland: WHO; 2012.

http://www.who.int/reproductivehealth/publications/unsafe_abortion/9789241548434/en/

World Health Organization (WHO). Unsafe Abortion: Global and Regional Estimates of the Incidence of Unsafe Abortion and Associated Mortality in 2008. Sixth edition. Geneva, Switzerland: WHO; 2011.

http://www.who.int/reproductivehealth/publications/unsafe_abortion/9789241596121/en/index.html.

