

Is childbirth an absolute right?

NICOLA SPURR - Apr 06 2005 00:00

About one-third of HIV-positive women will transmit the virus to their infants during pregnancy, if untreated. So, should HIV-positive women deliberately get pregnant? And if so, will they be held accountable if they pass the virus on to their children?

"If it's within your means to act and prevent something negative from happening, and you don't act, you become responsible for those consequences," says Udo Schuklenk, bioethics professor at Wits University. "Once one makes a decision to have a child, it's not morally neutral. It matters what you do during the pregnancy, because there is now an identifiable victim of any negative behaviour.

"If a woman is an alcoholic, her baby is susceptible to foetal alcohol syndrome. It's hard to change that behaviour but society holds the mother responsible. If a person has tuberculosis there is an accepted public-health argument for compulsory treatment because the disease usually results in other identifiable victims."

Schuklenk believes the high HIV infection rate and the far-reaching effects of the pandemic warrant the introduction of compulsory HIV testing and counselling of pregnant women in the public-health sector. Compulsory testing would mean that women would be aware of their status and could be provided with adequate treatment to prevent mother-to-child transmission. Compulsory counselling would also make women aware of the risks and consequences of transmitting HIV to their infants and should, according to Schuklenk, offer women the chance to terminate their pregnancies.

Currently, HIV counselling is voluntary and non-directive, meaning that counsellors do not attempt to influence their clients' decision in any way. Schuklenk argues that this approach has little benefit and that counsellors should be more prescriptive so that "the terrible suffering of HIV-positive children" can be avoided.

Schuklenk does not believe women have an absolute right to bear children: "Just because one has a biological capability to reproduce doesn't mean it's okay to do so in any circumstances."

Although this country's libertarian constitutional framework guarantees women's reproductive rights, Schuklenk argues that these need to be balanced with a responsibility to give newborn children "a fair shot at life".

Charles Ngwena, a constitutional law professor at the Free State University, agrees. While HIV-positive people clearly have rights, they also have responsibilities, he says. Some of these may entail modifying behaviour so as not to pass the virus on – such as taking responsibility for being tested and complying with mother-to-child prevention treatments.

However, he says, these individual rights and responsibilities need to be viewed through a contextual lens. "We cannot say that women should be morally accountable for passing HIV to their infants in a society where women are disempowered and may therefore not be knowledgeable about all the risks involved."

He also points out that these responsibilities should not be confined to HIV-positive women, but that both women and men need to take responsibility for their behaviour and be aware of the possible negative effects of unsafe sex.

Ngwena believes that HIV/Aids organisations have shied away from promoting termination of pregnancies to prevent further stigmatisation of pregnant women.

Angie Maloka, a nurse adviser for Wits University's reproductive health research unit, agrees. She believes that compulsory testing will lead to further stigma for HIV-positive women already fearful of disclosing their status.

Maloka argues that women cannot be singled out as wilful perpetrators of HIV infection as transmission is a complex issue. Many women face pressure from their partners and families to have children and a higher status is often afforded to women with children. This makes it difficult for women to make decisions about conception with only their own interests in mind.

Newborn children may be infected with HIV in the womb, during labour or through breastfeeding, but mother-to-child transmission can be effectively reduced by half with a single dose of nevirapine to the mother during labour and to the child after birth.

Nevirapine and other anti-retroviral drugs, along with extensive voluntary testing and counselling, are now more readily available in the public health sector, providing women with choices and information about safe pregnancies. The roll-out of anti-retroviral medicines and strategies to prevent mother-to-child transmission also means that HIV-positive women have more choices around having children. An effective intervention during pregnancy and childbirth, combined with proper care, reduces the risk of transmission to about 2%.

The issue of moral responsibility for transmitting the virus is then placed not on those who are HIV-positive, but on those who have not accessed available prevention measures.

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