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Caesarean delivery: conflicting interests

Eduardo Osuna [a,*], Maria Dolores Pérez Cárceles [a], Maria Luisa Sánchez Ferrer [b], Francisco Machado [b]

[a] *Department of Legal and Forensic Medicine, University of Murcia, E-30100, Murcia, Spain;* [b] *Department of Obstetrics, University Hospital Virgen de la Arrixaca, E-30120, Murcia, Spain*

* Corresponding author. *E-mail address:* eosuna@um.es (E Osuna).

Eduardo Osuna, PhD, is head professor of the Department of Legal and Forensic Medicine at the University of Murcia (Spain). He has 30 years experience in the field of Medical Law and Forensic Medicine. He has written almost 170 articles and book chapters and has directed 34 PhD doctorates. Eduardo Osuna is founding member and Vice President of the Latin American Society of Health Law. His current areas of interest include the right to information, informed consent, confidentiality and the ethical and legal questions of the in-vitro embryo.

Abstract Within the maternal–fetal relationship, interests may sometimes diverge. In this paper, a pregnant woman's refusal to undergo a caesarean delivery, which was recommended both to save the life of the fetus and to minimize risks to her, is described. The legal aspects involved in the conflict between maternal autonomy and fetal well-being are analysed. The patient requested an abortion because of the poor condition of the fetus; however, according to Spanish legislation, the possibility of abortion was rejected as the pregnancy was in its 27th week. The woman still persisted in her refusal to accept a caesarian delivery. After the medical team sought guidance on the course to follow, the Duty Court authorized a caesarean delivery against the wishes of the patient. From a legal point of view, at stake were the freedom of the woman – expressed by the decision to reject a caesarean delivery – and the life of the unborn child. In clinical treatment, the interests of the fetus are generally aligned with those of the pregnant woman. When they are not, it is the pregnant woman's autonomy that should be respected, and coercion should form no part of treatment, contrary to the decision of this court.

KEYWORDS: abortion, caesarean delivery, foetal risk management, informed refusal

Introduction

One of the pillars of healthcare provision is respect for the autonomy of the patient, and the process of obtaining informed consent is regarded as a manifestation of the legitimate exercise of an individual's freedom (Osuna et al., 1998; Pérez-Cárceles et al., 2002). Agreement on a possible medical intervention is one of the factors that the clinician has to bear in mind before proceeding with any treatment. Within the maternal–fetal relationship, maternal and fetal interests may sometimes diverge and make agreement difficult to obtain, i.e. when a pregnant woman refuses a diagnostic procedure, medical treatment or a surgical procedure intended to enhance or preserve fetal well-being (Deshpande and Oxford, 2012).

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In this paper, an unusual case of a mother's refusal to undergo a medically indicated caesarean delivery to save the life of the fetus in the 27th week of pregnancy is described. Opinions in this case differed on whether the patient's autonomy takes precedence, whether the woman's informed refusal should be respected, or whether beneficence should overrule the mother's refusal of surgery to protect the fetus. Such situations raise a number of questions about the balance of rights and obligations within the doctor–patient relationship. Various aspects of the case are analysed and an argument is made for the importance of respect for autonomy, contrary to a court decision that gave more importance to the rights of the fetus.

Case history

The Ethical Committee of the University Hospital Virgen de la Arrixaca approved the publication of this article on 22 January 2015. During gestation (27 + 1 week), a 29-year-old woman was referred to our hospital because of delayed fetal growth and severe haemodynamic alterations. Neither the mother's medical history nor gynaecological-obstetric antecedents are of relevance. Echography confirmed severe fetal growth restriction and substantial haemodynamic alterations (Doppler type IV: the middle cerebral artery Doppler index decreases, resulting in preferential perfusion of the brain as a brain sparing effect). The estimated weight of the fetus was about 575 g. The patient was informed of the following therapeutic options: urgent extraction of the fetus by caesarean delivery after fetal lung maturation by the administration of corticoids or no treatment, allowing the pregnancy to run its course with a high probability of intrauterine fetal death. The patient initially opted for abortion in light of the grave fetal condition and poor possibility of survival. An amniocentesis was carried out, and the result showed a normal karyotype.

Following the patient's request for an abortion, in accordance with Spanish legislation, authorisation was requested from the clinical committee, a multidisciplinary body formed, as laid down by law (article 16.1 of Law 2/2010, on sexual and reproductive health and the voluntary interruption of pregnancy – Ley Orgánica 2/2010, de salud sexual y reproductiva y de la interrupción voluntaria del embarazo), of three people: two specialists in gynaecology and obstetrics or experts in antenatal diagnosis and a paediatrician. This clinical committee rejected the abortion, considering that the conditions for a legal abortion were not met as no anomaly or grave illness incompatible with extrauterine life was evident. Moreover, the patient was not eligible to undergo such an interruption of pregnancy even in the supposed case of grave risk of fetal anomalies, as the statutory time limit of 22 weeks' gestation had been exceeded (article 15.2). After receiving this information, the woman withdrew the request for an abortion but she also rejected a caesarean delivery, wanting the gestation to continue. The medical team accepted this decision, and the woman was discharged.

Despite the diagnosis, the fetus remained alive. In week 32 of gestation, the patient was diagnosed with severe preeclampsia. The medical team explained to the patient the need to terminate the pregnancy, not only because of the risk to the fetus but to herself. The optimal way for the termination would be by caesarean delivery, as medical induction of childbirth at 32 weeks is considered dangerous in a situation of severe intrauterine growth restriction with Doppler type IV and severe preeclampsia. The patient rejected this recommendation and said she wanted the pregnancy to be terminated by medical induction, which preference was documented in the record. This choice was rejected by the medical team, which continued to recommend urgent extraction because of the serious risk of both fetal and maternal death. The case was referred to the Hospital Ethics Committee, which supported the view of the medical team.

In view of the patient's persistence in rejecting a caesarean delivery, and the risk to both the health of the fetus and the mother, the head of the medical team referred the case to the Duty Judge, noting all the details of the situation. In reply, the court authorized the medical team to carry out a caesarean delivery against the wish of the patient "in the interest of protecting the life of the minor, in accordance with article 15 of the Spanish Constitution, which [would be] put at risk by the refusal of the patient to accept the medical intervention and because of the risk to the patient due to the symptoms of preeclampsia she presents". The medical team informed the patient of the court's decision and, after prolonged dialogue, the patient finally agreed to the caesarean delivery, so that she was not in the end treated against her will.

Discussion

In the situation under study, the interests of the pregnant woman were in conflict with what the medical team saw as the interests of the fetus. The medical team recommended a caesarean delivery to save the life of the fetus and to minimize risks to the mother. Initially, some of the members of the team saw the patient's refusal as being equal to an abortion, as the intention of the mother was to secure the death of the fetus. After all, she originally asked for an abortion but was denied it as a matter of law. In Spain, article 15.c of the above mentioned Law 2/2010, establishes that pregnancy can be interrupted for medical reasons "when an extremely grave illness that is incurable at the time of diagnosis has been detected and confirmed by a clinical committee". Then, this committee was consulted, but it rejected the possibility of an abortion as the pregnancy was in its 27th week. In Spain, a woman can be given an abortion upon request during the first 14 weeks of pregnancy, and up to 22 weeks if there is a grave risk to the pregnant woman or of serious fetal malformations, as accredited by a medical doctor. If fetal anomalies incompatible with life are identified, an abortion can be carried out up to the 24th week if authorized by a clinical committee. None of these conditions for a permissible abortion were present.

In our case, the legal impossibility of carrying out an abortion convolutes what was a straightforward case of refusing treatment. The rejection of treatment by a fully aware and capable patient, who has been informed of the effects of any decision they make, forms part of their right to autonomy (Deshpande and Oxford, 2012; Osuna et al., 1998; Pérez-Cárceles et al., 2002; Thomasma, 1983). The European Court of Human Rights (2002) in Pretty v UK, application 2346/02 para 63, mentions: '. . . In the sphere of medical

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