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ABORTION: A LOOK FROM THE PERSPECTIVES OF PUBLIC HEALTH, RIGHTS AND SOCIAL JUSTICE

El aborto: una mirada desde la salud pública, los derechos y la justicia social

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ABSTRACT

Unsafe abortion is a problem of public health, rights and social justice, particularly so for women living in developing countries. Consequently, public health is called upon to protect dignity, promote the exercise of rights and create the right conditions to ensure that women can have control over their own reproductive autonomy. The article analyses three schools of distributive justice, examines their strengths and contradictions, and concludes that capability building, with its resulting social justice, that derives from these, would be the ideal approach to the issue of abortion in medium and low income countries; and that, for a public health system intent of achieving the highest degree of health and wellbeing, it secures the basic material conditions required for capabilities to flourish becoming the best alternative for greater participation in the construction of individual life projects; it would consider the reality of the people in their sociocultural environments and would allow to pull the female world out of the private realm to allow a public debate on these matters and prevent them from being considered as "natural" unchangeable aspects of human relations. This would ensure greater relevance in terms of meeting the needs of each population. The article also highlights that the social justice that characterises this approach will not come from the top, from the State, but requires collective participation, where movements that oppose hegemony play a very important role and are active in building their own capabilities.

Key words: Public health, social justice, human rights, unsafe abortion, utilitarianism, political liberalism, capability building.

RESUMEN

El aborto inseguro se considera un problema de salud pública, de derechos y de justicia social. Esto es particularmente certero para las mujeres que viven en países en vías de desarrollo, por lo que se requiere de una salud pública que defienda la dignidad, fomente el ejercicio de los derechos y genere las condiciones necesarias para que las mujeres sean dueñas de su autonomía reproductiva. El artículo tiene como objetivo analizar tres corrientes de justicia distributiva, examina sus fortalezas y contradicciones, y concluye que el desarrollo de capacidades y la justicia social que de este se

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derivan sería ideal para afrontar de mejor manera el tema del aborto en los países de medianos y bajos ingresos, y, para una salud pública que pretende el mayor grado de salud y bienestar posibles, asegura la satisfacción de todas las condiciones materiales básicas para el florecimiento de las capacidades y, por ende, sería la mejor alternativa para una mayor participación en la construcción de vidas propias; tendría presente la realidad que viven las personas en sus entornos socioculturales, y posibilitaría sacar del espacio privado el mundo femenino, permitir el debate público sobre dichas cuestiones e impedir que sigan siendo consideradas como cuestiones "naturales" e inmutables de las relaciones humanas, lo que garantizaría una mayor pertinencia en la satisfacción de las necesidades de cada población. También recalca que la justicia social que caracteriza a este enfoque no llegará de arriba, del Estado, sino que requiere de una construcción colectiva, donde los movimientos contrahegemónicos juegan un papel muy importante y hacen parte de la propia construcción de capacidades.

Palabras clave: salud pública, justicia social, derechos humanos, aborto inseguro, utilitarismo, liberalismo, desarrollo de capacidades.

INTRODUCTION

Unsafe abortion is considered a problem of public health (PH), human rights and social justice (SJ). The international community has deployed important efforts at a global and regional level (1-4), including advocacy for the rights of women. However, unsafe abortion continues to be a problem in the developing world, particularly in Latin America and the Caribbean. Of the estimated 208 million pregnancies occurring in the world every year, 41% (85.3 million) were unwanted pregnancies, sources for unsafe abortion. At a global level, abortion has dropped, from 45.5 million in 1995 to 41.6 in 2003; however, the number of unsafe abortions has hardly changed, dropping from 19.9 to 19.7 million during the same time period. The decrease in the total number of abortions is attributable mainly to the reduction in the rate of safe abortions, from 20 to 15 for every 1,000 women between 15 an 44 years of age, while the rate of unsafe abortion dropped only from 15 to 14 for every 1,000 women in childbearing age between 1995 and 2003 (5).

It is estimated that close to 20-30% of the women who face unsafe abortion develop pelvic infections, 8 million suffer from complications requiring medical treatment - but only 5 million have access - and 47,000 die as a result of abortion-related complications (5). Of these women, 98% live in developing countries and are concentrated in countries with restrictive laws that forces women to resort to unsafe practices or to unqualified personnel, subjecting themselves to a greater burden of disease and death. In Latin America, the mortality ratio due to abortion is 30 for every 100,000 live births (5).

In Colombia, despite the 2006 ruling of the Constitutional Court decriminalising abortion (6), unsafe abortion still persists as a result of the little information, administrative hurdles, delays in care processes, and abuse and violations of women's rights (7-15). In this country, 400,000 abortions are performed in unsafe conditions every year and there are 93,000 avoidable complications that consume the resources of the health system (16). There were 70 deaths due to abortion complications in 2008 (17) and 27 in 2014, and complications became the fifth cause of maternal death in that year (18).

The public health system, responsible for the health and wellbeing of the population, must tackle the problem of abortion from a perspective of rights and social justice, contributing to the respect for the dignity of women and, consequently, to the achievement of the best possible level of health and wellbeing. Therefore, it is incumbent on PH to create the necessary conditions that will enable women to

take ownership of their reproductive autonomy. The social justice approach is critical for women as well as for society as a whole. Consequently, it is of the greatest importance to analyse that approach within the framework of rights, in order to favour advancement and help women exercise their autonomy and rights. The objective of the article is to analyse three schools of thought on distributive justice: utilitarianism, liberalism and capability building, and to compare their strengths and contradictions; it aims to demonstrate that capability building is more suitable when it comes to facing the issue of abortion in the countries of the Latin-American and Caribbean region.

SCHOOLS OF THOUGHT ON DISTRIBUTIVE JUSTICE

There should be no discussion regarding the fact that, in society, goods must be distributed correctly in order to avoid unfair situations where there are people of immense wealth and people in absolute poverty. Distributive justice aims at ensuring adequate distribution of goods, in other words, achieving social justice (19). Three forms of distributive justice are discussed below: utilitarianism, liberalism and capacity building.

Utilitarianism. The utilitarian approach proposed by Jeremy Bentham (1748-1832) and John Stuart Mill (1806-1873) argues that justice consists of maximising utility or wellbeing, in other words, greater happiness for the largest possible number of people (20). Bentham states that the highest moral tenet is maximisation of happiness in such a way that, all things accounted for, pleasure is greater than pain. Utility, understood as anything that produces happiness or pleasure, or anything that avoids pain or suffering, must be maximised. Consequently, the morality of an action depends only on its consequences, and actions should be intended to produce the best state of things, all factors accounted for (21).

Bentham considers three basic tenets: first, that the individual is the measure of the social organisation or, in other words, the society or the community is a "fictitious entity" composed of the sum of the individuals; second, the individual is governed by pleasure or pain and, therefore, happiness is pure an intense pleasure, devoid of pain; and third, the ultimate goal, both for the individual as well as for the community, is the search for the greatest happiness possible. In other words, moral and political life are based on pleasure and pain, where the former is maximised and the latter is avoided. For Bentham, the universal principle is the greater happiness for all; however, the happiness of some may undermine the happiness of others. Therefore, the author considered as the universal objective, not the greater happiness for all, but the happiness of the largest number of people (22).

There are two objections to this statement: the first is that this approach violates human rights and shows no respect for the intrinsic dignity of the individual. To try to understand it from a practical perspective, let us analyse what would happen to a woman who wishes to end her pregnancy for any of the three causes recognised by the Colombian Constitutional Court (6). In a patriarchal society that believes that reproduction is the purpose of human life and where abortion would cause much pain to the majority of people and give happiness -or less pain- only to the woman who undergoes abortion, the possibility of interrupting pregnancy would simply not be possible. But the problem is not whether or not abortion is approved - a situation which, in a country of lay mentality, according to the utilitarians, would be appropriate to avoid the loss of human lives and the detrimental effects on health - but the fact that the individual is ignored when a collective utilitarian calculation is adopted. In this case, ruling C-355 of 2006 by the Constitutional Court has a positive effect on the groups that favour

abortion and a negative effect on the opponents, creating confrontation, as is actually the case (23-26). Therefore, it is safe to state that respect for human rights and dignity is much more than just a utilitarian group calculation that renders the individual invisible and, consequently, Bentham's proposal would be unreasonable (21).

The second objection has to do with the assumption that any issue of moral significance may be transcribed to a single value scale without losing anything in its transcription. The objection is that a common unit of value cannot be expected to reflect all the necessary values implicated in a decision (21). For example, it is not the same to choose abortion due to a foetal malformation incompatible with life, in which case the woman and a large proportion of society would be in agreement, than to do it on the grounds of the effect on the woman's mental health or her own life, where the balance would be different. A single translation scale would offer no room for these nuances and, therefore, much would be lost in the transcription.

John Stuart Mill provides answers to the critique to Benthams' thinking. First, he tries to reconcile individual rights with utilitarianism when he states that individuals should be free to do whatever they want as long as they do not harm others, and there is no reason for the State to intervene in matters of individual freedoms, not event to protect a person against him or herself, or to impose the best way of living as mandated by the majority; the individual would only have to be accountable to society in relation to those actions that affect others (20).

According to Sandel, "Mill's conjectures about healthy social effects of freedom are quite credible but do not offer a convincing moral base for individual rights," (21) because in respecting individual rights for the furtherance of social progress, these rights are left to contingency (21). In other words, our society which is mostly against abortion, would reach the conclusion that abortion would need to be banned, thus undermining the individual rights of many women. Moreover, it could be argued that favouring abortion does not contribute to social progress and, therefore, the right to abortion would be abolished for the benefit of the majority. Also disregarded is the fact that violating the rights of an individual is equivalent to causing harm to that individual, regardless of the result in terms on general wellbeing (21). Consequently, preventing an abortion in a woman may result in suffering or even death, and would violate her individual rights to choose what is best for her life, negating the dignity and freedom of the woman to make her own decisions, even if in so doing society is pleased.

The fact that pleasure is pleasure and pain is pain is one of the appeals of Bentham's theory because it makes it simple, given that the only thing that would have to be measured, in order to determine if something is better or worse, is the intensity and duration of pleasure or pain (21). However, Mill does belief that a distinction beyond the quantity and intensity of pleasure and pain can be made, and their quality may be evaluated. He recognises that some pleasures are more valuable than others and he proposes that "out of two pleasures, if one is preferred by all or almost all those who have experienced them both and with no feeling of a moral obligation to prefer it, the preferred one is the most desirable" (21).

However, this line of thought can be challenged based on our daily choices, where many times we choose things that are not as pleasurable but rather more comfortable or less demanding (21). It is evident that, in the case of abortion, many times it is the less pleasurable or even the most painful decision that is made, challenging and disqualifying Mill's argumentation.

To conclude, it can be said that utilitarianism negates individual rights in favour of the collective calculation, leaving abortion up to the decision of the majority and not to the woman's own decision. This would place us in the current situation where many societies ban abortion, creating the setting for unsafe abortions, complications and death.

The liberal approach. There are two lines of thought under the liberal approach, namely, the libertarian and the egalitarian. The most outstanding proponent of the libertarian school is Robert Nozick, a philosophical advocate of libertarian principles and opponent to the idea of redistributive justice, who argues that justice consists of respecting the freedom to choose a free market (27). This school advocates absolute freedom in the market, not on the basis of economic efficiency, but of human freedom. The basic right of human beings is the right to do whatever they like with what they have, the only restriction being respect for the freedom of others to do the same (21).

The libertarian approach does not allow for paternalism. No policies should be developed to protect anybody's life because that would violate each individual's right to run whatever risk they want. Regarding legislation on morality, this school argues that no individual can be forced to be virtuous; and regarding the redistribution of income or wealth, the proponents say that no State should force individuals to redistribute their earnings and this is left to the free will of each individual (27).

The liberal egalitarian school (John Rawls) proposes that justice consists of the hypothetical choices made in situations characterised by equality to start with; this implies acting under the "veil of ignorance" which is nothing else than conceiving the moral agent as independent of its own particular aims and attachments (19).

Nozick and Rawls agree on the need for the State to be neutral regarding the tenets of justice that define our rights in the sense that they must not be based on individual moral or religious beliefs (21). The idea of a neutral State is closely tied to the ability to choose freely, because in order for this to happen, the State has to be neutral regarding the aims, should not be involved in moral and religious discussions, and should allow each individual to decide on his/her own values (21). However, a criticism is that liberalism places in the private realm and beyond the scope of justice, all things related to procreation, parenting, care of the ill and elderly, and housework, rendering the female theme invisible. This begs the question of who set this limit if not a male, bourgeois, patriarchal mind that struggled to maintain its autonomy in the religious and economic realms against the absolutist State, leaving women as subservient to their husbands and alienated from the political realm (28). It needs to be acknowledged that this situation has changed, mainly in developed countries, due to women's struggle to bring their issues under public light and achieve SJ, considering that fighting to make something public is a fight for justice (28).

Communitarians are another source of criticism, with their defence of connections, a stronger notion of community and solidarity, and a stronger role of the State in moral and religious matters (21). In other words, communitarians commit to the real lives of human beings and reject the idealised world proposed by the liberals.

Criticism to ideal social justice and institutions have to do with the identification of perfect justice and the nature of what is fair, as well as the ideal of making institutions just, because this approach negates the realities of real individuals. In fact, it may well be that there is no reasoned agreement, even under strict impartiality and scrutiny conditions, regarding the fair society proposed by Rawls in his original position. On the other hand, making a choice requires a comparison between real and feasible situations of justice, and not with an ideal situation that might probably not be available (29). This begs the reflection that we should not adopt ideal, perfect models, but rather look to people's lives. In the words of Sen, "The idea of justice requires a strong sentiment of injustice born from many and different circumstances, but nonetheless, not agreeing upon a particular circumstance as the predominant reason for diagnosing injustice" (29).

These two positions, libertarian and egalitarian, are in permanent interaction at present. The

Colombian health system, despite the fact that Law 1751 of 2015 considered health as a right (30), is closer to the libertarian liberals and, in practice, health is considered a public service and not as a right; with a health market where users access service; with a State that intervenes as regulator and does not take part in service provision in the hopes that market competition will produce advantages such as enhancing quality and lowering prices (31).

In the case of abortion, according to liberalism, it could be argued that it would be up to the woman's free will and choice, and that the State would be neutral and would avoid moral and religious discussions regarding abortion and the origin of life. However, it is worth asking whether in this particular situation the State is indeed neutral. For Catholic and other religions, life starts with conception and must be protected from that moment on. Therefore, a neutral State does not solve the situation; on the contrary, it has had to intervene in order to clarify that the Constitution protects life before birth. However, its value *per se* is not absolute and rights must be weighed when the right of the unborn child conflicts with the right of an individual (6). However, this neutrality regarding religious arguments could be interpreted as a disregard for the moral argument of the Church and, consequently, the State ends up adopting a stance and abandoning neutrality regarding abortion. Additionally, freedom of choice as an argument would be undermined due to the fact that a woman who is poor, uneducated, jobless and struggling to survive –as a result of economic neoliberalism– is really not free to choose.

According to Sandel, this is not the same as advocating a ban on abortion, but recognising that neutrality and freedom to choose are not sufficient reasons to accept the right to abort (21). An argument in favour is that women have brought the issue of abortion out from the private realm into the public light, focusing on the asymmetrical power relations between men and women that regulate the divide between public and private (28), in order to secure recognition for female autonomy and dignity where the latter is understood not from an ontological and theological perspective, but from an evolutionary point of view, open even to progressive, deliberate and freely consented transformation of "human nature" seen as an empirical reality resulting from evolution and history (32). Consequently, the issue of banning or accepting abortion cannot be approached from a neutral position. Far from it: it is the result of an evolutionary, philosophical, ethical, moral and religious struggle to bring to light private oppression, a situation painfully experienced in the case of Colombia.

It is my view that the best option for a health system would be the social justice of egalitarian liberalism which requires the State taking responsibility for health, education, work and basic income, among other things, affording individuals the freedom to choose. However, it is important to point out that institutions, and even the State itself consist of individuals, those same individuals who have challenged welfare states. Therefore, this vision of SJ would leave us in the current situation, in which rightist groups are gaining access to power because of the "free" choice of individuals, intensifying neoliberalism, shrinking the State and impoverishing the majority of the planet's population to the extent that capital accumulation is pursued as the ultimate goal. This undermines solidarity and satisfaction of basic human needs as people become a means for the owners of capital and not an end in themselves.

Capabilities and human development. Liberal economist Amartya Sen, proposes the theory of capabilities for human development and defines them as the set of possibilities available to an individual in terms of what he/she can do or be (33). Training the individual to become his/her own autonomous being becomes the practical and political aim of the capabilities approach. This way, individual freedoms are given a social critique role. According to Sen, those freedoms are the cornerstone of the approach itself and, in a broader

sense, "A society's success, from this perspective, must be assessed as a function of the fundamental freedoms enjoyed by its members" (34).

Sen states that development may be conceived as the expression of actual individual freedoms enjoyed by individuals in society, and makes a distinction from the reductionist notion of development centred around economic growth (34). Sen's approach to development focuses on a good life as an end, that is, a perfectionist or, rather, an evolutionary notion of human nature. He proposes the existence of a core that defines human nature, and that the capabilities and powers clustered in that core may be developed and perfected (33). From this perspective, it is essential to eliminate sources of deprivation of freedom as is the case with poverty, lack of education, lack of economic opportunities and systematic social deprivations related to things such as public services, intolerance and authoritarian States (34). All these sources of deprivation restrict freedom and get in the way of a good life. The perfect example is that of the woman who is considering abortion and lives in a male patriarchal society, subservient to the will of a man, with little or no education, doing only house work, dependent on the male's income, with no real access to health service, not to mention reproductive health services such as contraception and safe abortion.This woman will not be able to develop her human capabilities and will live her entire life at the service of the man and her children and, therefore, will not live a good life, or at least the kind of life she would have chosen. Faced with the decision to go for abortion, she will resort to unsafe abortion, running the risk of complications and death.

Freedom is essential for the process of human development, and this development may be evaluated by looking into the degree of freedom and free agency attained by individuals in a society. These are important because freedoms are interdependent and mutually reinforced, and they enable agency to become a true driver of development, because people or agents with sufficient social opportunities may shape their own destinies and help each other in solidarity (34). In other words, individual and social development secures various freedoms, including political, economic and cultural (33). But beyond those connections, what individuals are able to achieve depends on economic opportunities, political freedoms, social forces and the possibilities afforded by health, education and nurturing of initiatives (34). This implies that all individuals deserve access to health and education, economic opportunities, and political freedoms. These freedoms, in turn, are achieved to the extent individuals are at liberty to participate in social decisions and the development of public decisions that promote the advancement of those opportunities. Likewise, access to health and education contributes to economic development which, in turn, contributes to those freedoms. Thus, the woman subjected to an alienated life could then have access to education, sexual and reproductive health, financial income, the possibility of free association and participation in politics, and independence for making conscious decisions. This would enable her to live the life she chooses and not the life imposed on her by a patriarchal male society, allowing her to have or not have children and plan their number, probably never having to resort to abortion because of her own family planning or, if forced to do it due to failed contraception (2), she would have the ability to do it early on in a safe setting.

Sen recognises the role of the market in development, but gives it its rightful place by stating that "the contribution of the market mechanism to economic growth is undoubtedly important, but only after the direct importance of freedom to exchange words, goods or gifts is recognised" (34); or like in the words of Adam Smith, quoted by Sen, "freedom to make exchanges and transactions is in itself part of the basic freedoms that individuals find reasons to value" (34). The above does not mean that the

importance of the market and its critical role in economic growth is dismissed, but rather that the role of social aid, legislation or the intervention of the State in enriching human life is also recognised. This calls for values that are, in themselves, influenced by public debate and social interactions, for which freedom to participate is required. Therefore, Sen's proposal contains a demand on social justice theory because his notion of the individual refers explicitly to the institutional and economic conditions needed for the development of human nature (34). This would require the State not to adopt a neutral stance regarding the market, but rather to intervene to protect the spaces required for the development of the people's basic capabilities and to ensure that the woman in our example could enjoy the possibilities for developing her capabilities and become an autonomous individual able to make her own decisions and fight for the possibility of having a life worth living, as is the case in the developed world and in some income brackets in developing countries.

Sen's theory is based on the Aristotelian view of human capabilities that see economic resources as means for the realisation of opportunities. As stated by Aristotle in his Nicomachean Ethics: "A business life [destined to make money], is violent [it is itself unnatural, artificial] and it is evident that wealth is not the good we seek because it is only a useful means for another good [a means to an end]" (35). The functional meaning of economic resources is that they must enable achievement of the maximum good, namely happiness and justice, where happiness is defined as the state of furtherance of what is human, where humankind's own function is realised. For Aristotle, realisation of this ideal in life is "an activity of the soul in accordance with virtue" (35). This ratifies that money is a means and not an end, and that the development of capabilities requires means to enable and further their growth so that people may become true human beings: ends in themselves and not just means to the ends of other fellow men. In our case, that would mean that our woman would be able to make her own decisions and not remain at the mercy of man and as a means to his own ends, and that both, man and woman, would be autonomous and not means in a productive system that exploits them and dooms them to remain as means to increase the wellbeing of others: of the capitalists.

Capability, in its general sense of enabling active being, needs to be supported by enabling conditions. Therefore, it is not enough to have many and varied options to choose from. There is a need for individuals to be in a position to avail themselves of those possibilities and realise them autonomously. Our woman should be able to choose whether to have children or not, and how many, and should be able to choose to work, study and become who she really wants to be. Consequently, SJ policy is faced with the task of providing individuals with the necessary material and institutional conditions that will enable them to exercise freely chosen options, breaking the cycle of human imposition and humiliation.

Analysing what has been said so far regarding the capabilities approach, it is clear that a SJ theory that transcends the schematic modes of the unreachable, non-unanimous social justice, remote from the daily lives of human beings, is required (19). A theory that takes into account societal life, the lives of the individuals, their capabilities and functions, and that addresses profound injustices besetting the present liberal world. According to Sen, "A theory of social justice requires placing reason at stake when it comes to diagnosing justice and injustice" (29), which is no other thing than focusing on the everyday lives of the people and observe injustices as drivers of justice, without assuming an ideal behaviour, ultimately unreachable and unreal. Thus, the State would focus on addressing the causes of injustice, including lack of education, health and employment, and bring those basic functions close to excluded communities in order to nurture true

human capabilities and break the cycles of absence of functions, absence of capabilities, absence of dignity and absence of a good life.

This theory of justice proposed by Sen also goes back to the Aristotelian notion of human fragility, conceiving humans as having a source of potential capabilities that require material nurturing in order to develop. Likewise, the capabilities theory is based on the stoic notion of human dignity, according to which all human beings are equal and deserve to be treated with dignity. The fusion of these two schools, Aristotelian human fragility and stoic human dignity, is at the base of the functions and capabilities approach (36). These same arguments were used by Adam Smith who adopts the stoic positions, but rejects the also stoic invulnerability doctrine to which Aristotle resorted in order to enumerate all the material conditions –family, friends, education, among others– required for humans to flourish. In fact, Smith wondered about the role of the State in furthering the development of human abilities, respecting equality among people, warned about State cooptation by the wealthy elites, and proposed laws to avoid it; he promoted public, free education at a time when it only existed in Scotland, but not in the United Kingdom (36). In his book *Inquiry into the nature and causes of the wealth of nations* he states, "but poverty itself, though not an obstacle for generation, is a great hurdle when it comes to rearing children. The small seedling is produced and germinates, but if the soil is too cold or climate is extreme, it withers and dies soon" (37). In the words of Martha Nussbaum, Smith's insight is that human abilities arrive in a fledgeling state to the world and need help to develop, in order for them to mature and rise to the level of human dignity (36).

Nussbaum delves deeply into the topic of capabilities and even draws a list. This author states that capabilities are cross-cultural and people may subscribe to them regardless of political notions, without accepting any metaphysical view of the world, any form of ethics or religious perspective, or a view of the person or human nature (38). She states that all capabilities and not just one in particular are required, because they are all important and, moreover, capabilities are related in several complex ways, making it impossible to further one above the others (38).

Capabilities are the following: life, or the ability to live the entire normal lifespan; body health, including sexual and reproductive health, nutrition and adequate housing; bodily integrity, or the ability to move freely, where the boundaries of one's own body are treated as sovereign and safe against assault, including sexual abuse and domestic violence; the senses, imagination and thought, or the ability to feel, imagine and think in a truly human way, which requires education; emotions, or the ability to bond with things and people outside ourselves, love those who love us, and care for ourselves; practical reasoning, or the ability to conceive good and commit to a critical reflection about our own lives; affiliation, or the ability to live with and for others, set the basis for self-respect and non-humiliation; the other species, or the ability to care for animals, plants and the natural world; play, or the ability to laugh and play; and control of our own environment, both political as well as material (38). Should the State commit to the creation of the social base for the development of capabilities, an almost ideal situation would ensue, where a woman would take responsibility for her own life, health, integrity, emotions, practical reasoning, affiliation, right to play, her environment and relationship with nature in a conscious reflective way, making autonomous decisions and improving not only her personal situation but also the collective situation, thus affecting all the inhabitants of the planet.

CONCLUSION

The development of capabilities and the resulting social justice would be the ideal approach to the issue of abortion in our country, because only a public health system that strives for the highest

degree of wellbeing possible would ensure that all basic material conditions are in place for the furtherance of capabilities and therefore, of a greater participation in building our own lives. Such an approach would consider the reality of the people in their own social and cultural settings, ensuring greater relevance when meeting the needs of each population. However, it is worth stressing that the SJ that characterises this approach will not come from the top, from the State, but will be built collectively, with movements against hegemony (39) playing a key role and being an intrinsic part of the individual's ability to build his/her own capabilities.

As an example, feminist and women's movement must continue to bring issues of their gender into public light and out of the private realm where they were confined by the liberal State and, through public debate, counter the view that these issues are "natural" and "immutable components of human relations" (28). Consequently, "challenging the distinction between moral and contemporary discourse to the extent that it privatises these issues, is key in the fight of women who seek to bring their issues to public light" (28), and articulation with global movements (39, 40) will help create the stage for a global debate in favour of human dignity for all women.

REFERENCES

1. Organización Mundial de la Salud (OMS). 57ª Asamblea Mundial de la Salud: Ginebra, 17-22 de mayo de 2004. Ginebra: OMS; 2004.
2. Organización Mundial de la Salud (OMS). Aborto sin riesgos: guía técnica y de políticas para sistemas de salud. Ginebra: OMS; 2012.
3. World Health Organization (WHO). Unsafe abortion: global and regional estimates of the incidence of unsafe abortion and associated mortality in 2008. 6th ed. Who. Geneva: WHO; 2008 [visitado 2018 jan 12]. Available in: http://whqlibdoc.who.int/publications/2011/9789241501118_eng.pdf
4. Naciones Unidas. Informe de la Conferencia Internacional sobre la Población y el Desarrollo El Cairo, 5 a 13 de septiembre de 1994. El Cairo: Naciones Unidas; 1994.
5. Guttmacher Institute. Aborto a nivel mundial: una década de progreso desigual. Nueva York: Guttmacher Institute; 2009 [visitado 2018 jan 12]. Available in: http://www.clacaidigital.info:8080/xmlui/bitstream/handle/123456789/169/Entire Monograph 2010 ES.pdf?sequence=1
6. Corte Constitucional de Colombia. Sentencia C-355/06, M. P. Jaime Araújo Rentería y Clara Inés Vargas Hernández; 2006 [visitado 2018 jan 12]. Available in: http://www.corteconstitucional.gov.co/relatoria/2006/C-355-06.htm
7. Corte Constitucional de Colombia. Auto 279/09, M. P. Jorge Iván Palacio Palacio; 2009 [visitado 2018 jan 12]. Available in: http://www.corteconstitucional.gov.co/RELATORIA/Autos/2009/A279-09.htm
8. Corte Constitucional de Colombia. Sentencia T-209/08, M. P. Clara Inés Vargas Hernández; 2008 [visitado 2018 jan 12]. Available in: http://www.corteconstitucional.gov.co/relatoria/2008/t-209-08.htm
9. Corte Constitucional de Colombia. Sentencia T-301/16, M. P. Alejandro Linares Cantillo; 2016 [visitado 2018 jan 12]. Available in: http://www.corteconstitucional.gov.co/relatoria/2016/t-301-16.htm
10. Corte Constitucional de Colombia. Sentencia T-585/10, M. P. Humberto Antonio Sierra Porto; 2010 [visitado 2018 jan 12]. Available in: http://www.corteconstitucional.gov.co/relatoria/2010/T-585-10.htm
11. Corte Constitucional de Colombia. Sentencia T-627/12, M. P. Humberto Antonio Sierra Porto; 2012 [visitado 2018 jan 12]. Available in: http://www.corteconstitucional.gov.co/relatoria/2012/t-627-12.htm
12. Corte Constitucional de Colombia. Sentencia T-841/11, M. P. Humberto Antonio Sierra Porto; 2011 [visitado 2018 jan 12]. Available in: http://www.corteconstitucional.gov.co/RELATORIA/2011/T-841-11.htm
13. Corte Constitucional de Colombia. Sentencia T-988/07, M. P. Humberto Antonio Sierra Porto; 2007 [visitado

2018 jan 12]. Available in: http://www.corteconstitucional.gov.co/relatoria/2007/T-988-07.htm

14. Defensoría del Pueblo. La tutela y los derechos a la salud y la seguridad social. Bogotá: Defensoría del Pueblo; 2014.
15. Vásquez Zamorano CH, García Burbano IC. Barreras en el acceso a la interrupción voluntaria del embarazo. Cali: Universidad ICESI; 2013 [visitado 2018 jan 12]. Available in: http://repository.icesi.edu.co/biblioteca_digital/handle/10906/76501
16. Palacios Vicario B, Sánchez Gómez MC, Gutiérrez García A. Evaluar la calidad en la investigación cualitativa. Guías o checklists. Actas del 2º Congreso Nacional sobre Metodología de la Investigación en Comunicación. 2013;3:581-96.
17. Ministerio de Salud y Protección Social. Prevención del aborto inseguro en Colombia. Protocolo para el sector salud. Bogotá: UNFPA; 2014 [visitado 2018 jan 12]. Available in: https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/VS/PP/SM-Protocolo-IVE-ajustado-.pdf
18. DANE. Defunciones maternas, por grupos de edad, según departamento de residencia y grupos de causas de defunción (lista de causas agrupadas 6/67 CIE - 10 DE OPS); 2014 [visitado 2018 jan 12]: 3. Available in: http://www.dane.gov.co/index.php/estadisticas-por-tema/salud/nacimientos-y-defunciones/defunciones-no-fetales/defunciones-no-fetales-2014
19. Rawls J. Los principios de la justicia. En: Teoría de la justicia. México D.F.: Fondo de Cultura Económica; 1995. p. 62-117.
20. Mill JS. Qué es el utilitarismo. En: El utilitarismo. Barcelona: Altaya; 1995. p. 44-75.
21. Sandel M. Justicia ¿hacemos lo que podemos? 2 ed. Barcelona: Penguin Ramdon House; 2011.
22. Rivera-Sotelo A-S. El utilitarismo de Jeremy Bentham: ¿fundamento de la Teoría de León Walras? Cuad Econ. 2011;XXX(55):55-76.
23. Caracol Radio. La Corte le pide respeto a la Iglesia por el fallo sobre el aborto; 2006 [visitado 2018 jan 12]: 1. Available in: http://caracol.com.co/radio/2006/05/12/nacional/1147410000_285602.html
24. Caracol Radio. Centenares de personas respaldaron la marcha en contra del aborto; 2016 [visitado 2018 jan 12]: 1. Available in: http://caracol.com.co/emisora/2016/05/08/bucaramanga/1462659121_064314.html
25. El Mundo. Excomulgarán a los magistrados; 2006 [visitado 2018 jan 12]: 1. Available in: http://www.elmundo.com/portal/resultados/detalles/?idx=19197
26. Caracol Radio. Hoy Colombia marcha contra el aborto; 2014 [visitado 2018 jan 12]: 1. Available in: http://caracol.com.co/radio/2014/05/17/regional/1400309520_228671.html
27. Nozick R. Anarquía, estado y utopía. New York: Basic Books; 1974.
28. Benhabib S. El ser y el otro en la ética contemporánea. Zadunaisky G, editor. Barcelona: Gedisa; 2006.
29. Sen A. La idea de la justicia. México D.F.: Taurus; 2009.
30. Congreso de Colombia. Ley Estatutaria 1751 de 2015: Por medio de la cual se regula el derecho fundamental a la salud y se dictan otras disposiciones. Diario Oficial. 2015;CL(49427):1-5.
31. Congreso de la República de Colombia. Ley 100 de 1993: Por la cual se crea el sistema de seguridad social integral y se dictan otras disposiciones. Diario Oficial. 1993;CXXIX(41148):1-93.
32. Hottois G. Dignidad humana y bioética. Un enfoque filosófico crítico. Rev Colomb bioética. 2009 [visitado 2018 jan 12]; 4(2):53-83. Available in: http://www.redalyc.org/articulo.oa?id=189214316003
33. Saldarriaga Madrigal AE. El sujeto activo: antropología política en Amartya Sen. Eidos. 2010;(13):54-75.
34. Sen A. Desarrollo y libertad. Buenos Aires: Planeta; 2000.
35. Aristóteles. Ética nicomaquea. Buenos Aires: Lozada; 2007.
36. Nussbaum MC. Crear capacidades. Barcelona: Book Print; 2012.
37. Smith A. Investigación de la naturaleza y causas de la riqueza de las naciones, tomo III. Alonso Ortiz J, editor. Investigación de la naturaleza y causas de la riqueza de las naciones. Valladolid; 1794 [visitado 2018 jan 12]. Available in: http://cataleg.ub.edu/record=b1846

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38. Nussbaum MC. Las mujeres y el desarrollo humano. Bernet R, editor. Barcelona: Herder; 2002.
39. Vargas V. El movimiento feminista y el movimiento de mujeres en el contexto de globalización. Chacarera. 2008 [visitado 2018 jan 12];36:44-8. Available in: http://bibliotecavirtual.clacso.org.ar/Peru/cmp-flora-tristan/20120824030721/movfem3%0A6.pdf
40. De Sousa Santos B, Rodríguez Garavito CA. El derecho y la globalización desde abajo. Barcelona: Anthropos; 2007.

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