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Christianity, Disability, Abortion: Western Europe, 1960s–1970s*

Abortion was and is a topic that cuts across the (only ostensible) rift between religion and secularism – while also revealing the complexities and mutability of each. To re-immense oneself in the intricacies of religious and secular arguments over the decriminalisation of abortion in Western European nations in the 1960s–1970s is to realise fairly quickly that few things then were as we remember them now, at the onset of the twenty-first century. The ›master narratives‹ generally circulating in scholarship about this decade – both about the decline of religiosity and the rise of secularisation and about the sexual revolution and the ascent of feminism – have almost all missed just how much difficulty abortion rights activists initially had in developing moral arguments for legalising the termination of unwanted pregnancies and exactly what resistances, both conscious and unconscious, these activists confronted.¹ They have missed as well two other matters of singular importance, greater awareness of which might actually prove helpful at the current juncture. One has to do with a remarkable efflorescence of efforts at the time to make a case for abortion rights *within* a religious, specifically a Christian, framework. The other has to do with the – in hindsight both surprising and disturbing – preponderance of reliance among both religious and secular proponents of expanded abortion access on the assumption that to bear and raise a disabled child would be an especially awful fate.

Reading the arguments of theologians, parliamentarians, journalists, and feminists with and against each other, this essay reconstructs previously neglected aspects of the debates that took place in Britain, France, West Germany, Italy, and Switzerland in the 1960s–

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1 The 1960s are consistently seen as a watershed in the history of religion in Western Europe. Whether the source of popular disaffection with the churches is found in the sexual revolution, in the rise of prosperity and a culture of consumerism and technical progress, or in the antiauthoritarian revolts that exposed churches' complicity with the fascisms of the past, historians frequently identify the 1960s as a key moment in a longer trajectory of secularisation. Thus, for instance, the historian of Belgium Martin Conway, commenting in 2004 about developments across western European nations, has referred succinctly to »the sudden decline in religious practice during the 1960s«. And historian of Britain Callum Brown, rejecting the previously held scholarly consensus that secularisation was a gradual process afflicting the West since the late eighteenth century under the combined impact of Enlightenment and industrialisation, argued in 2001 that, on the contrary, it was only since the 1960s and the relaxation of sexual mores and gender roles that marked that decade that we can speak of »the death of Christian Britain« – »a catastrophic and abrupt cultural revolution« that put the churches into »seemingly terminal decay«. Certainly historians of West Germany as well have pointed to the 1960s as the decade in which the churches lost a considerable portion of the social, cultural, and political authority they had reacquired after 1945 – and the sexual revolution is considered a major factor in this loss of authority. Cf. *Martin Conway*, *The Rise and Fall of Western Europe's Democratic Age, 1945–1973*, in: *Contemporary European History* 13, 2004, pp. 67–88, here: p. 87; *Callum Brown*, *The Death of Christian Britain. Understanding Secularisation, 1800–2000*, London 2001, pp. i and 196; *Mark Edward Ruff*, *The Wayward Flock. Catholic Youth in Postwar West Germany, 1945–1965*, Chapel Hill, NC 2004; *Gerhard Ringshausen*, *Die Kirchen – herausgefordert durch den Wandel in den sechziger Jahren*, in: *Werner Faulstich* (ed.), *Die Kultur der sechziger Jahre*, Munich 2003.

1970s.² A multinational comparison is especially useful for sorting out the similarities and differences in the arguments and political strategies used – as well as the transnational flows across borders of arguments and strategies among both proponents and opponents of abortion. The comparison of these five nations is revelatory not only because it permits a juxtaposition of Catholic and Protestant and mixed-confessional countries, in four of which liberalisation of the law succeeded in the 1960s–1970s and in one (Switzerland) in which it failed. It also helpfully highlights the contrasts between nations with a fascist or collaborationist past and those that were continuously democratic. The moral fervour that was brought to bear by both sides of the abortion controversies was driven not solely by religious ideas, but very much also by the felt need to conquer the lingering legacies of fascism – even as there was no agreement on how those legacies might best be overcome.

At the same time, it was by no means then, in the 1960s–1970s, nor is it at all now, at the turn from the first to the second decade of the twenty-first century, in any way obvious what should count as secularisation and what should be considered a form of religious renewal. In fact, precisely the 1960s–1970s were a time of the most heated contestation, among theologians and laity alike, about the lessons of the Gospels, about the relationship between faith and politics, and about the very nature of God. An increasing chorus of Christian theologians argued that God should no longer be thought of as some kind of supernatural magician moving people around like chess pieces, permitting or averting plane crashes or mining disasters and responding to anxious prayers by working miracles. This should rather be thought of as superstition, and not faith. Others argued further that those who used religion to support the cruel political status quo of the Vietnam War and consumer-capitalist materialism and economic inequity, *they* should be considered the secularists. By contrast, these commentators suggested, those who instead understood God as powerless, as suffering with human beings when they suffer, and as needing human action to improve the world, *those* were the religious renewers, the truly faithful. Sincere faith, it was contended, was not about maintaining stale dogma, but rather about »ortho-praxis« in the world. Particularly in the West German context, these kinds of theological arguments were very much tied up with efforts to draw lessons from the Nazi past – and to undo the impact of the conservative and apologist forms of Christianity that had predominated in the first post-Nazi decades. But also in Britain, France, Italy, and Switzerland, numerous theologians, Protestant and Catholic alike, under the impact of *nouvelle théologie*, personalism, Second Vatican Council, the Death of God movement, political theology, or liberation theology, argued variously that the churches should adapt their messages to the changing times and practical human needs, that older notions of God needed revision, and/or that solidarity with the oppressed was the way to be properly faithful.³

These debates about the nature of God and the demands of faith and the relationship between religion and politics were complicated yet further by arguments over sexuality and reproduction. All through the first three quarters of the twentieth century, there had been a tight link between sexual politics and religious politics. On the one hand, nothing so turned people off from religion in general as being told what to do (or what not to do) in bed – even as this dynamic played out in quite diverse ways. Clergymen and theologians

2 For valuable summaries of the standard narratives about the abortion controversies of the 1960s–1970s in many Western European nations, including Britain, France, West Germany, and Italy, see *Dorothy M. Stetson* (ed.), *Abortion Politics, Women's Movements, and the Democratic State. A Comparative Study of State Feminism*, New York 2001.

3 *Dagmar Herzog*, *The Death of God in West Germany: Between Secularization, Postfascism, and the Rise of Liberation Theology*, in: *Michael Geyer/Lucian Hölscher* (eds.), *Die Gegenwart Gottes in der modernen Gesellschaft: Transzendenz und religiöse Vergemeinschaftung in Deutschland*, Göttingen 2006, pp. 425–460.

were acutely aware that matters of sexual pleasure and fertility control were at the core of their parishioners' concerns, with reactions ranging from severe internal conflict over the use of birth control or preference for certain sexual practices, to various – inevitably somewhat mendacious – compromise formations between church teachings and personal behaviours, to complete alienation from the churches. However, the intertwined histories of sex and religion were yet more complicated, for on the other hand, we find also that there were recurrent sex-liberal movements among the Christian clergy. There were French, Dutch, Belgian, Italian, and Irish priests in the 1930s–1960s who supported their parishioners' desperate efforts to reconcile faith and family planning. The Belgian cardinal Leo Jozef Suenens, Archbishop of Malines-Brussels, as well as the Roman Catholic bishops of West Germany, directly challenged the Vatican's stance on the birth control pill.⁴ There were also Dutch and French and British clergymen and prominent laypeople active in homophile rights movements in the 1950s and 1960s.⁵ And – as discussed in detail below – there would be both Catholic and Protestant clergymen and theologians in every Western European nation in the 1960s–1970s that argued in favour of legal access to abortion as not just a lesser evil but an explicitly Christian desideratum. Yet when we look at the twenty-first century present, especially in post-Communist Eastern Europe, we often find religion functioning in a completely different way. Here the revival of an assertively nationalist, demography-preoccupied, anti-Western Christianity (whether Catholic or Orthodox) is used to justify new – indeed highly postmodern, not at all traditional – forms of hostility to homosexuality and abortion.⁶ And also within Western Europe, new forms of politically and sexually conservative Christianity – both Vatican-allied Catholic and evangelical Protestant – are utilising the courts, the media (including the Internet), and mass public demonstrations in order to challenge sexual liberalism and curtail access to abortion rights.⁷

Finally, across all these nations, the apparent difficulties encountered in the 1960s–1970s by both religious and secular proponents of abortion rights in unapologetically and forthrightly making a case for female sexual pleasure without reproductive consequences suggests much about the ambivalences with which the sexual revolution was met already while it was happening. For abortion was never just about itself. Instead, the topic always brought with it a jumble of associations – often involving inchoate but deeply held feelings about femininity and motherhood, about sexual practices and pleasures, and about demography and eugenics. The impasses of the past are now once again haunting the present.

4 *Martine Sevegrand*, *Les enfants du bon Dieu: Les catholiques français et la procréation au XXe siècle*, Paris 1995; *Angelo Somers/Frans van Poppel*, *Catholic Priests and the Fertility Transition among Dutch Catholics, 1935–1970*, in: *Annales de Démographie Historique* 2003, no. 2, pp. 57–88; *Crystel Hug*, *The Politics of Sexual Morality in Ireland*, New York 1999; *Wannes Dupont*, *When Sex Was Dirty and the Air Still Clean: Jos Van Ussel and Flemish Sexual Climate Change*, paper delivered at the conference on »The Sexual Revolution«, Amsterdam, 8.4.2011; *Ringshausen*, *Die Kirchen*, pp. 31–48.

5 *Harry Oosterhuis*, *Christian Social Policy and Homosexuality in the Netherlands, 1900–1970*, in: *Journal of Homosexuality* 32, 1996, no. 1, pp. 95–112; *Gert Hekma*, *Homoseksualiteit in Nederland van 1730 tot de Moderne Tijd*, Amsterdam 2004, pp. 100–113; *Frédéric Martel*, *Le Rose et le Noir: Les Homosexuels en France depuis 1968*, Paris 1996; *Albrecht D. von Dieckhoff*, *Der Griffin-Report*, Hamburg 1956.

6 *Susan Gal*, *Gender in the Post-socialist Transition. The Abortion Debate in Hungary*, in: *East European Politics and Societies* 8, 1994, no. 2, pp. 256–286; *Agnieszka Graff*, *We are (Not All) Homophobes. A Report from Poland*, in: *Feminist Studies* 32, 2006, no. 2, pp. 434–449.

7 See in this context also the statement by the Italian International Planned Parenthood representative Irene Donadio in the video clip from »Europe on the Brink: Who Will Decide Over Your Body?«, conference on political developments, trends and norms that affect sexual and reproductive health and rights in Europe, Uppsala, Sweden, April 28–30, 2008, URL: <www.ieppfd.org/images/files/i_donadio.mov> [30.4.2011].

I. THE PECULIARITIES OF THE PRESENT

In the decade since the year 2000, antiabortion activists in Europe have found a variety of novel strategies and arguments as they work to impose new restrictions on abortion access or try to abolish legal abortion altogether. Indicatively, when representatives of the European Union countries met in Strasbourg in 2002 to vote on a measure which would have encouraged all member countries to legalise abortion, the measure passed only narrowly, with a vote of 280 in favour versus 240 against.⁸ Abortion is not by far as strongly under attack in Europe as it is in the United States. But in Europe the right to abortion is by no means secure, and the Roman Catholic Church in particular remains the most formidable opponent of the reproductive rights of women, retaining strong political influence in this area despite the recent flood of clergy abuse scandals.⁹

On the one hand, the Catholic Church can rightly be described as continuously hostile to abortion rights since their legalisation in most Western European countries in the decades since the 1960s. On the other hand, the opposition to abortion access has taken novel forms. One factor is indeed the resurgence, since the early 1990s, of nationalistic and anti-Western religious conservatism in the countries of the former Communist bloc. But another has to do with the deliberate emulation of – and sponsorship by – US-American Catholics and Evangelicals eager to promote also within Europe the idea of abortion as a kind of »Babycaust«.¹⁰ The mobilisation against abortion also within Western European nations has grown steadily since the year 2000.

However, the role of religion, including Catholicism, is by no means simple or self-evident, and national contexts have mattered greatly. In 2007 the predominantly Catholic nation of Portugal legalised abortion – against strenuous Catholic Church resistance – and in 2010 Spain expanded abortion access even further than it had previously. In both countries, the liberalisation of abortion access was understood not least also as a post-fascist imperative.¹¹ By contrast, there are predominantly Catholic EU countries like Ire-

8 *Vianney Mercherz*, Europe: Ready for the Birth of Abortion Law?, *cafébabel.com*, 15.4.2010, URL: <<http://www.cafebabel.co.uk/article/33223/abortion-state-civil-society-role-france-europe.html>> [18.11.2010].

9 For an excellent overview of the current status of Catholicism in Europe, because and despite of the clergy child abuse scandals of past debates rocking Europe in 2010, see: The Void Within, in: *The Economist*, 5.8.2010, URL: <http://www.economist.com/node/16740795?story_id=16740795&fsrc=rss> [15.9.2010]. In this newly contentious context see also the discussions surrounding the open letter to Benedict XVI written by 39 Italian women who have had affairs with priests: *Nick Pisa*, Pope Urged to Change Vow on Celibacy by Italian Women who Have Had Affairs with Priests, in: *Daily Mail*, 28.5.2010, URL: <<http://www.dailymail.co.uk/news/worldnews/article-1282284/Pope-urged-change-vow-celibacy-Italian-women-affairs-priests.html>> [18.11.2010]; the letter in Italian: *Celibato obbligatorio: Lettera aperta a Benedetto XVI*, in: *Il Dialogo*, 28.3.2010, URL: <http://www.ildialogo.org/cEv.php?f=http://www.ildialogo.org/pretposati/dibattito_1269810195.htm> [18.11.2010]; in English: *The Priests' Women Speak Out*, *Rentapriest*, 18.5.2010, URL: <<http://rentapriest.blogspot.com/2010/05/priests-women-speak-out.html>> [18.11.2010]. For statistics on dwindling church attendance, by nation, see *Michael Streich*, Religion and Secularization in Europe: Statistics Demonstrate Declining Church Attendance for Many Reasons, *Suite 101*, 26.5.2009, URL: <<http://www.suite101.com/content/religion-and-secularization-in-europe-a120543>> [9.12.2010].

10 URL: <<http://www.babykaust.de/>> [25.4.2011]; URL: <<http://www.babycaust.at/BC-Germany/neuindex.htm>> [25.4.2011].

11 On Portugal, see *Duarte Vilar*, Abortion: the Portuguese Case, in: *Reproductive Health Matters* 10, 2002, no. 19, pp. 156–161; *Mario de Queiroz*, Europe-Rights: Condom-Laden »Abortion Ship« Finally Heads Home, *Inter Press Service*, 13.9.2004, URL: <<http://www.highbeam.com/doc/1P1-98961636.html>> [31.7.2011]; *idem*, Legal Abortion After Decades of Struggle, *Inter Press Service*, 12.2.2007, URL: <<http://ipsnews.net/news.asp?idnews=36534>> [20.11.2010];

land and Poland where abortion remains illegal in almost all cases. Clearly, in countries in which Catholicism has carried additional functions of cultural cohesion and political defiance against external rule – as in the cases of Ireland and Poland – opposition to the legalisation of abortion finds a much stronger base in popular opinion as well.¹²

Meanwhile, in France and Italy, while the Roman Catholic Church is certainly at the forefront of antiabortion initiatives, there are also individuals and groups mobilising against abortion who are doing so from deliberately non-religious perspectives.¹³ Many opponents advance a mix and match of religious and non-religious arguments, or – even if they are themselves religious – strategically highlight non-religious arguments. In France, for example, the Catholic ethicist Pierre Olivier Arduin and the conservative antifeminist journalist Éric Zemmour are among those making secular antiabortion arguments in reaction to a recent government study which found that approximately 200,000 legal abortions are carried out in France each year. Arduin argued that this sum was clear testimony to »the bankruptcy of the French contraceptive model«. He mocked the fact that neither the government's avid promotion of contraceptives nor the supposedly consistently high levels of contraceptive use reported by sexually active French women (only 3.2% admitted to using no birth control) were succeeding in reducing the number of women who turned to abortion every year; he proposed that numbers of women were apparently ambivalent about contraception and actually had »an unconscious desire to give life«. Both contraception and abortion, he opined, were signs of »contempt for life« and should be understood as »two dimensions of the same refusal of the unplanned child«. ¹⁴ Zemmour took a different tack, counting the abortions in France since abortion was legalised in 1975 as »7 million people who are not here«, and also declaring provocatively that feminists treat maternity and emancipation as incompatible and accusing the Minister of

Mercherz, Europe. On Spain, see *Jennifer Varela*, Abortion Debate Opens Spain's Wounds, in: *The Guardian*, 23.10.2009, URL: <<http://www.guardian.co.uk/commentisfree/2009/oct/23/spain-abortion-law-zapatero>> [18.11.2010]; *Pauline Fréour*, L'IVG reste un sujet qui fâche chez nos voisins occidentaux, in: *Le Figaro*, 18.1.2010, URL: <<http://www.lefigaro.fr/actualite-france/2010/01/15/01016-20100115ARTFIG00676-l-ivg-reste-un-sujet-qui-fache-chez-nos-voisins-occidentaux-.php>> [15.11.2010]; Spain's Law Allowing Unrestricted Abortion Goes into Effect Despite Opposition Court Challenge, *Fox News*, 5.7.2010, URL: <<http://www.foxnews.com/world/2010/07/05/spains-law-allowing-unrestricted-abortion-goes-effect-despite-opposition-court/>> [15.11.2010].

12 Cf. *Hug*, *The Politics of Sexual Morality*; *Agnieszka Graff*, Women Sacrificed on the Altar of the Holy Mary. Interview with Piotr Najsztub, in: *Przekrój*, 8.3.2007; Women in Catholic EU Countries Go Abroad for Abortion, Activists Say, *EurActiv.com*, 27.8.2010, URL: <<http://www.euractiv.com/en/social/europe/women-catholic-eu-countries-go-abroad-abortion-activists-say-news-497212>> [18.11.2010].

13 On the revival of antiabortion movements in France, see *Fiammetta Venner*, *L'opposition à l'avortement, du lobby au commando*, Oxford 1995; *Jacqueline Remy*, Il y aurait de quoi pleurer, in: *L'Express*, 1.11.2004, URL: <http://www.lexpress.fr/culture/livre/les-hommes-aussi-s-en-souviennent_820052.html> [18.11.2010]; *Fiammetta Venner*, Avortement et sida. Le vrai bilan de Jean Paul II, in: *ProChoix (Revue)*, no. 33, Summer 2005, special issue on »L'IVG 30 Ans Après«, pp. 77–88. For a recent religious critique of abortion, see *Anne Lannegrace*, Comment faire baisser le nombre des avortements en France?, *La-Croix.com*, 2.2.2010, URL: <<http://www.la-croix.com/Comment-faire-baisser-le-nombre-des-avortements-en-France-/article/2413123/55350>> [15.11.2010]. On the overall backlash against abortion rights in Italy, see also *Silvia Ballestra*, *Piove sul nostro amore. Una storia di donne, medici, aborti, predicatori e apprendisti stregoni*, Milan 2008.

14 *Pierre-Olivier Arduin*, Contraception et IVG. La fuite en avant idéologique, *Libertépolitique.com*, 12.3.2010, URL: <<http://www.libertepolitique.com/respect-de-la-vie/5890-contraception-et-ivg-la-fuite-en-avant-ideologique>> [19.11.2010], all cited translations by Dagmar Herzog.

Health, Roselyne Bachelot, of having treated maternity »as though to become pregnant were a grave disease«.¹⁵

In Italy, as of 2010, both religious and secular arguments against abortion have made an impact. 70% of Italian doctors and 50% of Italian anaesthesiologists have declared that they are conscientious objectors to abortion and will not participate in provision of the service (as of 2003 only 58% of doctors had objected).¹⁶ Again secular arguments have been as significant as religious ones. A recent antiabortion initiative provocatively linked abortion both with the Holocaust of European Jewry and with the death penalty. The secular right-wing journalist and politician Giuliano Ferrara, editor of the conservative paper »Il Foglio«, in 2008 compared abortion to »the Shoah« and sarcastically said that abortion clinics should be emblazoned with the (Auschwitz-echoing) banner »Abortion makes you free« and also proposed to Catholic leaders in Italy the idea that the United Nations' campaign for a moratorium on the death penalty should be imitated with a campaign for a moratorium on abortions – an idea taken up enthusiastically by representatives of the Church.¹⁷ Along related lines, in March 2010, the first-ever antiabortion march in Belgium – another Catholic nation, although also one especially shaken by the new revelations about clergy abuse – was organised in Brussels. The new Archbishop of Malines-Brussels, André-Joseph Léonard, appointed in January 2010 – well known to be far more assertively right-wing than his predecessors (not only on abortion but also on homosexuality) – was strongly supportive. But the organisers' core argument was a secular one. Borrowing from feminist rhetoric even as they argued against women's reproductive self-determination, the organisers contended that women were among the premier victims of »abortion culture«. The main slogan for the march was »Women deserve better than abortion«.¹⁸

However, it is in the mixed-confessional but majority-Protestant nations of the United Kingdom and Germany that the newest mobilisations against abortion are being developed by non-religious groups – with arguments centring on disability rights. In short, two progressive agendas – women's rights and disability rights – are increasingly pitted against each other. In the UK in 2001, antiabortion activists succeeded in getting the Disability Rights Commission to declare that the Abortion Act of 1967 (which permits abortions in

15 *Éric Zemmour*, *Z comme Zemmour*, 3.2.2010, URL: <<http://www.youtube.com/watch?v=IPNeFICpWsA>> [18.11.2010].

16 Cf. *Richard Heuzé*, *Sept gynécologues italiens sur dix refusent l'avortement*, in: *Le Figaro*, 25.4.2008, URL: <<http://www.lefigaro.fr/international/2008/04/25/01003-20080425ARTFIG00004-sept-gynecologues-italiens-sur-dix-refusent-l-avortement.php>> [15.11.2010]; *Fréour*, *L'IVG; Aborto, boom di obiettori negli ospedali*. *La Cgil*: »Cosi si cancella la legge 194«, in: *La Repubblica*, 10.8.2010, URL: <http://www.repubblica.it/salute/benessere-donna/contraccezione/2010/08/10/news/aborto_boom_obiettori_negli_ospedali-6204298/> [20.11.2010]. See also the comments by Italian reproductive rights activist Irene Donadio about the »softer« new legal tactics being used by antiabortion activists in the video from the conference »Europe on the Brink: Who Will Decide Over Your Body?«. In addition, antiabortion activists are construing the law prohibiting stem cell research that was passed in Italy in 2004 to declare the fertilised egg as a citizen in need of defence, and using this as the basis for further challenges to abortion.

17 *Dimenticare la 194 e combattere l'aborto*, *Il Foglio*, 20.5.2008, URL: <<http://www.ilfoglio.it/soloqui/337>> [21.11.2010]; *Church in Italy Insists on Abortion Moratorium*, *Catholic News Agency*, 30.1.2008, URL: <http://www.catholicnewsagency.com/news/church_in_italy_insists_on_abortion_moratorium/> [21.11.2010]; *Abortion Big Issue in Italy Elections*, *CBSNews.com*, 12.2.2008, URL: <<http://www.cbsnews.com/stories/2008/02/12/world/main3822887.shtml>> [21.11.2010].

18 *Hilary White*, *Excitement, High Hopes for Brussels' 1st ever March for Life*, *LifeSiteNews.com*, 24.3.2010, URL: <<http://www.lifesitenews.com/ldn/2010/mar/10032404.html>> [20.11.2010].

cases of foetal disability) »reinforces negative stereotypes of disability«. ¹⁹ In 2005, when a judicial review initiated by Church of England priest Joanna Jepsen against doctors who had in 2001 aborted a foetus with a cleft palate decided that the doctors had acted »in good faith« and would not be prosecuted (Jepsen had contended that cleft palate was not a debilitating enough disability to warrant falling under the 1967 Abortion Act standard of a »serious handicap«), a representative of the ProLife Alliance took the occasion to comment on »the eugenic mentality of medicine in the UK«. And Paul Tully of the »Society for the Protection of Unborn Children« called for the Human Rights Act to be brought to bear, »because this unborn child was clearly discriminated against«. ²⁰ Life-SiteNews in 2006 did not only express alarm over what it calculated were the six million abortions that had taken place in Britain since the Abortion Act of 1967 was passed, and that a third of the women seeking abortions in the previous year had had prior abortions. It also noted that the number of abortions carried out in 2005 under the so-called rubric of »ground E«, i.e. »eugenic abortions«, was 1,900 – 22 % of which were due to a diagnosis of Down Syndrome (out of a total of 194,353 in England and Wales and 12,603 in Scotland), and reported that antiabortion activists had succeeded in getting 60 Members of Parliament to sign onto a motion requesting review of the entire 1967 Abortion Act. Notably, the essay was headlined with a quote from Cardinal Cormac Murphy-O'Connor to the effect that »This is not primarily a religious issue, it is a human issue«. ²¹ More recently, in 2009, the antiabortion group LIFE called on Members of Parliament to introduce a bill that would ban all eugenic abortions under the headline »LIFE calls for an end to the unfairness of eugenic abortion«. LIFE declared:

»Women carrying disabled babies, special-needs children themselves and society as a whole deserve better than eugenic abortion. There is no need for it and there is a better way, more worthy of the civilized society we like to think we live in. Aborting some of the most vulnerable members of our community ultimately damages us all.« ²²

The ProLife Alliance, for its part, contends that antenatal testing for disability and the right to terminate a pregnancy on grounds of foetal disability is *in itself* prejudicial against the disabled – it speaks of »abortion legislation which discriminates fatally against people with disabilities, making a negative judgment about the person with disabilities, simply on the basis of their disability« – while using this position as part of a broader strategy to set restrictions on the timeframe within which abortions are allowed. ²³

In Germany, already since the compromise law formulated in 1995 after the unification of West and East Germany, abortions on the grounds of foetal disability have technically been illegal. Instead, terminations of pregnancies due to foetal disability have been handled as a subset of the »maternal health« indication – in other words, a doctor can endorse a termination if carrying the pregnancy to term would seriously harm the physical or emotional health of the mother. This is in some ways an understandable post-fascist

19 Quoted in *Ann Furedi*, »Disability Cleansing« – or a reasonable choice?, Pro-Choice Forum, 28.8.2001, URL: <<http://www.prochoiceforum.org.uk/comm78.php>> [20.11.2010].

20 Quoted in: No Charges in Late Abortion Case, BBC News, 16.3.2005, URL: <http://news.bbc.co.uk/2/hi/uk_news/england/hereford/worcs/4354469.stm> [15.11.2008]. See also on the Jepsen case: *Ellie Lee*, We Still Need Abortion as Early as Possible, as Late as Necessary, Pro-Choice Forum, 8.7.2004, URL: <<http://www.prochoiceforum.org.uk/ocrabortlaw8.php>> [15.11.2008].

21 *Peter J. Smith*, UK: Rising Number of Abortions Confirm Need to Change 1967 Law, Life-SiteNews.com, 1.8.2006, URL: <<http://www.lifesitenews.com/ldn/2006/aug/06080107.html>> [20.11.2010].

22 LIFE Calls for an End to the Unfairness of Eugenic Abortion, LIFE, 10.11.2009, URL: <<http://www.lifecharity.org.uk/node/557>> [15.9.2010].

23 ProLife Alliance, Aborting Disabled Babies, ProLife.org, 3.1.2009, URL: <<http://prolife.org.uk/2009/01/aborting-disabled-babies/>> [15.11.2010].

stance, but it is also an agonisingly problematical one, not least in view of the ongoing inadequacy of support structures for disabled individuals and their families. In 2009 a more restrictive law was passed (protested unsuccessfully by reproductive rights activist groups like »pro familia«) under which pregnant women seeking second-trimester abortions in the wake of just having learned of a foetal disability would be subjected to a new three-day waiting and reflection period, and doctors who failed to counsel women appropriately on the matter would be subject to prosecution and high fines. The Christian Democrats had tried to pass similar legislation in 2001 and 2004 but did not succeed. In 2009, a quarter of the Social Democratic legislators and a third of the Greens joined in voting for the new law. A key reason for the newfound support from the liberal-left was specifically that the 2009 law was presented as an important advance for disability rights – rather than, as it was immediately experienced in practice, as an additional traumatisa-tion of an already traumatised woman and in many cases also her partner (these are after all pregnancies which were desired, often fervently so).²⁴ In the aftermath of the vote, the Vatican and anti-choice groups within Germany announced their delight at the change, and anti-choice groups moved quickly to use the new wedge of disability rights to push for further restrictions on access to terminations.²⁵ In 2010, reproductive rights and disability rights in Germany were once again pitched as mutually incompatible in the de-

24 See the press release of »pro familia«, »Rückschritt im Abtreibungsrecht«, 15.5.2009: »True assistance for women, who after the twelfth week of pregnancy decide for a termination, which they will only receive with a medical indication, will not be provided by this new change in the law. To say that it will be nothing but hypocritical pretence. We ask instead, what difficulties will result from the change in the law for affected women in the future? Here it is important to differentiate between women who are pregnant in their thirteenth week and women who are, after the major ultrasound and later, pregnant after the twenty-second week. It will not be a relief for women to be subjected to a fixed period of days in order ›quietly‹ to be able to think about their decision – what an ignorant, contemptuous image of women lies behind such a concept! They will have three days of fear to worry about whether the doctor will grant them a medical indication. Also the doctor gains three days to reflect on whether he wants to subject himself to the risk of providing a – possibly contestable – medical assessment, additionally threatened with a fine of 5.000 Euro if found guilty. He will tend only then to provide the medical indication if the patient is in danger of actually losing her life. This division of the medical indication is a definitive setback for women’s health politics«; URL: <<http://www.profamilia.de/?id=2461>> [31.7.2011].

25 See the call for counter-protest »1000 Kreuze in die Spree: Abtreibungsverbote abschaffen – Gegen christlichen Fundamentalismus« to the »silent march« of the antiabortion organisation »Bundesverband Lebensrecht« (»1000 Kreuze für das Leben«), 26.9.2009. The flyer notes that after the East-West compromise law was settled in 1995, public debate about abortion was practically nonexistent in Germany until the fall of 2008 and the discussions about late-term abortions in cases of foetal disability. Then, »although the law change affects the entire medical indication, the debate primarily turned on seemingly ›irresponsible women‹ who, purportedly in a ›panic reaction‹ decide against ›disabled children‹. These are the women who are deemed to need improved counselling«. In the pro-choice counter-protesters’ view, however, »[t]he current law change was primarily pushed by opponents of abortion who want to use this as the breach in the wall in order to restrict further women’s own decision-making process and the possibilities for access to a termination«; URL: <<http://www.mut-gegen-rechte-gewalt.de/news/meldungen/1000-kreuze/>> [7.8.2011]. Meanwhile, the ugly results of having women’s reproductive rights increasingly being strategically posed as being in opposition to disability rights are already evident in journalistic controversies. See the very important essays by *Gisela Notz*, Guter Tag für ›Lebensschützer‹, in: *SoZ – Sozialistische Zeitung* 2009, no. 6, p. 6, and *Oliver Tolmein*, Das Kind als Zeitbombe. Behinderung im ›Spiegel‹ der Nichtbehinderten, in: *Frankfurter Allgemeine Zeitung*, 28.6.2009, URL: <<http://faz-community.faz.net/blogs/biopolitik/archive/2009/06/28/ein-kind-ist-keine-zeitbombe-spiegel-und-behinderung.aspx>> [18.11.2010].

bates over the German Constitutional Court's decision to permit preimplantation diagnostics (PID) for individuals and couples using assisted reproductive technology.²⁶

II. OPEN SECRETS

The present situation gives us some valuable clues as we revisit the debates of the 1960s–1970s in Western European nations and the complex role of religion within them. First of all, for the 1960s–1970s, while there was certainly a correlation between the strength of Catholicism in a nation and the difficulty of undoing the laws that criminalised both contraception and abortion, there was also a correlation between the strength of Catholicism in a nation and the extent of reliance on abortion as a fertility management strategy. This was of course precisely because of the Catholic Church's rigorous opposition to contraception. In other words, an open secret of that era was not only: The more Catholic, the more babies – a statement that would, for example, hold true especially for the Catholic regions of the Netherlands and Belgium. But also one could say – and this was true for Spain and Portugal but above all for Italy: The more Catholic, the more abortions.²⁷

A second open secret of the era was that the illegality of abortion had at the time not so much to do specifically with protection of »life«, as was claimed by religious conservatives then and as has been retrospectively assumed also by historians, but rather was part of a broader pre-existing pattern of hostility to contraception – a hostility by no means fostered only for religious reasons. The laws against promotion and sale of contraceptives promulgated in 1920 in France, 1930 in fascist Italy, and 1941 in Nazi Germany were about demographic and national strength and had not much to do with the sanctity of life per se. Similarly in Belgium, for instance, the dissemination of information on contraception and abortion was outlawed in 1923 on the grounds that promoting reproduction was an act of »ardent and clairvoyant patriotism«. ²⁸ And in Franco's Spain in 1941, abortion was declared a crime against the state and at the same time the sale and advertisement of contraception was made illegal.²⁹ Opposition to abortion too, then, was about demography. In Italy, for instance, the 1930 Rocco Code had made abortion a

26 See the remarks of reproductive technology specialist Doctor Ulrich Hilland quoted in: Gentests an Embryonen: »Es gibt keinen Dammbruch«, in: SPIEGEL Online, 13.7.2010, URL: <<http://www.spiegel.de/wissenschaft/medizin/0,1518,705997,00.html>> [10.10.2010], and of Professor Daphne Hahn of »pro familia« in its press release on the PID decision: pro familia begrüßt Klärung der Präimplantationsdiagnostik durch BGH-Urteil, Frankfurt am Main, 15.7.2010, URL: <<http://www.openpr.de/news/448342/pro-familia-begruesst-Klaerung-der-Praeimplantationsdiagnostik-durch-BGH-Urteil.html>> [18.11.2010], as well as of the former Green and now »Die Linke« political activist *Uwe-Jürgen Ness*, Zugriff auf die *conditio humana* – zum Urteil des BGH zur »Präimplantationsdiagnostik« (PID), 22.7.2010, URL: <http://www.uweness.eu/pageID_9988083.html> [19.10.2010]. On the persistence also of open disrespect towards disabled children and their parents in Germany, see *Uwe Hermann*, Was mit Else Disse und anderen geschah, in: *Unsere Kirche*, 30.8.2009, p. 6.

27 Italy will be discussed in detail below. For Spain and Portugal, see *James Markham*, In Spain, Feminism Clashes with Tradition, in: *New York Times*, 11.4.1980; *José Linhard*, Family Planning in Spain, in: *International Family Planning Perspectives* 9, 1983, no. 1, pp. 9–15, here: p. 13; *Marvine Howe*, Abortions in Portugal – A Complex Controversy, in: *New York Times*, 13.3.1976; *Jill Jolliffe*, Abortion Passes, Coalition Teeters in Portugal, in: *Globe and Mail*, 28.1.1984.

28 Contraception Act, Belgium, 1923, quoted in *Liesbet Stevens/Marc Hooghe*, The Swing of the Pendulum. The Detraditionalisation of the Regulation of Sexuality and Intimacy in Belgium (1973–2003), in: *International Journal of the Sociology of Law* 31, 2003, pp. 131–151, here: p. 136.

29 Cf. *Clive Beadman*, Abortion in 1940s Spain: The Social Context, in: *Journal of Gender Studies* 11, 2002, no. 1, pp. 55–66.

»crime against the integrity and health of the race« as it also punished »whoever publicly incites practices or engages in propaganda against procreation«. ³⁰ These were the laws still on the books in the 1960s.

What also bears emphasis is the persistence of concern with demography and ongoing ambivalence about contraception also in the post-fascist, post-Nazi, post-Vichy era. From Italy to West Germany to France, legislators and courts continued to restrict contraception and to worry about national birthrates. Indeed, in 1946, the Italian government restricted the circulation of information about contraception even further than it had under fascism. ³¹ And as one court in Frankfurt/Main put it – defensively but assertively – in a 1955 decision: »Not every legal measure that serves population growth has a National Socialist tendency [...]. For every healthy state [...] a growth in population is absolutely desirable«. ³² This ambivalence about contraception and interest in raising birthrates among those deemed »healthy« (i.e. non-disabled) was clearly evident in continuously democratic nations like Britain and Switzerland as well. The influential Swiss Protestant advice writer Theodor Bovet spoke for many when he insisted in 1955 on the need to »be concerned with the healthy inheritance of our *Volk*« as he also bemoaned the fact that »the less valuable elements, especially the mentally deficient, reproduce themselves approximately twice as much as healthy families. It is therefore absolutely necessary that, if we do not one day want to be completely flooded by those [elements], that everyone who feels himself to be healthy [...] give life to as many children as possible«. ³³

What remains unclear – and perhaps this very lack of clarity can give us an important insight – is whether this resistance to contraception was »really« about demography or »really« about a certain view of what women were for. Perhaps it was both. In the 1920s–1940s, declining birthrates had been interpreted, in every nation, as a weakening of the nation's strength. But it was definitely not irrelevant that women's inability to control their own reproductive life-choices made them dependent and vulnerable by definition. Half of the young British men polled in a 1970s survey objected to the birth control pill – specifically because it gave women sexual freedom, experienced as a »threat« to the men's »dominant role«. ³⁴ As the Italian social psychologist and contraceptive rights activist Luigi De Marchi once noted, »Men felt that contraceptives were an affront to their manhood. They worried that without the fear of pregnancy their wives would »be free to go with someone else«. ³⁵ Or as Simone Veil, the French Minister of Health in Valéry

30 Cf. *Marco Filicori/Carlo Flamigni*, Legal Abortion in Italy, 1978–1979, in: *Family Planning Perspectives* 13, 1981, no. 5, pp. 228–231, here: p. 229; as well as the Italian Constitutional Court decision of 1965 against the decriminalisation of contraceptives: *La Corte Costituzionale*, Sentenza N. 9, 1965, URL: <www.giurcost.org/decisioni/1965/0009s-65.html> [7.8.2010].

31 The Legislative Decree of 31 May 1946, no. 561, was directed against »newspapers or publications or other printed matter that divulge the means meant to impede procreation, or that illustrate the use of them or that give indication on the mode of procuring them or which contain inserts or correspondence relative to the said means« and announced that such publications »can be sequestered«; *Giancarlo Matteotti*, Proposta di Legge, in: *Camera dei Deputati*, 23.7.1958.

32 Quoted in *Hans Harmsen*, Mittel zur Geburtenregelung in der Gesetzgebung des Staates, in: *Fritz Bauer/Hans Bürger-Prinz/Hans Giese* (eds.), *Sexualität und Verbrechen*, Frankfurt am Main 1963, p. 183. Along related lines, Simone Veil in France in 1974 was acutely conscious that many parliamentarians were worried about the French birthrate, and she rushed to assure them that decriminalising abortion would not damage the birthrate further.

33 *Theodor Bovet*, *Von Mann zu Mann. Eine Einführung ins Reifealter für junge Männer*, Tübingen 1955, p. 47.

34 *Marcus Collins*, *Modern Love. An Intimate History of Men and Women in Twentieth-Century Britain*, London 2003, p. 173.

35 *Luigi De Marchi/Maria Luisa Zardini*, Bringing Contraception to Italy: Pathfinder in Italy, in: *Linda J. Suttienfield* (ed.), *Courageous Pioneers: Celebrating 50 Years as Pathfinder Interna-*

Giscard d'Estaing's cabinet, reflected retrospectively on the ugliness that was spewed at her during the 1974 parliamentary debates as she presented the bill that would suspend criminalisation of abortion for the following five years, already since the legalisation of contraception in France in 1967 and then even more with abortion in 1974: »The men were afraid that the women were slipping away from them«.³⁶

For women, the non-availability of contraception was devastating. One female pharmacist who wrote to Simone de Beauvoir after »The Second Sex« had been published described the many women who begged her for advice but then ended up relying on illegal abortion and for whom the lack of contraception made sexual pleasure impossible. To emphasise the point, she described one of her customers, a 29-year-old woman aged far beyond her years, for whom the husband's days off from work were »torture«. She had had four children, ten miscarriages, and »no pleasure, ever«. Many of the women this pharmacist knew were like »beasts caught in a trap«. »They do not dare demand in public what they weep for in private.«³⁷ Contraception, also within marriages, was a source of tremendous awkwardness. As one West German family planning expert remarked, there was in the populace enormous ambivalence about »the incursion of reason into the realm of the sexual«.³⁸ Behind all the open secrets, in short, there were yet more. They concerned: sexual habits; intimacy and tension; longings (often unfulfilled) surrounding sex, and the discomfort felt by many in talking even with a spouse or lover; the desire for particular experiences of pleasure (especially intense, or especially uncomplicated); the subjection of women as part of what made sex erotic for some men; the assumption also among women that femininity was inevitably about masochism, caring for others' needs, and self-sacrificial devotion; and both men's and women's conflicted feelings about reproduction and the value of motherhood.

In general, though, the greatest and most obvious open secret of European sexual cultures in the 1960s was the prevalence of illegal abortion. Estimates for tiny Switzerland ranged between 20,000 and 50,000 illegal abortions a year, in addition to the more than 21,000 legal ones undertaken under the rubric of the »maternal health indication« in place since 1942.³⁹ Estimates for Britain ranged from 40,000 to 100,000 per annum.⁴⁰ The other nations' rates were far higher. Estimates for West Germany assumed one million abortions every year – one for every birth.⁴¹ Estimates for France ranged between 300,000

tional and 80 Years of Pioneering Work in Family Planning and Reproductive Health, Watertown, MA 2007, pp. 36–41, here: p. 39. See also De Marchi's earlier reflections on male vanity and jealousy, discussed in: *Luigi De Marchi*, *New Psychological Approaches to Family Planning Motivation*, in: *Pathpapers 1977*, no. 2, pp. 1–16, here: p. 2.

36 »[L]es hommes avaient peur que les femmes leur échappent«. Simone Veil interviewed by *Maud Dugrand/Mina Kaci*, Trente ans après, Simone Veil se souvient, in: *L'Humanité*, 26.11.2004, URL: <<http://humanite.fr/node/303984>> [24.11.2010].

37 Letter by a female pharmacist to Simone de Beauvoir, 20.3.1950, quoted in *Judith G. Coffin*, *Sex, Love, and Letters: Writing Simone de Beauvoir, 1949–1963*, in: *American Historical Review* 115, 2010, pp. 1061–1088.

38 *Harmsen*, *Mittel zur Geburtenregelung*.

39 Cf. *Stefan H. Pfürtnner*, *Moralwissenschaftliche Erwägungen zur Strafrechtsreform des Schwangerschaftsabbruches*, in: *Hermann Ringeling/Hans Ruh* (eds.), *Zur Frage des Schwangerschaftsabbruches*. Theologische und kirchliche Stellungnahmen, Basel 1974, pp. 42–67, here: pp. 45 and 47.

40 Abortions in Britain total 40,000 a Year, in: *The Guardian*, 15.7.1966, p. 5 (of the 40,000 in this estimate, three-quarters were said to be illegal); and – for the higher estimate – see Church Assembly Board for Social Responsibility, *Abortion: An Ethical Discussion*, Westminster 1965, p. 7.

41 Cf. *Angela Delille/Andrea Grohn*, *Blick zurück aufs Glück: Frauenleben und Familienpolitik in den 50er Jahren*, Berlin 1985, p. 123; *Anti-Baby Pillen nur für Ehefrauen*, in: *Der SPIEGEL*, 26.2.1964, p. 87; *Carl Nedelmann*, *Abtreibung: Geburtenregelung und Strafrechtsreform*, in: *Konkret* 1965, July, p. 6.

and one million a year. Estimates for Italy ranged between 800,000 and three million a year.⁴² The Italian weekly »Panorama« in 1974 stated baldly that all women in Italy either had had an abortion or knew someone who had.⁴³

Meanwhile, it is important to note that the eventual success of decriminalisation in all three of the latter countries – in France in 1974, in West Germany partially in 1976, in Italy fully in 1978 – was based *not* on the feminist slogan »my body belongs to me« but rather largely on abortion rights advocates' and supportive lawmakers' emphasis that the law itself had lost both force and respect by being so widely disobeyed. In particular, this was the main argument put forward by Simone Veil in late 1974 as she presented her bill to the French parliamentarians:

»We have arrived at a point at which the authorities can no longer evade their responsibility. The current situation is awful, lamentable, indeed dramatically so, because the existing law is being openly mocked, in fact ridiculed. We are in a situation of disorder and anarchy that can no longer be sustained.«⁴⁴

In Italy, as the feminist group »Rivolta Femminile« had put it in 1971, »we [...] insist, that the 1 to 3 million secret abortions that are estimated to be occurring in Italy every year are enough to make the law that criminalises abortion de facto invalid«.⁴⁵ And also in West Germany, in the early phases of the controversy, the leading newsmagazine »Der SPIEGEL« – a strong advocate for abortion rights – made the case that »there is hardly another law in the Federal Republic which is so routinely flaunted as the one against abortion – every day more than a thousand times«. And »there is hardly another law that is so at variance with social reality, that has been reduced to such a farce, as the one against abortion«.⁴⁶

This – at once pragmatic and earnest – argument that the law was being circumvented daily would be a very strong factor pushing parliamentarians in each nation towards decriminalisation. What helped as well was the sense felt by many government leaders that they needed to become more woman-friendly in their legislation; the times felt ripe for reform. From Giscard d'Estaing's deliberate effort to style his government as more female-friendly than the more conservative government of Georges Pompidou which had preceded him to West German Social Democratic Minister of Justice Gerhard Jahn's determination to advance policies supportive of women to Italian political parties' mad scramble to provide possible abortion legislation once they realised how strong the popular demand for liberalisation was, also centrist government leaders understood that the status quo was no longer acceptable.

Yet the pressure of masses of tens of thousands of women (and supportive men) protesting in the streets would be absolutely essential in shifting what politicians could find imaginable. So too were a plethora of other inventive activist initiatives. These included:

42 For the three million or more estimate, see *Rosemary Ruether*, Italy's »Third Way« on Abortion Faces a Test, in: *Christianity and Crisis*, 11.5.1981; *Arthur Marwick*, *The Sixties: Cultural Revolution in Britain, France, Italy, and the United States, c. 1958 – c. 1974*, Oxford 1998, p. 713. For lower numbers (800,000 to one million a year), see *Massimo Livi-Bacci*, *Demografia dell'aborto in Italia*, in: *Sapere* 1975, no. 784, pp. 41–46; *Patrick Hanafin*, *Conceiving Life: Reproductive Politics and the Law in Contemporary Italy*, Hampshire 2007, p. 29.

43 *Lesley Caldwell*, *Abortion in Italy*, in: *Feminist Review* 1981, no. 7, pp. 49–63, p. 50.

44 Simone Veil quoted in: *Der Widerschein meiner persönlichen Überzeugungen*, in: *Die Weltwoche*, 4.12.1974, p. 3.

45 *Rivolta Femminile*, *Weibliche Sexualität und Abtreibung* (1971), reprinted in translation in: *Michaela Wunderle*, *Politik der Subjektivität. Texte der italienischen Frauenbewegung*, Frankfurt am Main 1977, pp. 103–108, here: p. 103.

46 »Ich habe nur Umgang mit Mörderinnen«, in: *Der SPIEGEL*, 31.5.1971, pp. 134–143, here: pp. 134 and 136.

public self-accusation campaigns by women who had had abortions or by physicians who had performed them; deliberately publicised collective travel to abortion providers in other nations where the service was legal or where (as for instance in the Netherlands) authorities had simply stopped prosecuting abortion providers; clinics and organisations which openly announced they would provide abortions; and deliberately dramatised court cases.⁴⁷ It would ultimately take a complex mix of courage to put oneself at risk (on the part of both celebrity and ordinary women and medical doctors), lawyers' strategic use of scandal, opinion surveys demonstrating the growing breadth of popular support for decriminalisation, pro-liberalisation politicians' appeals to pragmatism and, not least, sharpening splits among conservatives over sexual politics in order for the so widely disobeyed laws actually to be changed. Over and over, the open secrets had to be made even more fully open, as the blatant contradictions and hypocrisies structuring the various national cultures' handling of abortion were exposed and debated.

An additional open secret that required public airing had to do with the extraordinary amount of (untaxed) income made by medical doctors who provided illegal abortions; this financial benefit, rather than qualms of conscience, was for many medical doctors a reason for officially opposing decriminalisation. But it took substantial creativity and persistence on the part of advocates for decriminalisation to push this point into the open. Any reform of the law in Britain, »The Guardian« warned sarcastically, would »cramp the style of such easy-going doctors«.⁴⁸ In West Germany, the humour magazine »Pardon« published a cartoon showing physicians and quack abortionists together demonstrating for the retention of Paragraph 218 (the paragraph that criminalised abortion), because abortion's illegality was for many the basis of their livelihood. And West German feminists developed the slogan »The brood of gynaecologists grows fat on our blood«.⁴⁹ In Italy, in the city of Trento in 1974, in a scandalous set of cases of 263 women accused of having procured abortions – each of which was tried separately so as to reduce public attention and increase each woman's isolation, although each had been the patient of a Doctor Zorzi who had charged exorbitant fees and had also blackmailed the more well-off of the women – the feminist organisation »Movimento di liberazione della Donna« publicised the trials and the backstory and demanded that the women be tried collectively.⁵⁰

The very first significant feminist move to lift the taboo against public discussion of the disgrace of the prevalence of illegal abortion and the contempt for women's lives evident in the inability of the society to deal directly with such a massive open secret as the prevalence of illegal abortion was the declaration signed by hundreds of women in the French magazine »Le Nouvel Observateur« in April 1971. Among the signatories were such celebrities as Simone de Beauvoir, Catherine Deneuve, Françoise Sagan, and Marguerite Duras. The women knew that by confessing to having aborted they were courting criminal prosecution. The statement became known as the »Manifesto of the 343« and its opening paragraph announced:

»A million women have abortions in France each year. They do it in dangerous conditions because they are condemned to secrecy, even though, if done under medical control, this operation is ex-

47 The Netherlands handled things differently. The government there just stopped prosecuting abortions, even when performed on foreigners. German feminists organised publicly announced bus trips to the abortion clinics in the Netherlands. Only in 1980 did the Netherlands formally decriminalise abortion.

48 Paul Ferris, What Abortion Reform Means, in: *The Guardian*, 17.7.1966, p. 9.

49 »Die Gynäkologenbrut mäset sich an unserm Blut«; Pardon cartoon and banner with feminist slogan accompanied the essay: Abtreibung: Massenmord oder Privatsache?, in: *Der SPIEGEL*, 21.5.1973, pp. 38–50.

50 Trento: Vogliamo il processo, in: *Effè* 1974, January, pp. 57–58.

tremely simple. No one talks about these millions of women. I declare that I am one of them. I declare that I have had an abortion.«

The manifesto then went on evocatively to put into words what combination of unacknowledged disdain for women and internalised disrespect among women had for so long inhibited freer conversation about the subject:

»Abortion. That's a matter that concerns broods, like cooking, like diapers, like something foul. Fighting to obtain the right to free abortion, that has the air of the pathetic and trivial. There's always that smell of hospital or food around women, that scent of baby poop. [...] The complexity of emotions that surrounds the fight for abortion shows with great precision our very difficulty in simply being, the difficulty we have convincing ourselves that it's even worth it to fight for ourselves. It goes without saying that, unlike other human beings, we do not have the right to dispose of our own bodies. Yet our bellies are part of us. Freely accessible abortion is not the ultimate aim of women's struggle. On the contrary, it is nothing but the most elementary demand, that without which the struggle cannot even begin.«⁵¹

This declaration both marked the beginning of the women's movement of the 1970s in France and was subsequently imitated with great success in West Germany and Italy. In June 1971, 374 women made a similar declaration in the magazine »Stern« in West Germany – galvanising the wider women's movement in that country – and in August of 1971 the »Movimento di Liberazione della Donna« in Italy organised a self-denunciation campaign as well. The Italian declaration emphasised the specifically fascist origins of the antiabortion law, as well as the hypocrisy of the Catholic Church in supporting such a law, even though, for countless women each year, it resulted in »murder according to class membership«. Women with means could find skilled doctors; working-class women were subjected to sterility, severe health problems, and death at the hands of »midwives and criminal butchers«. ⁵² Even more consequential was the response to the 263 cases of women charged with seeking abortions in Trento in 1974. This time 2,500 women publicly declared that they too had undergone abortions.

Nonetheless, in each country politicians who in principle favoured liberalisation were still acutely aware that the Catholic Church in particular – but often also the Protestant Church – was adamantly opposed to decriminalisation. ⁵³ Effective arguments needed to be found. As the public controversies escalated in France, West Germany, Italy, and also Switzerland (although in Switzerland the push to liberalise the law further would fail by the 1970s, while in the first three nations decriminalisation succeeded at least in part), a

51 The original text is reprinted at: Le »Manifeste des 343 salopes« paru dans le *Nouvel Obs* en 1971, *Le Nouvel Obs.com*, 23.6.2008, URL: <<http://tempsreel.nouvelobs.com/actualites/20071127.OBS7018/?xtmc=343&xtcr=1>> [15.9.2010].

52 Anche in Italia »autodenunce« per l'aborto, *Liberazione Notizie*, 4.8.1971, URL: <http://old.radicali.it/search_view.php?id=44852&lang=&cms=> [9.12.2010].

53 See on this point *Sonja Profitlich*, *Mehr Mündigkeit wagen: Gerhard Jahn (1927–1998). Justizreformer der sozial-liberalen Koalition*, Bonn 2010, p. 224; *Jacqueline Andall*, *Abortion, Politics and Gender in Italy*, *Parliamentary Affairs* 47, 1994, no. 2, pp. 238–251. For an example of adamant religious opposition to abortion in West Germany, see the official memorandum formulated by West German Protestant and Catholic leaders in reaction to discussions about legal reform pending in the West German Bundestag: *Evangelisch-katholisches Memorandum zu Fragen der Rechtsreform*, in: *Herder Korrespondenz* 25, 1971, H. 2, pp. 82–92. Here the argument was that any loosening of the law that was motivated by the widespread phenomenon of illegal abortion was unacceptable. »Neither the elemental responsibility of the parents for the life that has been conceived nor the axiom that thou shalt not kill permit such a pragmatic resolution.« In addition, the memorandum asserted that »the being growing in the mother is not part of her body, but is to be seen as life that has been entrusted to her«, »that human life begins at the moment of the fertilization of the female ovum by the male sperm is incontestable«, and that »abortion is in every case murder« (p. 91, emphasis in the original).

broad range of arguments – some old, some new – would be put forward by activist individuals and groups in their urgent effort to transform the terms of debate about abortion and above all to dislodge the assumption that antiabortion forces had the moral high ground on their side.⁵⁴ »If men could get pregnant, abortion would be a sacrament«, went a deliberately heretical slogan of the era.⁵⁵ But it was not enough to point out mockingly – although numerous commentators did – that Catholic clergy would never have children and thus had no right to tell that half of the human race that did bear and raise children how they should organise their lives. And it was not enough – although again many people at the time noted this point – to suggest that the Catholic Church was massively disingenuous in its implicit acceptance of widespread illegal abortion due to its opposition to contraception. As the dissident Italian Catholic priest Leandro Rossi put it, the Church hierarchy should never have rejected the birth control pill. In his words, »instead of saying better the pill today than an abortion tomorrow, we find ourselves defending institutions instead of life«. ⁵⁶ Or, as the Communist politician Giglia Tedesco, a practicing Catholic, noted after decriminalisation had been passed in Italy:

»I am sad that now there is abortion legislation and a woman can have a free, sanitary abortion when she sees no other solution to her pregnancy, the Church officials speak out continually on the issue, as though clandestine abortions were not so evil, but only the present mode of having them done in public structures.«⁵⁷

Rather, the terms of conversation had to be reversed entirely. Morality and traditional religion had to be positioned as being not compatible, but rather at odds. In other words, the efforts of abortion rights activists were not directed towards secularisation per se, but instead, on the contrary, often involved a furious refusal to allow conservative religious authorities to determine what counted as morality – or even as religion.

For in this era of supposedly so rapid secularisation – driven not just by the rise of prosperity, consumerism and technical progress, and not just by the antiauthoritarian revolts exposing churches' complicity with the fascisms of the past, but above all also by the sexual revolution – when it came specifically to the subject of abortion, religious spokesmen still had tremendous influence on both public discussion and the content of legislation. There was in the public and among politicians alike a deeply felt need for a more differentiated, but nonetheless still sincerely *moral*, conceptualisation of the abortion topic that would make room for expanded abortion access – either through the »trimester solution« (abortions available for any reason in the first trimester) or through the »indication solution« (either three indications – medical/maternal, criminal, and eugenic, or four indications – including also the socioeconomic). Also politicians in the middle and on the left side of the ideological spectrum often were fearful of incurring church hostility and/or were themselves deeply uncomfortable with abortion – or indeed even with frank discussion about sex.

54 On the Swiss defeat of decriminalisation efforts in 1977, see *Anne-Marie Rey*, *Die Erzengel-macherin: Das 30-jährige Ringen um die Fristenlösung*, Zurich 2007.

55 Graffiti on a church wall, photograph accompanying *Ele Schöfthaler*, *Zweierlei Maß: Die evangelische Kirche und der Paragraph 218*, in: *Peter Winzeler* (ed.), *Das Kreuz mit dem Frieden: 1982 Jahre Christen und Politik*, Berlin 1982, pp. 142–145, here: p. 145.

56 See the interview with Don Leandro Rossi in: 4 teologi cattolici parlano della legge sull'aborto, in: *Cristina Damiani* (ed.), *Oltre l'aborto: Posizioni e documenti del movimento delle donne: Metodi di controllo della fecondità: Chiesa e »dissenso«: La legge e le proposte di modifica*, Rome 1981, pp. 167–169, here: p. 169.

57 *Woman and Communist, Senator and Catholic: A Discussion with Giglia Tedesco*, in: *Christianity and Crisis*, 10.12.1979, p. 313.

III. RELIGIOUS ARGUMENTS FOR ABORTION RIGHTS

This situation made the interventions of theologians and church-affiliated laity who favoured expanded abortion access especially important. Certainly religious spokespeople in favour of decriminalisation emphasised the devastating damage to women's health caused by illegal abortions, as well as the argument that class injustice was pervasive in a situation in which women of means could travel abroad or pay for private doctors to secure abortions while poorer women were vulnerable to ›butchery‹ by quacks. Beyond these two crucial points, however, arguments from pragmatism did not appear acceptable to religious constituencies. Just because widespread illegal abortion was an open secret did not in itself, church-affiliated commentators asserted, justify decriminalisation. Just because something *was* did not mean it *should be*. Nonetheless, both Protestant and – significantly – also Catholic theologians and church-affiliated laity offered vigorous defences of either the trimester solution or the indication solution.

One of the principle arguments made centred on the emphatic idea that moral reasoning on the subject of abortion needed to begin from the life of the individual woman in her specific situation. As the Methodist Conference in the United Kingdom had noted in 1966, »the most important fact about a woman seeking an abortion is not that she is about to commit a crime, but that she is a human being in need.«⁵⁸ In response to the question posed to Jesus, »Who is my neighbour?«, the answer – according to West German, French, and Swiss theologians – had to be first and foremost the woman herself.⁵⁹ They argued that the much-invoked idea of »reverence for life« was in this context an abstraction not in keeping with Jesus' teaching that »loving one's neighbour« needed to start from the position of the already living involuntarily pregnant woman and her sense of dread about the future. Not »the abstraction ›human life‹« but the »concrete human being«, argued the Swiss Protestant theologian Gyula Barczay, should be the starting point for moral reflection.⁶⁰ The already living woman deserved absolute priority. It was shameful that somehow a woman's already existing life, in all its richness and complexity, was treated as equivalent or even of less value and as being in competition with the incipient life she carried.

Moreover, health too needed to be broadly understood. In the discussions preceding the Abortion Act that would be passed in the UK in 1967, a commission of the British Anglican Church went on record with its overall conclusion »that in certain circumstances abortion can be justified«. The commission argued not only that abortion was justified when »it could be reasonably established that there was threat to the mother's life or well-being«, but also that »health and wellbeing must be seen as integrally connected with the life and wellbeing of her family.«⁶¹ A threat to health was not construed solely in a nar-

58 Methodist conference quoted in *Malcolm Potts/Peter Diggory/John Peel*, *Abortion*, New York 1977, p. 295. See also *Methodists demand liberalisation of abortion law*, in: *The Guardian*, 7.7.1966, p. 15.

59 *Hermann Ringeling*, *Fragen um den Schwangerschaftsabbruch*, in: *idem/Ruh*, *Zur Frage des Schwangerschaftsabbruches*, pp. 11–41, here: p. 41.

60 *Gyula Barczay*, *Für die Fristenlösung*, in: *Ringeling/Ruh*, *Zur Frage des Schwangerschaftsabbruches*, pp. 91–105, here: p. 94.

61 Church Assembly Board for Social Responsibility, *Abortion: An Ethical Discussion*, p. 61. Interestingly, the ›sister‹ church of the Anglicans in the US, the Episcopal Church, argued in 1967 – and reaffirmed in 1976 – that abortion should not be used »for convenience«, but that it was morally legitimate. »That the position of this Church, stated at the 62nd General Convention of the Church in Seattle in 1967 which declared support for the ›termination of pregnancy‹ particularly in those cases where ›the physical or mental health of the mother is threatened seriously, or where there is substantial reason to believe that the child would be born badly deformed in mind or body, or where the pregnancy has resulted from rape or incest‹ is reaffirmed.

rowly biologicistic sense, but included emotional wellbeing of both the woman and the other family members.

Many commentators noted further that it was a moral positive that women were being increasingly treated with greater respect and dignity, that they were able to take part in public life and to work outside the home. In addition they contended that it was a foundational moral issue to be able to determine the number and timing of children. Reproductive self-determination was itself a moral value. The denial of this aspect of human dignity was a crime, a repugnant form of disrespect for the life of the woman not only in its specifics but also in its holistic entirety.⁶²

Numerous theologians and church-affiliated laity in Britain, France, West Germany, and Switzerland also worked strenuously to reject the idea that life begins at conception, instead arguing for the distinction between a five-to-eight-week-old embryo and a foetus six months into a pregnancy and insisting that the *potential life* of the embryo (or as the British Anglicans put it, »this still unformed human organism«) should not be confused with the *human life* of a later-term foetus.⁶³ The Swiss Catholic theologian Stefan H. Pfürtnner was especially adamant in emphasising the signal significance of this distinction. He endorsed the idea that »the foetus – especially in the first weeks – should not be classified as an independent human being and the termination of pregnancy should be understood as merely an intervention in the bodily life of the woman«. The foetus was »a biological something«, but not yet a human life. It was »without consciousness, personal existence and social relationships, at best human life ›as a possibility«, a possibility whose moral value should in no way be prioritised above that of the woman, »the already existing human being«. ⁶⁴ Religious commentators in favour of decriminalisation also recurrently reminded readers that the distinction between an ensouled, animate foetus and one that was not yet ensouled had been one among several available and respected Catholic positions in earlier centuries.⁶⁵ The Anglican Church commission took the view that »[t]he Christian moral and legal tradition recognizes implicitly that there are circumstances in which the killing of the unborn child does not come under the general condemnation attaching to murder« and, moreover, expressly challenged the idea that there could be any certainty about whether an embryo could be said to have »a living soul«. ⁶⁶

Yet another argument put forward – for example by a team of French Catholic physicians, social scientists, and theologians in the Jesuit journal »Études« and then translated into German and published also in the Zurich-based journal »Orientierung« – was that

Termination of pregnancy for these reasons is permissible.« Further: »That the Episcopal Church express[es] its unequivocal opposition to any legislation on the part of the national or state governments which would abridge or deny the right of individuals to reach informed decisions in this matter and to act upon them.«; Resolution Number 1976-D095 (Reaffirm the 1967 General Convention Statement on Abortion), URL: <http://www.episcopalarchives.org/cgi-bin/acts/acts_resolution.pl?resolution=1976-D095> [24.11.2010]. The Episcopalians here also declared that responsible family planning, including the use of contraception, was a moral obligation, the best way to honour God's gift to humans of the ability to give life.

62 For Italy in particular, framing the abortion issue as one of social justice more than individual liberties helped substantially in making passage of the law which decriminalised abortion possible. Cf. *Ruether*, Italy's ›Third Way‹; *Beverly Wildung Harrison*, Our Right to Choose, in: *Barbara Hilkert Andolsen/Christine E. Gudorf/Mary D. Pellauer* (eds.), *Women's Consciousness, Women's Conscience. A Reader in Feminist Ethics*, San Francisco 1987. But similar arguments were made also in Switzerland. See especially *Barczay*, Für die Fristenlösung, p. 101.

63 Church Assembly Board for Social Responsibility, *Abortion: An Ethical Discussion*, p. 7.

64 *Pfirtner*, *Moralwissenschaftliche Erwägungen*, p. 52.

65 See for instance: *Ringeling*, *Fragen um den Schwangerschaftsabbruch*, p. 17.

66 See Church Assembly Board for Social Responsibility, *Abortion: An Ethical Discussion*, pp. 17, 24f. and 28f.

wantedness and relationality were central aspects of what constituted humanness in the first place, and they vigorously questioned whether it was moral to force a woman to bear an unwanted child. The French team provocatively suggested that an incipient life needed to be affirmed – »called to be born« – in order to be fully humanised; an abortion, they contended, was »not murder, because it is specifically motivated by the refusal or incapacity to humanize the embryo«. Termination of pregnancy, the authors proposed, was justified precisely when its aim was to prevent the dehumanisation of an unwanted child.⁶⁷ Similar arguments were put forward by West German Protestants and by Swiss Protestants and Catholics.⁶⁸ »Whether or not the incipient life was accepted, affirmed, and desired«, were among »the decisive conditions for the humane quality of a child's life«:

»It's a matter, in short, not of some opposition between the ›right to life‹ and the ›right to be wanted‹; it's a matter of the realization that ›wantedness‹ is a foundational condition of the humane quality of human life and that this condition cannot be forced via the threat of punishment. The question ›May it live?‹ must be counterposed by, with full equivalence, the question ›Must it live?‹«⁶⁹

Meanwhile, there was among religious commentators strikingly little discussion of sex or of how exactly women became pregnant.⁷⁰ But there were a few religious commenta-

67 See the German version of the »Études« statement in: Dossier Abtreibung: I. Motivationen, Dossier Abtreibung: II. Der Ruf zum geboren werden, and Dossier Abtreibung: III. Suche nach einer neuen Politik, in: Orientierung 37, 1973, nos. 3, 4 and 5. The quotes are from: no. 4, p. 46. The original was published as »Dossier sur l'avortement«, in: Études 1970, no. 333, pp. 477–532.

68 Four prominent West German theologians pleaded for decriminalisation of abortion on multiple grounds. Among these was the pervasiveness of illegal abortion: »A society that lives with such a massive number of abortions and reacts to them with nothing but punitive laws can rightly be called a ›sick society«. But they also argued against reductive biologism and observed that »acceptance and recognition belong to a human life, especially the life of a child«. These »are as necessary for life as breathing, nourishment or circulation. Nonacceptance leads to illness, aggression and death. [...] Not the physiological conception, but only human acceptance makes life as human life possible«; Eberhard Jüngel/Ernst Käsemann/Jürgen Moltmann et al., Abtreibung oder Annahme des Kindes. Thesen zur Diskussion um den Paragraph 218, in: Evangelische Kommentare 1971, no. 8, pp. 452–454. For Switzerland, see the essays collected in: Ringeling/Ruh, Zur Frage des Schwangerschaftsabbruches.

69 Barczay, Für die Fristenlösung, p. 97.

70 Feminists, by contrast, did discuss how exactly women got pregnant. The Italian feminist organisation »Rivolta Femminile«, for instance, penned the at once lapidary and explosive sentences: »Women abort, because they become pregnant. But why do they become pregnant? And where is it written, that they must have relations with their partner that inevitably lead to pregnancies? Patriarchal culture does not pose this question, because it does not question the ›natural‹ laws. It evades the question of whether what seems ›natural‹ to the man in this realm is natural for the woman«. And: »The man has imposed his pleasure on the woman. [...] But the woman asks herself: ›For whose pleasure did I become pregnant? For whose pleasure am I aborting?‹ Asking this question of ourselves is the root of our liberation. By posing this question, women are leaving behind the identification with the man and finding the strength to break the compulsory secrecy that completes women's colonization. [...] The man knows that his orgasm is not that of the woman, he knows that its consequence is that the woman will become pregnant against her will and thus will be forced to abort. The lovemaking of the man is a ritual of masculinity. What happens is that the woman is fertilized in the very moment in which her particular sexual pleasure is withheld from her, in the moment, in which the act is fulfilled that keeps her in a sexually colonized state«. »Rivolta Femminile« pointed out that men continually referred to clitoral orgasms as »immature« in comparison with the supposedly holy grail of vaginal orgasms, and noted as well that the old subjection of women by men was now, in the context of the sexual revolution, simply being repackaged as a demand to »loosen up« and »be spontaneous«. The group concluded by calling for a civilisation in which sexuality would be polymorphous and in which »the vagina would be transformed from a space of vio-

tors who did remind readers and listeners that it was after all men who caused women to conceive. As the authors in »Études« remarked, and as the Swiss Catholic Pfürtnner also appreciatively quoted, »women will no longer accept it that they are the ones who have to pay for the pleasure of the men, especially of those men who do not concern themselves with the possible consequences of sexual relationships«. ⁷¹ And one church-affiliated Protestant woman argued further, with humour but also with acerbic intent, that if men really were so committed to »life« that they thought women should bear all pregnancies to term, then they should consistently demonstrate their support by taking a few years hiatus from their careers every time either their wives or daughters gave birth. ⁷²

A handful of commentators, rather than seeking to accommodate to traditional religious teachings at least partially, instead powerfully reversed the generally circulating presumptions as to what exactly the demands of Christian faith were with regard to abortion. Thus for instance the German Swiss Protestant theologian Karl Barth had argued already in the early 1950s that God's commands superseded human law, and that sometimes obedience to God meant that abortion was the *more* moral decision. Barth did class abortion with murder, and believe that life began at conception. On the other hand, he argued, in his characteristically paradoxical neoorthodox theological style, that no being had the unqualified right, under any and all conditions, to be preserved. There was, in short, no such thing as a right to be born. »There are situations«, Barth wrote, »in which the killing of incipient life is not murder, but imperative«. Indeed, Barth went so far as to insist that a medical indication might also include

»something like a social-medication indication – that is, a consideration of the economic and environmental circumstances in connection with the threat to the physical and emotional life of the mother [...]. As if God's commandments did not also sometimes make necessary a judgment and action that transgresses the law!« ⁷³

In the 1970s, Protestants like Hermann Ringeling (originally German, at that point teaching in Switzerland) took up these ideas of Barth's and amplified them further. ⁷⁴ Some Italian Catholics took the opposite theological tack, as it were, suggesting that while in God's eyes, abortion might well be a sin, that did not mean that this should shape the laws of the secular state. As the priest Leandro Rossi put it, just as »God, who is the most Holy of all, tolerates many evils in the world«, so also a Catholic legislator, »even the most perfect«, should know »that extirpating certain evils is worse than tolerating them«. ⁷⁵

lence and coercive lust to one of many possible spaces of sexual play«. Meanwhile, the women's group »Via Cherubini« in Milan in 1976 noted that »the men would rather participate in street demonstrations for legal and cost-free abortion than to discuss their sexual behaviour, their power to fertilize us«, Rivolta Femminile, *Weibliche Sexualität und Abtreibung*, pp. 104–106 and 108; Frauengruppe »Via Cherubini«, Mailand, *Zur Abtreibung machen wir eine andere Art politischer Arbeit*, in: *Wunderle*, *Politik der Subjektivität*, pp. 117–120, here: p. 119.

71 Pfürtnner, *Moralwissenschaftliche Erwägungen*, p. 49.

72 »If the ›Yes to Life‹ of the church-men is to appear credible, they must set a good example, must for the sake of the children also be willing to forfeit their careers.« Cf. *Schöfthaler*, *Zweierlei Maß*, p. 145. Schöfthaler also noted that 80% of Protestant women and 40% of Catholic women in West Germany favoured the legalisation of abortion (p. 142). See somewhat different numbers from other surveys cited in: *Profitlich*, *Mehr Mündigkeit wagen*, p. 218.

73 *Karl Barth*, *Kirchliche Dogmatik III: Die Lehre von der Schöpfung* (1951), quoted and discussed in *Ringeling*, *Fragen um den Schwangerschaftsabbruch*, pp. 12–15.

74 *Ringeling*, *Fragen um den Schwangerschaftsabbruch*.

75 Interview with Don Leandro Rossi, in: *Damiani*, *Oltre l'aborto*, p. 167. The Bishop of Woolwich, John Robinson, in 1966 took yet another approach. Robinson looked to a future in which abortion could be induced chemically, by the woman herself, without the involvement of a medical professional, and »we shall look back on the present procedures of surgical abortion as unbelievably crude«. But in the meantime, he asked, »Why not abolish abortion?« by which

The Swiss Protestant Gyula Barczay was especially forceful in repudiating the idea that God demanded all pregnancies to be continued. That was pure biologism, he said, not true faith. (In short, Barczay directly reversed what counted as secular and what counted as an act of faith.) To treat God as the origin of a conception that was caused by rape, male ineptitude or irresponsibility, or even simply technical failure was, in Barczay's eyes, »not only grotesque, but actually blasphemy«, and simply incompatible with Jesus' teachings.⁷⁶

Yet there was one further argument that was invoked in favour of expanded abortion access not only by secular abortion rights supporters, but also explicitly by religious advocates for decriminalisation, and that was the need for eugenic abortion in cases of fetal disability. Indeed, what is most striking now in rereading the texts from the 1960s–1970s is how prevalent references to disability were on both sides of the debates. For by no means did commentators hostile to abortion rely solely on religious argumentation. Indeed, and to a degree that has thus far gone underacknowledged in the scholarship, the ›Third Reich‹ ended up providing a complicated moral reference point for both sides – and this not just in Germany.

IV. ABORTION AND EUGENICS

Disability was part of the discussion of abortion from the start. Britain had already decriminalised abortion in the Abortion Act of 1967, a bill put forward by Member of Parliament David Steel. Apart from a liberalisation implemented in Norway in 1964, this was the first significant liberalisation of abortion law in Western Europe since the 1930s–1940s, when – in stark divergence from the harsh restrictions on abortion implemented across all fascist and collaborationist nations in those decades – the Scandinavian nations of Iceland (1935), Sweden (1938), and Denmark (1939) had loosened their laws considerably, and Switzerland had, in 1942, instituted a partial decriminalisation to the extent that abortions were permitted when two physicians agreed that carrying a pregnancy to term would constitute a danger to a woman's health. In contrast, then, to the subsequent developments in the (notably, as it happens, all post-fascist or post-collaborationist) contexts of France, West Germany, and Italy, where both feminist pressure and religious arguments in favour of liberalisation would be extremely important in shifting the terms of conversation and in effecting legal change, the law change in Britain, in what was, in 1967, still a »pre-feminist era«, was driven primarily by politicians.⁷⁷ And it was motivated quite specifically by two concerns.

he meant »making contraception 100 per cent efficient and [...] fully available«. »To use unwanted babies' lives as the threat« that kept people behaving in moral ways struck Robinson as »a curious buttress of morality« and utterly incompatible, for a believing Christian, with God's call to see the world through the eyes of »*agape*-love«; Why not abolish abortion? In My View by the Bishop of Woolwich, in: *The Guardian*, 23.10.1966, p. 10.

76 The full quote is even more emphatic: »On the basis of exactly which ethical considerations can a woman be forced against her will to take upon herself the for her potentially extraordinarily heavy consequences of the thoughtlessness of the man, of an unanticipated accident or a technical failure? [...] Christian faith could only then advocate for the enforcement of undesired maternity if instead of crime, accident, irresponsibility, or technical failure it were to see God Himself as the direct cause of an unwanted pregnancy. The God of some sort of deterministic fantasy-speculation could perhaps be seen as the cause of such a life, but not the Father of Jesus Christ. It would be not only grotesque, but actually blasphemy, if one tried to give the responsibility for a rape, for clumsiness, or for technical failure to that God whom Jesus proclaimed as the good Father of all peoples«; *Barczay*, Für die Fristenlösung, p. 102.

77 This point about the »pre-feminist« era is made by British Pregnancy Advisory Service Chief Executive Ann Furedi in an interview: Abortion Rights – as Early as Possible, as Late as Neces-

Certainly one of these was concern about the grievous harm to women's health caused by illegal abortions – a concern to a large extent also interpreted as a class issue, and this in a double-edged sense. On the one hand, many politicians felt strongly that working-class women simply had too many children; on the other hand, there was also sensitivity to the injury done especially to working-class women's bodies by multiple pregnancies and illegal abortions. The dual nature of the motivation was revealingly expressed in the remarks of Labour MP John Dunwoody, who argued in favour of Steel's bill with the remark that:

»in many cases today when we have over-large families the mother is so broken down physically and emotionally [...] that it becomes quite impossible for her to fulfill her real function, her worthwhile function as a mother holding together the family unit so that all too often the family breaks apart, and it is for this reason that we have so many problem families.«⁷⁸

But the larger concern for women's health, the outrages of class injustice, and acute awareness of the corruption of too many medical professionals and con artists alike was palpable throughout the discussions. More financially privileged women had been able to make use of a legal provision in place since 1939 that carrying the pregnancy to term would cause the woman to become a »mental wreck«; poorer women had far less savoury options. As *The Guardian* noted in February 1967:

»On the one hand, a Harley Street abortionist may earn, according to an ›Observer‹ report, £ 175,000 a year for legally aborting those women who are able to raise £ 150 and his telephone number. On the other hand, abortionists from humbler streets are able to perform perhaps 100,000 illegal operations every year, killing a few of their patients, rendering many permanently sterile, and exposing all to experiences which, if suffered by men, or horses, would long ago have engaged the ingenuity of parliamentary reformers.«⁷⁹

The second crucial contextual factor in the British situation, however, was the early 1960s scandal over birth defects caused by the anti-morning sickness drug »Thalidomide«. Because of »Thalidomide«, 1,000 children in Britain (and more than 10,000 worldwide) had been born with truncated limbs. And although this is less well known, a further 1,000 children in Britain had died within a few months of birth because the drug could also cause malformed organs. Many of the women carrying these children had sought abortions but been denied them. The countries with the largest number of »Thalidomide« cases were Britain and West Germany. Additional scandal surrounded instances of birth defects such as muteness and deafness caused when the pregnant woman had a case of the disease rubella (disability was particularly likely if the illness had occurred early in the pregnancy). But it was especially the scandal surrounding the deaths of children with malformed organs that made the inclusion of the eugenic indication in the 1967 Abortion Act appear to be self-evidently moral. Already for years in the run-up to the 1967 decision, the British press had carried articles expressing moral outrage at the lack of availability of abortion in cases of foetal disability.⁸⁰ Also the Anglican commission, in its reflections in 1965, spent extensive time arguing that the »Thalidomide« case and other cases of anticipated foetal abnormality or deformity could certainly make abortion be the

sary, Permanent Revolution, 3.3.2008, URL: <<http://www.permanentrevolution.net/entry/1965>> [24.11.2010].

78 Dunwoody quoted *ibid.*

79 Abortion Law Reformers Attacked (Editorial), in: *The Guardian*, 14.2.1967, p. 8.

80 See for example: Death Penalty on Unborn, in: *The Guardian*, 24.8.1962, p. 7; ›Strong Mind Needed‹: Problem of the Deformed, in: *The Guardian*, 30.8.1962, p. 15; Thalidomide Victims Fewer than Feared: 200–300 Still Alive?, in: *The Guardian*, 11.9.1964, p. 4.

moral choice – especially in view of a couple’s anxieties about their capacities to raise a disabled child effectively.⁸¹

But eugenics would come to factor in the discussion of abortion in multiple ways. Conservatives opposed to abortion, for instance, did not only invoke the Nazi Holocaust of European Jewry. (To legalise abortion, West German Catholics contended in the 1970s, would be »the most disturbing attack on the moral foundations of our society since 1945« and »the largest Auschwitz in European history«.⁸²) They also invoked the Nazi »brown thugs« and their »murder of the cripples and the sick«.⁸³ French parliamentarians who were opposed to decriminalisation invoked »genocide«, »racial eugenics«, »organized barbarism protected by law, as it was, alas!, thirty years ago by Nazism in Germany«, the »Nazi doctors«, the »worst Nazi racism«, »crimes perpetrated during the last war«, and Nazi »crematoria fires«.⁸⁴ And they also argued that to legalise abortion was akin to »legal euthanasia«; permitting abortion would be the first step in a »monstrous regression« that would lead to the murder of »the physically and mentally handicapped«, the murder of so-called »useless eaters«.⁸⁵ Note that in *laïcité*-oriented France, religious arguments were hardly used by the politicians. Instead, references to Nazism filled the moral function.

But both secular and religious advocates for decriminalisation also invoked disability recurrently. In West Germany, »Der SPIEGEL« in its pro-abortion writing in 1971 expressed outrage that 15% of West German medical doctors had argued that »children should be born against the will of the mother, even if they will come into the world as cripples or mental deficient«.⁸⁶ The French Jesuit team of doctors, social scientists, and clergymen writing in »Études« opined – with remarkable insensitivity – that it was actually immoral for those children to be forced to be born who would end up being a »heavy burden« to society.⁸⁷ Less crassly, and with more anguish, West German and Swiss theologians emphasised the importance of compassion for women requesting abortion due to

81 Church Assembly Board for Social Responsibility, *Abortion: An Ethical Discussion*, pp. 8f. and 36–43.

82 The Bishop of Essen, Franz Hengsbach, and Catholic physician Siegfried Ernst quoted in: *Abtreibung: Massenmord oder Privatsache?*, in: *Der SPIEGEL*, 21.5.1973, p. 39.

83 *Neue Bildpost* quoted in: »Ich habe nur Umgang mit Mörderinnen«, in: *Der SPIEGEL*, 31.5.1971, p. 138. Note that the comparisons of abortion to Auschwitz already began in 1946. See the discussion in *Dagmar Herzog, Sex after Fascism: Memory and Morality in Twentieth-Century Germany*, Princeton, NJ 2005, pp. 75–77.

84 *Comptes rendus des débats 26 novembre 1974 – 19 décembre 1974, Loi du 17 janvier 1975 relative à l’interruption volontaire de grossesse, Débats à l’Assemblée nationale*. URL: <<http://www.assemblee-nationale.fr/histoire/interruption/sommaire.asp>> [10.9.2010]. These remarks were made, respectively, by the parliamentarians Hector Rolland, p. 7032, Bernard Pons, p. 7112, Jacques Médecin, p. 7036, Jean-Marie Daillet, p. 7128, René Feit, p. 7029, Jean-Marie Daillet, p. 7128.

85 »[L]es bouches inutiles«; Parliamentarians Alexandre Bolo (ibid., p. 7022); René Feit (p. 7030); Pierre Bas (p. 7122). Similar references to Nazi murder of the disabled were made by Bernard Pons (p. 7112) and Jacques Médecin (p. 7036).

86 »Krüppel oder Schwachsinnige«; »Ich habe nur Umgang mit Mörderinnen«, in: *Der SPIEGEL*, 31.5.1971, p. 141. In the early 1970s, the »Süddeutsche Zeitung« could scarcely contain its sarcasm at the case of a deaf-mute child »born, as the law commands« because its mother had been denied an abortion despite the fact that she had rubella in the second month of pregnancy.

87 The authors in »Études« raised concerns as well about what they perceived as a post-war increase in disability, as babies that might in past decades have died in childhood instead lived into adulthood and went on to become parents themselves, bringing – the authors claimed – danger to »the genetic inheritance of humanity«; *Dossier Abtreibung: I. Motivationen*, p. 27.

concern about foetal disability.⁸⁸ While recognising that sometimes, for instance, a Down syndrome child (at the time they referred to »mongoloid idiocy«) could bring great love and joy to its parents (noting that Down syndrome children did have »a happy consciousness«) and while expressing worry about sliding »onto the slippery slope to the killing of so-called ›life unworthy of life‹«, they nonetheless emphasised the extraordinary weight that a disabled child could become for the mother, for her marriage especially if it was labile already, and for society – and indeed for itself.⁸⁹

V. CONCLUSION

Much can be said about this unfortunate but important phenomenon. One point is that it is certainly a sign of how difficult it apparently was for defenders of abortion rights to argue straightforwardly for sexual pleasure without reproductive consequences as a human right also for women. A similar sign of that difficulty were the many gestures that were made at the time to the purported danger of global overpopulation as somehow a significant moral justification for the use of the birth control pill *within the West*.⁹⁰ But several further points need to be made.

88 For West Germany, see for instance the Catholic theological reflections on abortion in cases of anencephaly in *Bernhard Häring*, *Heilender Dienst – Ethische Probleme der modernen Medizin*, Mainz 1972, p. 99.

89 *Ringeling*, *Fragen um den Schwangerschaftsabbruch*, pp. 26f. Disability was a theme in the Italian discussions as well. Already in 1975 the Italian Constitutional Court decriminalized abortion by medical indication – and in the court’s formulation this indication expressly covered not only the life and health of the mother but also »possible deformations in the child«; cf. *Wunderle*, *Politik der Subjektivität*, p. 22. Subsequently, Italian abortion rights activists used the 1976 case of a major environmental disaster (dioxin had been released from a factory in Seveso near Milan and all nearby inhabitants had been relocated) to argue that it was immoral to deny abortions to those pregnant women who now feared foetal disability due to the toxins – even as the Archbishop of Milan announced that »Suffering is a gift from God« and called on Catholics to adopt disabled babies if they were rejected by their mothers. For a full discussion, see *Laura Centemeri*, *Ritorno a Seveso: Il danno ambientale, il suo riconoscimento, la sua riparazione*, Milan 2006; as well as *Wunderle*, *Politik der Subjektivität*. For a video of a priest trying to dissuade a pregnant woman who fears dioxin damage to the foetus from having an abortion, see URL: <<http://www.youtube.com/watch?v=TTm5knVO4Go>> [19.7.2010].

90 While before 1945, worry about the decline of ›white civilisation‹ would often be expressed in terms of anxiety that peoples of colour were ›outbreeding‹ ›whites‹, after 1945, in the context of decolonisation and imperial reconfiguration, the gesture to the ›brown‹, ›black‹ and ›yellow‹ peoples of the world would take on a new valence. By 1953/54 at the latest, references to ›world hunger‹ and ›global overpopulation‹ were used by contraception rights advocates – however nonsensical this may seem in hindsight – to justify contraceptive use within the West. Indeed, so concerned was the Catholic Church by the spread of this particular strand of pro-contraception rhetoric that it was already then attempting to respond pre-emptively. For example, a Catholic journal in Belgium in 1954 not only chastised those European couples who gestured to ›the specter of global overpopulation‹ and especially the growing populations of India and China to justify their own contraceptive use, asserting that ›nothing‹ could ever justify using something that was ›in itself immoral‹. It also mocked those who thought they could define as ›ecstasy‹ the ›physical quivering‹ that was orgasm once they had separated it from the ›the grandeur of parenthood‹ and thus turned that quivering into a ›sacrilegious and basely voluptuous parody of the gift that is love‹; cf. *Marcel Kuppens*, *Problèmes actuels concernant la fécondité humaine*, in: *Revue ecclésiastique de Liège* 41, 1954, pp. 13–29, here: p. 25. Along related lines, the Vatican in ›*Humanae vitae*‹ in 1968 once again expressly made a point of rejecting concern about global overpopulation as a justification for birth control (instead, and sensibly, recommending more just distribution of material resources). But it also brought up a

The first is that eugenic argumentation was part of the history of battles for contraception and abortion from the very beginning of the twentieth century on – and this line of argumentation was racist in its inception: in its condescension towards the lower classes within Europe; in its worry that the ›brown‹, ›black‹ and ›yellow‹ peoples of the world were ›outbreeding‹ the ›white‹ peoples; and in its contempt for the disabled. What becomes clear when one reads progressive pro-contraception arguments from the 1910s–1930s is how completely eugenic assumptions saturated the common sense of the era. It was in those decades more difficult – for many, apparently impossible – to argue for women’s rights to sexual pleasure than it was to use denigration of the disabled as a seemingly moral argument for the value even of contraception. This could partially be seen as sympathetic to poor women and the damage done to their bodies by repeated pregnancies and illegal abortions. This was certainly, for instance, what motivated the German gynaecologist Wilhelm Mensinga of Flensburg, son of a pastor and himself a believing Christian, who invented the diaphragm – and also recommended abortifacient strategies if contraceptives failed. And that is what motivated the Dutch contraception activist Aletta Jacobs, the first female doctor in the Netherlands, who promoted the Mensinga pessary among the Dutch working classes. But the defence of contraception could also be expressed in very ugly terms. In the early twentieth century, the Swiss physician Auguste Forel was especially blunt: »The sick, the incapable, the mentally deficient, the bad ones, the inferior races must be systematically educated to birth control. The robust, good, healthy and mentally higher standing ones, however, must be, as I have repeatedly argued here, encouraged to multiply strongly.«⁹¹ In the early 1930s, the Spanish socialist and feminist sex radical Hildegarth Rodríguez advocated for legislation that would allow women to prevent the birth of children who were »retarded, epileptic, degenerate, insane«.⁹²

Moreover, eugenic argumentation against the lower classes and against the disabled continued also after Nazism was defeated – also in continuously democratic nations. Strikingly, for instance, inquiries in post-Second World War Britain about views on contraception recurrently triggered responses which revealed the ongoing significance into the post-war era of eugenic attitudes and utter lack of self-consciousness in expressing those. One woman, headmistress of a school, in response to a query from the survey organisation »Mass-Observation« about »your attitude to birth control«, spontaneously offered this: »Unpleasant, but probably necessary in many cases. Proper social training should deter physically-unfits from having children. Mentally-deficients should be prevented if necessary«. And a schoolmaster opined that birth control was »being used by

panoply of other arguments, among other things declaring that contraceptives were immoral not least because they might tempt individuals into marital infidelity – as it presented this stance (and this was quite strategically ingenious) as a way to keep men from treating women disrespectfully as mere objects. Nonetheless, advocates both for contraception and for abortion continued to rely on gestures to global overpopulation to make their case for contraceptive and abortion rights within Europe. See for examples, for West Germany: »Ich habe nur Umgang mit Mörderinnen«, in: *Der SPIEGEL*, 31.5.1971. For Italy, there was the slogan »No to the Population Bomb«; cf. *De Marchi/Zardini*, *Bringing Contraception*, p. 40. And also in Swiss religious arguments for abortion rights like Ringeling’s or Barczay’s the woman’s fear of a future global catastrophe is taken as a moral and understandable reason for abortion. For the wider context, see *Lara Marks*, *Sexual Chemistry. A History of the Contraceptive Pill*, New Haven/London 2001; *Rickie Solinger*, *The Population Bomb and the Sexual Revolution: Toward Choice*, in: *Elizabeth Reis* (ed.), *American Sexual Histories*, Malden/Oxford 2001, pp. 342–375.

91 *Auguste Forel*, *Die sexuelle Frage*, Munich 1909, p. 504.

92 Quoted in *Alison Sinclair*, *The World League for Sexual Reform in Spain: Founding, Infighting, and the Role of Hildegarth Rodríguez*, in: *Journal of the History of Sexuality* 12, 2003, no. 1, pp. 98–109, here: p. 104.

the wrong people. Intelligent people should procreate and give us more of their sort. But it is the semi-morons who breed like rabbits.⁹³

In general, it was apparently quite hard to unlearn eugenic thinking.⁹⁴ It is indeed an enormous achievement for justice and human rights that disability rights are now at long last on the agenda not just of activist organisations but of European governments and the EU as well.⁹⁵ But just as disability rights have gained a very precious yet still fragile hold on public consciousness, they are being pitted against women's rights to abortion access.

In conclusion, my argument is that with regard to abortion now in the present, we are not so much seeing a revival of religiosity in Europe as rather a more sophisticated and aggressive conservatism, which certainly draws on religion when that appears useful, but also utilises non-religious strategies. In many former nations of the Eastern bloc, nativist pride and antagonism toward Western culture has manifested in the form of vociferous demands for a return to conservative notions of gender roles – and hostility to abortion is fueled both by the strong emotional association between legal abortion and the Communist past *and* by deliberate fanning of demographic anxieties.⁹⁶ But also within Western nations, the years since the turn of the millennium, and especially strongly since 2004/05, have seen the emergence of a plethora of new rhetorical strategies and activist moves against legal abortion.⁹⁷ Among the most significant of these are the instrumentalisation of emotional ambivalences about the sexual revolution and about women's sexual freedom in particular, and the tactic of putting progressives on the defensive by presenting

93 Mass-Observation Archive (M-O A), University of Sussex, TC 12 Box 14/C, no. 2028, May 1949; M-O A, TC 12/Box 14, File A (Teachers), no. 029.

94 After 1945, after the mass murder of the disabled, not only eugenics but even the murders themselves did not immediately have the bad name one might think they would. It took quite some time before the murders were understood as crimes. Cf. *Jürgen Peiffer*, Phases in the Postwar German Reception of the ›Euthanasia Program‹ (1939–1945) Involving the Killing of the Mentally Disabled and its Exploitation by Neuroscientists, in: *Journal of the History of the Neurosciences* 15, 2006, pp. 210–244; *Dagmar Herzog*, Gray Bus, in: *Alyson Cole/Kyoo Lee* (eds.), *Safe* (special issue of *Women's Studies Quarterly*, vol. 39), New York 2011, pp. 298–312.

95 Enormous – although still inadequate – progress has been made just in the last ten years. Cf. *Gerard Quinn/Theresia Degener*, *Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability*, New York/Geneva 2002; *Anna Lawson/Caroline Gooding* (eds.), *Disability Rights in Europe: From Theory to Practice*, Oxford/Portland 2005; *Theresia Degener*, *Behinderung als Rechtliche Konstruktion*, in: *Petra Lutz* (ed.), *Der (Im)Perfekte Mensch. Metamorphosen von Normalität und Abweichung*, Vienna 2003; *eadem*, *Antidiskriminierungsgesetze für Behinderte weltweit*, in: *Der Beauftragte der Bundesregierung für die Belange der Behinderten* (ed.), *Kongress Gleichstellungsgesetze jetzt!*, Berlin 2001, pp. 18–22; *Martina Meister*, *Hephata – eine Fallstudie*, in: *Stiftung Deutsches Hygiene-Museum und Deutsche Behindertenhilfe – Aktion Mensch e. V.* (eds.), *Der (Im)perfekte Mensch. Vom Recht auf Unvollkommenheit*, Ostfildern 2003, pp. 43–49.

96 *Małgorzata Fuszara*, *Legal Regulation of Abortion in Poland*, in: *Signs. Journal of Women in Culture and Society* 17, 1991, pp. 117–128; *Joanna Goven*, *Gender Politics in Hungary: Autonomy and Antifeminism*, in: *Nanette Funk/Magda Mueller* (eds.), *Gender Politics and Post-Communism. Reflections from Eastern Europe and the Former Soviet Union*, London 1993, pp. 224–240.

97 See the video statements made at the conference ›Europe on the Brink: Who Will Decide Over Your Body?‹, URL: <http://www.iefpd.org/index.asp?id=416&id_sous_menu=142> [21.2.2011]; as well as the very informative summaries of recent trends in: *Comeback der Abtreibungsgegner – Wie Frauen in Not drangsaliert werden*, ARD Mediathek, 1.5.2011, URL: <<http://www.ardmediathek.de/ard/servlet/content/3517136?documentId=6949466>> [30.4.2011]; *Gisela Notz*, *Ein guter Tag für ›Lebensschützer‹*, in: *Der Freitag*, 6.7.2010; *Fiammetta Venner*, *Avortement et sida: Le Bilan de Jean-Paul II*, in: *Pro-Choix* 2005, no. 33, pp. 77–86.

antiabortion activism as an advance for disability rights. Especially the latter tactic is a pressing moral problem for our present and it needs to be confronted directly.⁹⁸

98 On the tensions between women's reproductive rights and disability rights, see also *Michael Bérubé, Life as We Know It: A Father, a Family, and an Exceptional Child*, New York 1996. As of 2011, there is an increasingly urgent need for differentiated and sensitive arguments. It has to be possible passionately to defend disability rights – including the rights of the disabled to partnership and sexuality – as well as to provide far greater supports and respect for the disabled and those who love and care for them, and simultaneously not fall into an obscene moral machismo that insists that parents are morally inadequate if they do not think they can handle having a disabled child in a world that is after all still filled with contempt and difficulty and utterly inadequate support structures. And there is an urgent need to defend abortion rights and to reframe the current terms of discussion, not least with more explicit discussion of the specifics and intricacies of those sexual moments in which involuntary conception occurs and also with more morally self-confident distinctions between embryos, fetuses, and children.