

ABORTION IN LAW AND HISTORY

a pro-choice view

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HISTORICAL & TACTICAL THOUGHTS

Prepared by Kingston Women's Centre

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THE ABORTION QUESTION IN CANADA

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Opponents of choice in the question of abortion frequently imply that the demand for free safe abortion is a late twentieth century phenomenon indicative of the alleged decadence and decline of society. They also often contend that those of us who see abortion as an alternative to compulsory pregnancy are encouraging the violation of some natural law which has prohibited abortion throughout history. The purpose of this article is to provide some historical information on the past and present use of abortion in various parts of the world and to provide corrections for some of the gross generalizations made by those groups who oppose abortion totally or would allow it under very limited circumstances.

Western culture has been largely shaped by Christian teaching and in order to put the abortion question in perspective one must examine the attitude of the Roman Catholic Church throughout the centuries. There have been periods in the history of the Catholic Church when opinion on abortion was divided. The main question was whether there is a time in pregnancy when the fetus has no truly human soul. St. Augustine, an early church father, said "There cannot yet be said to be a live soul in a body that lacks sensation". Some early Christian theologians believed, as Aristotle had centuries before, that animation of "Coming alive" of the fetus occurred forty days after conception for a boy and eighty days after conception for a girl. Others thought that "quickening", that time when a woman felt the fetus move within her, was the decisive sign. The only point on which everyone agreed was that once the fetus had received its soul, whenever it was, destroying it was a form of murder. Before that time, destroying a fetus was still sinful but was a less serious sin.¹

In 1955 an anthropologist, George Devereux published a major study of abortion among earlier peoples and stated that abortion has been practiced in all human communities including Creek and Roman civilizations. In

England in the 14th century the common law allowed abortion up until quickening, the unspecific time when the woman feels the fetus move, - usually in the fifth month. Two legal cases illustrate the prevailing practices. In 1327 the "Twinslayer's Case" arose, it involved a charge of murder against a man who had severely beaten a pregnant woman and caused her to miscarry. One twin was born dead and the other died shortly after birth. The man pleaded not guilty to the charge of murder and was acquitted. In the opinion of the judges the killing of the fetuses did not constitute murder.¹

A second significant case was the "Abortionist's Case" of 1348, in which an abortionist was charged with murder for deliberately killing a fetus. The accused was found not guilty for two reasons. First, the judges stated that the fetus had no baptismal name. Secondly, the jurists stated that it was not possible to determine whether the fetus had died naturally before the abortionist had acted, or whether the abortionist's act had killed the fetus.¹

These fourteenth century judges who refused to define abortion as murder were, in this pre-Reformation period, all Roman Catholics. They must have been aware that the church courts disapproved of abortion but they refused to make abortion an offence in the secular courts.

In 1670 the question of whether or not abortion could be defined as murder came before the English Judge, Sir Matthew Hale. Hale decided that if a woman died as a result of an abortion then the abortionist was guilty of murder. No mention of the fetus was made.²

In the early nineteenth century laws were passed in England prohibiting abortion, but their aim was to protect the lives of women who would be subjected to the existing dangerous abortion techniques. In 1809 Lord Ellenborough's Act, passed by the British Parliament, forbade the administering of any substance to "murder or cause to procure the miscarriage of any woman then being quick with child." An article in the

1. David R. Mace, Abortion, Abingdon, 1972, pp 56-7

Boston Women's Health Collective, Our Bodies, Ourselves, Simon & Schuster, N.Y., 1971, P.140

Evelyn Reed & Clare Moriarty, Abortion and The Catholic Church, Pathfinder Press, N.Y. 1973

1. Jimmy Kimmey, Ms., April 1973, p. 43 (based on research by Cyril Means, N.Y., Law School)

2. Ibid., p. 48

1832 London Legal Examiner justified the laws on the ground of protecting human life. It read:

The reason assigned for the punishment of abortion is not that thereby an embryo human being is destroyed, but that it rarely or ever can be effected with drugs without the sacrifice of the mother's life. 1

Laws were passed in Britain later in the nineteenth century which further tightened up on abortion. Such laws were passed in North America also. In 1823 an anti-abortion law passed in New York outlawed abortion except to preserve the life of the woman concerned. A subsection of the law stated that a female felon who was sentenced to death could be executed if she was pregnant, provided that the fetus was not yet quick. Several other states followed New York's example. The New Jersey Supreme Court, in 1858, pronouncing upon the state's 1848 law prohibiting abortion, stated:

The design of the statute was not to prevent the procuring of abortions so much as to guard the health and life of the mother against the consequences of such attempts. 1

It was in the mid-nineteenth century that the Roman Catholic Church tightened up its official stand against abortion. In 1869 Pope Pius IX eliminated the distinction between an animated and a non-animated fetus. One explanation of this change in church policy is offered by the authors of Our Bodies, Ourselves:

As biologists in the nineteenth century began to understand conception, women began to practice more effective contraception. Catholic countries such as France began 'losing' the population race and the Church wanted to keep its mothers in the running. So the Church itself turned to biology and used the idea that 'life' and therefore, soul-infused human life, begins at fertilization.

The writers refer to the anti-abortion laws passed in England and North America in the mid century when they say:

At the time, English and American industries needed workers, the huge farmable territories of the new world needed farmers and the Civil War had depleted America's labour crop. Anti-abortion laws saw to it that woman took her place beside the other machines of a developing economy. 2

In 1865, shortly after anti-abortion laws had begun to be passed in the western world, the English surgeon Joseph Lister began the use of antiseptic surgery. This revolution in practice spread slowly and did not have much effect in North America until the turn of the century. Until antiseptic techniques spread, an abortion in the first three months of pregnancy was 10 to 15 times as dangerous as a delivery at full term. As these techniques came into wider use, abortion became less dangerous and at some point became less risky to the woman than childbirth would have been. Today, doctor-performed abortions are one-eighth as dangerous as childbirth at full term. 1

In the twentieth century movements were made toward the repeal of the 19th century laws prohibiting abortion. In 1934 Iceland changed its law in response to public pressure. In Denmark in 1929 a delegation of Danish working women petitioned Parliament to remove the old severe penalties. A few years later a Copenhagen doctor opened an abortion clinic, was tried and convicted, and served as an example of the injustice of a system where illegal abortions could be obtained only by the rich. In 1932 Denmark established a commission to study the issue and a 'liberal' law was passed in 1939. In Sweden the National League for Sex Education lobbied both for legalized abortion and birth control until a law was passed in 1938 allowing abortion for certain specified reasons. This law was broadened in 1946. In Norway abortion was gradually allowed for reasons similar to those in the other Scandinavian countries, although the actual law was not passed until 1960. 2

Lawrence Lader points out that, technically, Scandinavian countries do not have abortion 'on demand'. The most common ground is medical; a serious threat to life or physical and mental health arising from disease, bodily defect, or exhaustion. In 1946 in Sweden the law extended 'exhaustion' to 'anticipated exhaustion', allowing the woman's total socio-economic environment to be taken into consideration. In Norway abortion is also allowed for socio-economic reasons. Another category in Scandinavia could be described as 'eugenic', which means that abortion is permitted if the fetus is potentially defective. A final category, 'humanitarian' applies to such matters as rape, incest or impregnation of a woman under sixteen.

1. Ibid, p. 49

2. Our Bodies, Ourselves, p. 140

1. Kimmey, Ms., p. 49

2. Lawrence Lader, Abortion, Bobbs Merrill, 1966, p. 117-18

Lader feels that in Scandinavia the number of abortions has been too strongly controlled. In Sweden in 1964, over 1200 out of 4500 applications were refused. After reaching a peak of 6300 in 1951, Swedish abortions declined to about 3000 in 1965. Lader is aware that critics of the Scandinavian laws allege that illegal abortion has not been reduced, but states that figures to support this contention are not reliable. He notes that in Sweden controls were so tight that in 1965 student organizations began aiding women in going to Poland where an abortion could be obtained at an early stage, avoiding lengthy bureaucratic procedures. ¹

Eastern bloc countries generally have abortion on demand. Bulgaria, Hungary and Poland legalized abortion in 1956, Rumania in 1957. Czechoslovakia started with unrestricted abortions but tightened up in 1962. Yugoslavia established a system of moderate controls in 1960. Contraception has been encouraged by the state in recent years with production of contraceptives showing a significant beginning in 1955. In Poland the government requires every applicant for abortions to attend courses in contraception at a clinic. A campaign in favour of contraception was extended to places of employment and to various organizations including trade unions. Lader, writing in the mid-1960s, noted that in Hungary and Poland, countries with a large nominally - Roman Catholic population, there was initial church-led opposition to the legal change, but that this opposition had slackened off. ¹

China since 1949 had one of the most open abortion policies in the world. Abortion is free upon the request of the woman. This policy reflects concern about the country's increasing population and also the official position that women have the right to control their reproductive capacity. It is interesting to note that when an abortion is performed within fifty days of conception the woman gets ten days off work, in the (infrequent) cases of a later termination of pregnancy the woman gets more time off. The emphasis is placed on woman's role as worker. Since day care facilities are widespread, lack of adequate care for children is not a motive for abortion in China. ²

1. Lader, p. 119-20 p. 130-1

Our Bodies, Ourselves, p. 141

2. Ruth Sidel, Women and Child Care in China, Penguin Books, Baltimore, 1972

Russia's official policy on abortion has varied since the revolution. Prior to 1917 abortion was forbidden under all circumstances, in line with the teaching of the Orthodox Church. In 1920 a decree from the Commissariats of Health and Justice permitted free abortions at all Soviet hospitals, and prohibited anyone but a doctor from performing them. This law was a response to the belief in female equality expressed by the revolutionaries, as illustrated by Lenin's statement that no woman should be forced to bear a child against her will. It was also a response to the grim economic conditions that prevailed at the time. Shortly thereafter the Health Commissariat claimed that illegal abortion had been stamped out. Certain American observers who visited Russia between 1920 and 1936 felt that the government was not doing enough to promote contraception. ¹

In June 1936, under Stalin, abortion was forbidden except in the case of hereditary disease or when pregnancy threatened the life and health of the woman. The change came when Russia was engaged in a drive for industrialization and needed workers. Lader also considers the change as "only part of a larger crackdown on the revolutionary enthusiasm of the old Bolsheviks. For in the same period Stalin also abolished such previously glorified precepts of human rights as easy divorce laws, and stamped out flourishing experiments in progressive education and avant grade schools of music and literature". ² In 1944 the title of "Mother Heroine" was established for women who had raised more than ten children; significantly the title came near the end of World War II in which Russia had suffered severe population losses. ³

In 1955, after Stalin's death, there was a return to an emphasis on female emancipation in the policy governing abortion. Prohibitions on abortion were ended. The Presidium of the Supreme Soviet said they wanted to end the dangers of non-hospital abortion and to restore to women the right to choose. Lader, writing in 1966, believes that Russia has one of the highest abortion rates in the world, although official statistics had not then been released. He feels that con-

1. Lader, p. 121-2

2. Lader, p. 122

3. Mark G. Field, "The Re-legalization of Abortion in Soviet Russia," New England Journal of Medicine, 225 (1956), p. 425

traception is more accessible in Russia than it was over thirty years ago, but says that the government refrains from committing itself to a determined birth control policy. ¹

A favourite approach of compulsory pregnancy pressure groups is to draw a comparison, however invalid, between the termination of fetal life and the genocide practiced against the Jews by Nazi Germany. In his anti-abortion book, Germain Grisez, for example, alleges that abortions were readily available in Nazi Germany, and cites as evidence the law for the Prevention of Hereditary Diseases of 1933. The law allowed abortions for women who were "selected for sterilization". ² Grisez seems unaware that this law illustrates the way abortion and sterilization could be used by a state against groups which it considered to be racially undesirable. It was an initial racist law in a series of laws that culminated in the death camps. "Aryan" women, in contrast, were encouraged to reproduce to increase the "master race" and were strongly socialized toward being solely wives and mothers. The following excerpts from Nazi speeches and writing in the 1930s show the Nazi attitude. In Volkischer Beobachter Dec. 11, 1935, Englebert Huber wrote:

There is no place for the political woman in the ideological world of National Socialism. The intellectual attitude of the movement on this score is opposed to the political woman. It refers the woman back to her nature-given sphere of the family and to her task as wife and mother. ¹

Joseph Goebbels, propaganda minister for Hitler, stated:

The mission of woman is to be beautiful and to bring children into the world. This is not at all as rude and unmodern as it sounds. The female bird pretties herself for her mate and hatches the eggs for him. In exchange the mate takes care of gathering the food and stands guard and wards off the enemy. ²

1. Lader, pp. 123-4

2. Germain Grisez, Abortion; The Myths, the Realities and the Arguments, Corpus Books, N.Y., 1970, p. 203

(The title of the book might imply impartiality, but the book is definitely anti-abortion and compulsory pregnancy in tone.)

1. George L. Mosses, ed. Nazi Culture, Grossett & Dunlap, N.Y. 1966, p.47

2. *Ibid*, p.41

Hitler himself stated that:

The so-called granting of equal rights to women, which Marxism demands, in reality does not grant equal rights but constitutes a deprivation of rights since it draws the woman into an area in which she will necessarily be inferior. It places the woman in situations that cannot strengthen her position vis a vis both man and society but can only weaken it....

The woman has her own battlefield. With every child she brings into the world she fights her battle for the nation. The man stands up for the Volk exactly as the woman stands up for the family. ¹

Existing abortion and contraception facilities were closed under the Third Reich. The historian Franz Neumann contrasts the birth control and abortion situation both before and after the Nazi takeover of Germany. Under the Weimar Republic (the republic set up after World War I which lasted until the Nazi takeover) birth control information was widely disseminated.

"Fifteen organizations were active in this field and many of the sick funds gave their members advice on contraception. Leniency by the courts, especially in the Protestant regions helped to bring the number of abortions to an estimated 800,000 to 1,000,000 yearly. In general, pro-natalism was very much on the defensive in Weimar.

The Nazis lost little time in revising the picture. Minister of the Interior, Frick announced the change in a speech in June 1933. Birth control centres were closed, leniency to abortion was brought to a sharp halt, and the advertising of contraceptives stopped. The party took over the League of Large Families, making it a section of the race policy department By a law of 1 June 1933, couples about to marry could obtain interest free loans up to 1,000 marks if they fulfilled certain conditions ... She (the wife) must cease working and must pledge not to take another job unless the husband is unable to support the family ... One quarter of the loan is cancelled at the birth of each child. The purposes of the law are clear from its provisions, reduction of unemployment by eliminating married women whose husbands are employed ... and stimulation of the birth rate. ²

Prior to the outbreak of World War II unemployment was eased to an extent due to the removal of women from the labour force.

1. *Ibid*, p. 40, Speech to Nazi Women's Congress, Sept. 15, 1935

2. Franz Neumann, Behemoth, The Structure and Practice of National Socialism, Harper and Rowe, 1940

Neumann's references include: -- cont. on next page.

Once the war began and men were withdrawn from industry into the army, the Hitler regime reversed its stand and urged women to work outside their homes again.

A 1974 legal change in West Germany permits abortion on demand in the first three months of pregnancy. Prior to the change, the government had allowed abortion to save the life of the woman. In East Germany abortion is permitted for a wide variety of reasons including socio-economic ones. (See Abortion, A World Survey, Supplement to International Planned Parenthood News, March 1972).

In Britain a series of laws, in 1828, 1837 and 1861 prohibited abortion. The law was not modified until the Bourne case of 1938. Alec Bourne was a doctor who performed an abortion on a fourteen year old girl who had been raped by a group of soldiers. Bourne turned himself over to the authorities so that he would be a test case. He was acquitted. Justice McNaughten in his instructions to the jury stated that if Bourne believed that continuation of the pregnancy "would make the woman a physical or a mental wreck," then he operated for the purpose only of preserving the life of the woman.¹ The Bourne case was the culmination of the efforts of an "Abortion Law Reform Association" founded in 1936. In that year the British Medical Association asked for clarification of the existing law.

In retrospect it does not seem that the Bourne case went much beyond indicating that abortions should be performed when the woman's life was at stake. This ambiguous legal precedent was adopted by Canada and other Commonwealth nations. It was unclear whether mental as well as physical health could be taken into consideration.

Cont'd. A.V.Glass, Population; Policies and Movements in Europe

"Ansprache des Herrn Reichmunster des Innern Dr. Frick"
in Schriftenreihe des reichsausschusses fur Volkesundheit
Haft 1, Berlin, 1933.

1. Lader, p. 106, based on British Medical Journal, 2, 1938
pp. 203-5

The thalidomide disaster of 1962 resulted in almost 1,000 British women bearing defective babies. Many of these women had sought abortions and had been refused. In 1967 an act was finally passed in Britain allowing abortion where pregnancy could be harmful to the woman's life, to her physical and mental health, to any existing children, and in cases where there was "substantial risk" of the fetus suffering from a defect. The existence of national health (medicare) in Britain has made abortion free of charge.

Japan is an example of a country where a restrictive abortion law is interpreted permissively. Although in 1949 abortion was restricted to cases of rape, hereditary defect and potential damage to the woman's health, the law does not prevent the actual occurrence of abortion on demand. The woman merely states verbally that she fits one of the existing conditions and her doctor can perform the operation without consulting a medical board. Contraception was introduced into Japan by Margaret Sanger in 1922 but did not catch on, as few supplies were available, and those that existed were highly priced and of a poor quality. In 1950 a Birth Control Association invited Sanger back, and her admittance was blocked by Gen. MacArthur until he was fired from his position as chief of the occupying forces in Japan. Japan seems to have a tradition for using abortion as an alternative to birth control. The country serves as a contrast to China and Eastern bloc nations which give women alternatives to abortion such as birth control and day care. 1

Appended to this article is a summary of abortion laws in various countries based on 1972 World Health Organization information. The letter of the law and the practice can vary a great deal, as shown by the case of Japan. The statistics do not convey the plight of women in countries where abortion is forbidden, or allowed on very limited grounds. According to the International Planned Parenthood Statistics referred to above, Italy, for example, allows abortion to save the life of the woman or to prevent the birth of a deformed fetus, or one conceived as a result of rape or incest. In practice, however, the law seems to be quite restrictive.

1. Lader, p. 120-137

In the March 1972 issue of Ms. an American woman named Eve Riisna describes her quest for an abortion in Italy. Ms. Riisna's doctor diagnosed "lumps in the uterus" and suspected an extra-uterine pregnancy. Eve Riisna hemorrhaged for six weeks but the doctor refused to perform a dilation and curettage, preferring to wait to see if she had a tubal rupture. Ms. Riisna wrote:

The life of the mother and that of the fetus are exactly equal under the law. In practice, of course, it doesn't work out that way. The mother is clearly not equal to the fetus since an abortion can be done only when the mother can be proved to be on the brink of death. 1

Eve Riisna flew back to New York where she finally had an abortion. Fortunately, this option was open to her.

From the historical and contemporary examples one can draw certain conclusions. One, is that abortion is not some new idea which has come up only in the twentieth century. It can also be seen that in most instances nations which have passed laws governing the use of abortion have considered the position of the country as a whole, in terms of war needs, labour needs and the like, rather than making the freedom of choice to the individual woman the primary consideration. It appears that even in countries where the letter of the law seems "liberal", it can not be assumed that every woman in that country has an equal chance of getting an early safe abortion if she wants one.

The American feminist Licinda Cisler, in her article, "Abortion Law Repeal (Sort Of): A Warning to Women", expresses her conviction that "abortion law reform" is the wrong approach. The word "reform" to her, means that "abortion is grudgingly parcelled out by hospital committee fiat to the few women who can 'prove' they've been raped, or who are crazy or are in danger of bearing a defective baby". Ms. Cisler disagrees with the fact that most "reform and repeal" bills would have abortions performed in all cases only by doctors in licensed hospitals.

1. Ms. March 1974

She believes that D and C operations and vacuum aspirations could be done safely in a clinic or doctor's office and that paramedical personnel could do vacuum aspirations. Emphasis on doctor - performed, hospital abortions in all cases would serve, in her opinion, to increase abortion costs and delays. Requirements that a woman's case be brought before a committee of doctors causes delays and is too time consuming. 1

Not all pro choice people agree with Cisler's views on the need for clinic rather than hospital abortions, but it is hard to disagree with her statement that the fight for free abortion is far from won. In the United States, she says, "repeal" no longer means free abortion but it is the term used by anti-abortion groups to mean the reversal of "liberal" laws and imposition of the old prohibition of abortion. In Canada there is also cause for concern. Until 1969 all abortions were illegal in Canada. Abortion is still illegal except under the following conditions:

- the abortion must be performed by a qualified physician in an accredited hospital
- the operation must be approved by a three member therapeutic abortion committee of that hospital, which decides whether the continuation of the pregnancy "would or would not be likely to endanger her life and health".
- the practitioner performing the abortion cannot be a member of the board.

Hospitals are not compelled by law to set up abortion committees. This means that Roman Catholic hospitals, and small hospitals with less than four doctors on staff, do not have committees. A strain is put on hospitals which do, and this causes delays and late terminations. The situation discriminates against women who are financially or geographically unable to travel to a centre which could provide an abortion.

1. Licinda Cisler, "Abortion Law Repeal, Sort Of: A Warning to Women", Radical Feminism, (ed. Koedt, Lavine, Rapone), Quadrangle Books, 1973, p. 152, 156-7

In July 1974 Justice Minister Otto Lang promised never to bring in "abortion on demand legislation" and said that he would look into cases where hospital committees interpret the word "health" broadly to mean "mental health". Major religious groups are veering to the right on the issue. In June 1974 edition of the Observer, the official publication of the United Church of Canada, printed a list of "Affirmations of the Faith" drawn up by an informal committee of ministers and theological professors. These were sent to all congregations. Item 13 reads:

We believe that God wills that every human life grows up into the maturity of Jesus Christ. Although we recognize that there may be exceptional circumstances in which human life may be taken in order to preserve other human life, we affirm the sanctity of human life before birth and afterward. We therefore oppose abortion on demand and we think that our Church's official position to remove abortion from the criminal code puts the church in the abortion-on-demand camp. 1

The December 1973 edition contained an editorial implying that women seek abortions so that they will have the money to go on winter vacations to the Barbados. The May 1974 edition mentioned the case of Dr. Henry Morgentaler, citing him as a social problem on a par with a case of shady land speculation, and the failure of the Toronto City council to interfere with the "body rub" business. The editor makes the following generalizations about Morgentaler:

In Montreal Dr. Henry Morgentaler who boasts he has performed over 6,000 abortions in recent years, has so far beaten the rap on that. These abortions are said to be a service to womankind. However, after the police raided his house to examine his books, they served him with a judgment for \$354,799 in unpaid income taxes. 2

It would appear that in the United Church of Canada there are vociferous groups demanding that the church reverse its stand, which, at present, is that abortion should be removed from the criminal code.

1. The Observer, June 1974
2. The United Church Observer, May 1974

Those of us who are concerned that abortion be available at an early stage to women who want and need it, can familiarize ourselves with the arguments of the compulsory pregnancy lobby and be prepared to refute them. The medieval English common law cases mentioned earlier set precedents for the idea that abortion was not murder. An anti-abortionist of today might contend that while in the past biology was not sufficiently advanced to show that life begins at conception, twentieth century scientists have determined this fact and that, in the light of this knowledge, abortion is murder. Garrett Hardin, in Stalking the Wild Taboo, says that murder is "killing that is disapproved of". Different societies to varying degrees have permitted killing in war, killing by the state (capital punishment), killing in self defence, or killing to save the life of an innocent victim of a murder attack. In our society opinions differ as to the acceptability of these various kinds of killing, but with only rare exceptions, most people agree that killing is sometimes justified. When it is justified it is not called murder and the sixth commandment is inapplicable. Do we want to define abortion as murder? 1

One favourite anti-abortion argument is the Beethoven one; the story in which we are asked if a certain hypothetical pregnancy should be terminated, in view of the fact that the father was syphilitic, the mother tubercular, and that of her four existing children, one was blind, one deaf, one had died, and a fourth a deaf mute. If we reply that we feel there are ground for ending the pregnancy, if the woman wants it terminated, then we are told, "Then you would have killed Beethoven". This story is ridiculous for several reasons. It loses its effectiveness if we substitute different biographical details, we could insert remarks about an unwed mother and come up with a similar anecdote in which Hitler's name features in the punch line. One also wonders if the tellers of this tale believe there is something inherently good about syphilitic, tubercular parenthood. Should all abortions be

1. Garrett Hardin, Stalking the Wild Taboo, William Kaufman, 1973

denied in the hope of producing another Beethoven? Garrett Hardin comments:

Can we have a loss about which we are unaware? Beethoven's mother, like all women, no doubt started life with about 30,000 immature eggs in her ovaries. She produced only seven children. Therefore, 29,993 eggs, all potential human beings, must have perished. Should we weep for the loss?

Hardin adds that 30% of all fetuses conceived are spontaneously aborted, about 10% lost at an age late enough for the mother to know about it. ¹

Life may begin at conception but it is hard to see fertilized eggs as persons. An article on Debating the Opposition from the National Association for Repeal of Abortion Laws, suggests that if we are to assume that a fertilized egg is a person, then we will have to consider having birth certificates replaced by "conception certificates". Other steps would include having funerals for all miscarriages, and issuing of dual passports for pregnant women. ² Another absurdity suggested by anti-abortionists is the idea that the use of an intra-uterine device is the equivalent of having an abortion; this stems from the fact that there is some evidence that the I.U.D. prevents implantation of fertilized eggs. ³

The NARAL article mentioned above points out that at two weeks the conceptus is a small, jelly-like blood mass, about one inch long and weighing 3/4 of an ounce. This description coincides with that given by anti-abortion groups. Harper's Magazine, March 1974, tells of a reporter's experience in a meeting of "pro-life" forces discussing the best techniques for achieving maximum emotional impact when showing pictures of fetuses to an audience. The instructor said that it was most effective to start with a picture of an almost mature fetus and to work backward, because if one began with a fetus just after conception, it would "look like a glob". The article also mentioned the anti-

1. Ibid, p. 18

2. "Debating the Opposition", National Association for Repeal of abortion laws, New York, N.Y. This organization (NARAL) has recently changed its name to National Abortion Rights Action League. Its address is 250 West 57th Street, New York, N.Y. 10019

3. The I.U.D., like any other birth control device, should be selected on the basis of the effect it will have upon the woman's

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abortionist techniques of enlarging pictures of un-viable fetuses so that they would be the size of six month or more fetuses, and hence more babylike in appearance.

It is worthwhile to note that late termination tends to be the result of restrictive laws and red tape. The NARAL article reports that Hawaii, after having had legal abortion for two years, found that 87% of women had their abortions within the first three months of pregnancy.

The large majority of anti-abortionists are also opponents of birth control. Article III, Section 11 of their charter document reads, "The policy of every Birthright Chapter and every one of its members and volunteers in all the Chapter's efforts shall be to refrain in every instance from offering or giving advice on the subjects of contraception or sterilization and to refrain from referring any person to another person, place or agency for this type of advice". ¹

The opposition of abortion by official Catholicism is not shared by every Catholic. A January 1972 Gallup Poll, 54% of Catholics interviewed said that the abortion decision should be left to a woman and her doctor.

Some anti-abortion groups claim that they would permit abortion in the case of a pregnancy resulting from rape. This is an interesting argument because it contradicts the premise that the fertilized egg is a person who is entitled to the same rights as a born person. It indicates the belief that it's all right to destroy a fetus if a woman did not enjoy sex (i.e. rape) but that if her pregnancy is the result of sex she enjoyed then she must be made to suffer the consequences, and bear the child regardless of any other considerations. ²

cont'd. - health as well as on its effectiveness in preventing pregnancy. In June 1974 the Dalkon Shield was prohibited by the U.S. Department of Health, Education and Welfare because it had a significant failure rate in preventing pregnancy and seems to have caused uterine infections.

1. "Debating the Opposition", p.4

2. Hans Forssman and Inga Thuwe, Acta Psychiatrica Scandinavia, reprinted in Carl Reiterman, (ed.) Abortion and the Unwanted Child, Springer, N.Y., 1971

Recent anti-abortion offensives have taken on the question of tight abortion laws and their relation, or lack of it, to child abuse. The anti-choice groups claim that there is no correlation. For obvious reasons it is hard to obtain statistics one way or another. One survey which does show the problems that unwanted children run into was published by Forssman and Thuwe in Sweden in 1966. Children of women who had been refused abortions were studied at age 21. These children were found to be in poorer health than the control group of wanted children. They had more incidence of alcoholism and psychiatric attention. The girls in the "unwanted" group were less likely to pursue a career than those in the "wanted" group. ¹

The terminology used by anti-choice, compulsory pregnancy groups is worth noting and challenging. Those of us who support a woman's right to a safe early abortion are pro-life and have every right to resent the opposition's claim to this title. We are not "pro-abortion" for the same reason that one can not be "pro-tonsillectomy"; we are pro-choice. Our concern to make birth control methods safe and readily accessible and our emphasis on day-care and a greater degree of societal responsibility for children show that we want to make the choice a real one.

Accurate terminology regarding the fertilized egg, conceptus, embryo and fetus should be emphasized, for the opposition will want to call all of these "the baby". It is also preferable to use the term "woman" rather than "Mother" when discussing a pregnant person in the context of the abortion issue; motherhood in the best sense should mean more than the capacity to be pregnant.

1. Hans Forssman and Inga Thuwe, *Acta Psychiatrica Scandinavia*, reprinted in Carl Reiterman, (ed.) *Abortion and the Unwanted Child*, Springer, N.Y. 1971

In the women's movement the woman's "right to control her own body" is a well known slogan. Opponents of abortion reply that the time for control should have been before conception. They manage to ignore the fact that adequate, safe birth control information and equipment is not yet readily available to women in highly developed countries, let alone to most of the world's population. The sanctimonious statement of compulsory pregnancy advocates, who call every germination in the womb a "person" with a sacred "right to life", are phrases which attempt to hide a hostility toward woman. If every fertilized bit of human protoplasm is a person, then the woman is downgraded into a non-person - a mere receptacle or womb for producing persons.

"This contempt for women stands out even more clearly when we consider the plight of impoverished and sick women --- who are economically and physically wrecked by too many births. Nor do the multitude of unwanted neglected children fare any better. Robbed of adequate care, protection and education, what kind of right to life do they have? How sacred are the wasted lives of these progeny? Apart from those who happen to be born in well-to-do families, the "sacred unborn" are only promised the right to life -- a promise that is not delivered. For the essence of human life is not to be wasted, not to be thrust into an animal-like existence". ¹

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1. Evelyn Reed, "Why the Catholic Church Hierarchy Opposes Women's Right to Abortion", Abortion and the Catholic Church, Pathfinder Press, N.Y. 1973

EDITORS NOTE

More recent developments (1976)

France - in January 1975 a new law permitted abortion on request up to 10 weeks, and controlled therapeutic abortion thereafter.

Canada - In October 1975 the Committee for Review of the Abortion Law was set up by the Department of Justice. The committee is expected to report to parliament early in the fall of 1976.

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A BRIEF ON THE ABORTION QUESTION IN CANADA

Prepared by the Humanist Association of Ottawa, June 1975

Our purpose here is to examine briefly evidence available on some aspects of abortion on the world scene, and to bring out two facts which we feel Canadians need to face squarely before there can be any resolution to this ongoing national controversy.

The first type of evidence has to do with the prevalence of abortion. One can go to a number of places for reasonable evidence concerning numbers, for example references (1) and (2), but we shall use the most direct, a survey by International Planned Parenthood Federation in 1973 (3). This survey provides the first fact: in most countries of the world the abortion ratio lies between about 1:8 (one abortion for 8 live births) and 2:1, whether legal or illegal, with a world average of 1:2. To-day 60% of the world's population lives in countries where abortion is allowed for medico-social reasons. In the remaining countries the fact that abortion is illegal has not produced a low abortion ratio: it is often very high, about 1:1 in Italy and parts of Latin America for example. It is also useful to recognize that the prevalence of abortion is not new. For example, a ratio of 1:2 was quoted for the state of Michigan in the last century, and abortion was unregulated in Britain from about 1300 - 1800.

What are the consequences of this world pattern for Canada today? Obviously the frequently heard argument that abortion amounts to murder must be considered unrealistic, because a large proportion of the women on earth would then have to be murderers (the average family has two to three children, so that each woman on the average must have one abortion). Secondly, the concern often expressed about the increase in the abortion ratio since 1970, as revealed by Statistics Canada (1:8 in 1973), is misplaced. These statistics refer to therapeutic (legal) abortions only -- there are no firm statistics for illegal abortions in Canada. The evidence we have (see page 21 of reference (2) for example) suggests that the number of illegal abortions in Canada is decreasing to balance the increase in legal ones. This behaviour is consistent with the world pattern given above.

Most important, however, are the consequences concerning legislation. The data from Italy and Latin America, for example, shows that restrictive legislation does not lead to a low abortion ratio. It appears that "...every normal woman seems to assume the right emotionally to achieve motherhood and to renounce motherhood, whether it is legal or not" (4). The effect of restrictive legislation, therefore, is to punish woman with an unwanted pregnancy, and in a cruel way, be refusing her access to proper medical care. This effect is probably the main motivation behind the movement to repeal Canada's present abortion law.

The second fact we wish to establish comes from studies in anthropology and sociology (5). A study of 23 primitive cultures (6) shows that a strong correlation exists between punishment of abortion and disrespect for life, as evidenced by, for example, the practice of slavery, and the killing, torturing and mutilating of enemies captured in warfare. In an effort to determine whether this relationship observed in pre-industrial societies is relevant to contemporary society, a personality profile was constructed in a recent sociological study of 96 students at the University of California (7). Here again a strong correlation was found between support for the statement "abortion should be punished by society" and statements which characterize a disrespect for life, such as "violence is really necessary to solve our problems" and "hard physical punishment is good for children who disobey alot". Even more relevant to us is an analysis of the voting pattern of the 98 members of our Canadian parliament who voted on the omnibus reform bill in the 1968-69 session, which included reform of the abortion law, and also on the bill in the 1967-68 session which proposed to abolish capital punishment. Here 80% voted either for both reform bills or against both reform bills (5), a social pattern in agreement with the two other studies. (It should be noted that correlations give the trend in a society but do not apply to any given individual, who may support a particular issue for reasons quite different from the trend. It is important for the individual to recognize, however, the trend in society he/she is also supporting).

What then are the consequences of this second fact for the abortion question in Canada to-day? Virtually the only argument put forward by

those who are against legalizing abortion has been that abortion is morally wrong because it shows disrespect for human life (slogans "pro-life", "right-to-life", etc.). This is an understandable instinctive response to the always unpleasant problem of abortion. However, the above scientific studies show that this argument is not merely misleading, but is actually directly contradicted by the evidence. These studies in fact support the view that the quality of human life, its integrity and dignity, can best be achieved by permitting women to choose between a safe, legal abortion and an unwanted child.

The net consequences of the two facts developed above is to deemphasize side issues and expose the main question: do Canadians want an autocratic society, which attempts to impose a common morality by repressive legislation, or do they want a humanistic, multi-cultural society, where reliance is placed on the individual conscience of its members to the maximum extent possible? It is no accident that the major democratic societies with which we are most closely associated, Britain, France and the United States, have made the latter choice, and left abortion to the discretion of doctor and patient.

We urge members of Parliament to respond appropriately to the challenge of International Women's Year by supporting the repeal of Section 251 of the Criminal Code, Canada's abortion law, and the expansion of government birth control programs in order to attain a lower abortion ratio humanely and effectively. The government position that the present law is a suitable compromise between two extremes is not correct. Firstly, it does not work equitably, but secondly, repeal of this law does not represent an extreme position. Repeal represents a moderate one which leaves the choice to the individual woman, between the extremes of pro and anti abortion. This middle position is backed by many responsible Canadian institutions such as the Advisory Council on the Status of Women and the Royal Commission, the Canadian Medical Association, the Canadian Federation of University Women, the United Church Women, the National Council of Jewish Women, etc. The reason for their support is that repeal of the law is connected rationally with valid empirical evidence regarding consequences, as illustrated earlier. Usually this middle position is mistakenly called pro abortion in the media. In fact everyone normally feels a revulsion for abortion, but it is the

groups who support repeal of the law who are also urging more effective birth control programs which would reduce the need for abortion.

Thus the government position leans towards the right wing extremist groups formed especially to influence opinion on this issue. The enormous petition delivered recently to parliament is certainly a tribute to their zeal, but if a relatively unbiased view of Canadian opinion is desired we recommend the 1974 Gallup poll (62% in favour of repeal) or the Chatelaine poll (over 70% in favour of repeal in 1974).

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- 4) Dr. H. Deutsch, "Psychology of Women", Grune and Stratton, N.Y. Vol. 2, 1945, P. 179.
- 5) J. W. Prescott, The Humanist, Buffalo, N.Y., Vol. 35, No. 2, March/April 1975, p. 13-14.
- 6) B.C. Ayres, "A Cross-Cultural Study of Factors Relating to Pregnancy Taboos", Doctoral Dissertation, Radcliffe College, Cambridge, 1954.
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