

Emerging Contestations of Abortion Rights: New Discourses and Political Strategies at the Intersection of Rights, Health and Law

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On May 25th 2018 in Ireland in the referendum called to repeal the 8th amendment of the Constitution, “Yes” won by an overwhelming majority.¹ The 8th amendment article, which equates the value of the life of the woman with the life of the unborn, was introduced in 1983 to make the voluntary termination of pregnancy illegal under any circumstances, except in life-threatening cases for the woman. Ireland, along with Poland and Malta, is one of the European countries with the most restrictive abortion laws. For years, women residing on the island have been travelling abroad to abort illegally or have been illegally purchasing abortive pills online. The recent “Yes” victory in Ireland stands out against a fragmented landscape: that of the laws and access to abortion across Europe (De Zordo, Mishtal, Anton 2016).

In most European countries, abortion was legalized in the post-World War II period: first in Eastern Europe and then in most Western European countries. Liberal or relatively liberal laws allow termination in the first trimester of pregnancy on the woman’s request, to protect her physical or mental health and/or for socio-economic reasons. In the second trimester, access to abortion is limited to cases of serious danger to the physical or mental health of women and/or severe malformations or foetal pathologies (Singh *et al* 2018). The practice, however, does not always fit with the law. In some countries where the legislation is very restrictive, such as Poland, women are able to access clandestine abortion care without major difficulties, although with substantial financial cost. In others, such as Italy, the law is fairly liberal on paper, but the way it is applied sometimes makes access to abortion care difficult for women. This includes a significant number of Italian providers who declare conscientious objection, even if they have not always strong moral or religious objections to abortion (De Zordo 2018), and are therefore not obligated to provide this otherwise lawful service.

A number of barriers to abortion access have been identified in Europe. Le-

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1 Yes obtained 66.4%, while no stood at 33.6%.

gal constraints (time limits, compulsory waiting periods, pre-abortion counselling, etc.), procedural obstacles (limited availability of abortion providers, limited or poor training of health professionals in abortion, particularly in surgical abortion, physicians' conscientious objection, etc.) and different social barriers, (the stigmatization of abortion in women's communities as well as in health facilities),² complicate the access of many women to the service, and force some of them to travel to other countries or regions to terminate their pregnancy (Gerds *et al.* 2016).³

The 21st century has seen the proliferation of restrictive legislative proposals by ultra-conservative European governments. Cutbacks to sexual and reproductive health funds along with the increased vigour of international anti-abortion activism are wreaking damage to and questioning what in most European countries seemed to be acquired rights to reproductive self-determination.

Recently a documentary of Franco-German production, provocatively entitled: "Avortement: les croisés contre-attaquent!"⁴ drew attention to the anti-abortion revival going on throughout Europe. Based on an investigation carried out in several EU countries, its authors, Alexandra Jousset and Andrea Rawlins-Gaston, describe the counterattack to abortion laws carried out by "modern crusaders" influenced by American ultra-conservative circles and potentially financed by Russian oligarchs. New anti-abortion groups use online campaigns, petitions and striking public demonstrations – such as those carried out in Spain (and more recently in Italy)⁵ by Citizen-go⁶ or in France by Les Survivants⁷ organisations. They use scientifically incorrect or misleading information and network to exert pressure on both national governments and the European Union (Matalucci 2018). New languages, topics and tactics are used to cope with feminist reactions and to persuade an electorate often hostile to a ban on abortion.

On several occasions, the renewed vigour of national and international an-

2 See De Zordo (2016); Lohr (2008); (Berer 2008).

3 See also the ongoing ERC project <https://europeabortionaccessproject.org/>

4 <https://rutube.ru/video/fa9883875c9dff774d4914e731598545/>

5 On the occasion of the 40th anniversary of the 194/78 law, which in Italy regulates the voluntary termination of pregnancy, Citizen-go has put up anti-abortion posters in Rome: on a black and white photograph showing a pregnant belly, the caption reads "Abortion is the leading cause of femicide in the world".

6 Citizen-go is an international organization founded in Spain where it has its headquarters. It acts through petitions, online campaigns and public actions in defence of "Life" and the traditional family (<https://www.citizengo.org/en>).

7 Les Survivants is a French anti-abortion organization gathering "young" people born after 1975 (the year in which the Veil law on abortion was approved). Among its objectives are claims to raise public awareness of the physical and mental suffering that abortion produces; encourage mutual help and support against the depression and isolation caused by abortion; and honour aborted "brothers" and "sisters" (<https://lessurvivants.com/>).

ti-abortion lobbies has met with strong opposition. Mobilizations to defend the right to choose have stopped several restrictive law proposals in Europe. In Spain, for example, in 2014, the massive demonstrations of feminist and leftist groups and protests by medical associations stopped the parliamentary debate and led to the resignation of Justice Minister Alberto Ruiz-Gallardón, the father of a bill, which intended to limit legal abortion to cases of rape and serious risk to the woman's health. In Poland, in 2016, the demonstrations by hundreds of thousands of women in black against a bill aimed at restricting access to abortion only to cases where the woman's life was deemed to be at risk, stopped the legislative process, and new bills to restrict abortion continue to mobilise public opposition (Mishtal 2018).

At a historical time in which women's right to legal abortion is threatened by uncertainties, anthropological research on abortion policies, on various forms of pro-life and pro-choice mobilisation, on scientific, political and public debates on the causes and consequences of the voluntary termination of pregnancy, and on experiences of the subjects involved (first of all women, but also doctors and other professionals involved in abortion's administration) appears more urgent than ever. This special focus of *Antropologia* focuses anthropological analyses on the articulations of abortion policies with the new social formations, through the moral, medical, political and scientific fields of the 21st century. It brings together six articles, two of which concern countries with extremely restrictive laws (Ireland and Poland), and four countries with relatively liberal (Italy) or permissive laws (Romania and Spain). Authors reconstruct the history of abortion governance within individual states and ethnographically analyse the present, showing that abortion provides a privileged point of view to analyse broader theoretical debates concerning: gender and personhood; the legitimacy of scientific knowledge; neoliberalism; the role of women and women's rights in liberal democracies; church-state relations; resistance and social movements, etc.

Sinéad Kennedy presents an analysis of abortion access in Ireland and examines the process that led to the repeal of the 8th amendment. Although abortion is banned, women living in Ireland access abortions by travelling abroad or/and buying abortion pills online. Opportunities to circumvent the law, however, are highly stratified by race, class and migrant status. Kennedy analyses the history of the Irish abortion ban through the prism of public debates, reflecting on the discursive strategies used to challenge or uphold the status quo on abortion. Her article highlights the different dimensions of the Repeal Movement, arguing that one of the most important features of the process leading to the referendum was the inclusion of women's voices and their experiences of pregnancy and abortion in the political, legal and public debate.

Joanna Mishtal underscores the use that Polish women make of clandestine abortion and online networks as forms of resistance to severe restrictions to legal abortion in the country. In Poland, in 1993 the post-Socialist state

and the Catholic Church imposed the abortion ban. Since then, the feminist movement has actively supported the restoration of the right to abortion. The medical community and the general population, however, have remained distant from political participation. Instead of openly challenging the ban, Polish women have developed silent strategies to beat the system. Mishtal stresses the limits of this individualised and privatised resistance, which, while allowing them to escape control by the Catholic Church and the State over their sexual and reproductive lives, turns out to be less effective in achieving wider goals in the fields of reproductive rights, public health and gender equality.

Lorena Elena Anton traces the history of abortion legislation in Romania, where abortion rights show a reverse historical sequence as compared to Poland. The abortion ban in Communist Romania (1966-1989) was one of the most repressive political demographic measures in 20th century Europe. After Ceausescu's trial and execution, the new government re-legalized elective abortion. Since then, however, a number of changes in abortion governance have taken place, affecting the law, the health care system and public debates on fertility control. After framing the contemporary anti-abortion revival, and identifying the main actors of the pro-life lobby and their connections with the Romanian Orthodox Church, Anton argues that pro-life protests in contemporary Romania (which exert great influence on young people, born after 1989) is built on a "low-remembering" of communist pronatalism, and therefore can seriously influence abortion care in Romania in the near future.

Claudia Mattalucci analyses the political use of the notion of trauma in the public debate on abortion in Italy, tracing the genealogy of this notion on the one hand to the feminism of the 1970s (when abortion was illegal and unsafe), and on the other hand to the scientific debate initiated in the United States in the 1980s, on the effects of legal and safe abortion on women's mental health. During the 2000s, the controversial diagnostic category of "post-abortion syndrome" entered the public debate in Italy. The idea that abortion is a trauma that severely compromises women's mental health has become a central theme of anti-abortion activism. Even outside anti-abortion circles, however, the belief that the price of choice is unavoidable suffering is widespread. Although within the framework of various normative frameworks and moral worlds, the notion of trauma conveys different ideas of health and choice, the pervasiveness of its use requires careful consideration.

Considering the case of Italy from a different perspective, Chiara Quagliarello discusses the obstacles in access to abortion encountered by women in a maternity ward in Turin (Northern Italy). The author discusses the political, social, moral and gender implications of medical bureaucracy that, instead of facilitating patients' access to abortion care and sustaining their choices, often become a source of procedural obstacles to legal abortion. Informed consent can turn into a moral questioning of women's choice. The growing presence of men as women's partners during medical consultations can transform abor-

tion from a woman-centred choice to a couple's decision. The constant involvement of psychologists in consultations to evaluate the psychological sustainability of the abortion process can turn into a tool to judge and influence women's choices. Medical bureaucracy plays a different role in therapeutic and elective abortion, and according to the women's social profile. Quagliariello argues that its role requires a careful analysis of new power relations among health professionals and of gender relations during the abortion process.

Finally, Susana Rostagnol analyses the situation of abortion in Andalusia, considering the effects of the 2014 Gallardón bill on the public debate. Rostagnol depicts the process that led to the legalization of abortion in Spain in 2010. Since 1985, when the post-Francoist government approved a restrictive law, the imbalance between public hospitals and certified private clinics providing abortion has progressively developed. Although the law passed in 2010 is one of the most liberal European legislations, it has not altered the disproportion between the public and private clinics, the absence of or poor university training on abortion procedures, as well as the widespread perception of the moral difference between therapeutic and elective abortion. Rostagnol also addresses the question of conscientious objection that although invisible in Spain, produces a phantom effect. The author concludes by emphasizing the inherent fragility of sexual and reproductive rights: as powerful tools to liberate or constrain reproductive bodies these rights are exposed to political, moral and social confrontations and can never be taken for granted.

Based on long-term ethnographic research, literature reviews, documents and social media analyses, the articles collected in this special focus offer differently situated perspectives on abortion in Europe and call for future research on abortion governance to continue to question power relations, discourses and strategies at the intersection of rights, health and law, looking for new possibilities for agency, political change and social justice.

References

- Berer, M., (2008), A Critical Appraisal of Laws on Second Trimester Abortion, *Reproductive Health Matters*, 16, 31- Supplement, pp. 3-13.
- De Zordo, S., (2018), From women's 'irresponsibility' to foetal 'patienthood': Obstetricians-gynaecologists' perspectives on abortion and its stigmatisation in Italy and Cataluña, *Global Public Health*, 13, pp. 711-723
- De Zordo, S., (2016), Lo stigma dell'aborto e l'obiezione di coscienza: l'esperienza e le opinioni dei ginecologi in Italia e in Catalogna (Spagna), in Lalli, C., (ed.), *Aborto: stigma, senso di colpa, silenzio. Si può parlare di aborto?*, *Medicina nei Secoli*, 28, 1 supplement, pp. 195-248.
- De Zordo, S., Mishtal, J., Anton, L. E., eds. (2016), *A Fragmented*

- Landscape. Abortion Governance and Protest Logics in Europe*, New York-Oxford, Berghahn.
- Gerds, C., De Zordo, S., Mishtal, J., Barr-Walker, J. and Lohr, P. A., (2016), Experiences of women who travel to England for abortions: an exploratory pilot study, *The European Journal of Contraception & Reproductive Health Care*, 21 (5), pp. 401-407.
- Lohr, P. A., (2008), Surgical Abortion in the Second Trimester, *Reproductive Health Matters*, 16 (31-Supplement), pp.151–161.
- Mattalucci, C., (2018), L'attivismo antiabortista contemporaneo, in Cirillo, L., *Se il mondo torna uomo*, Roma, Alegre, pp. 65-78.
- Mishtal, J. (2018), Reproductive governance and the (re)definition of human rights in Poland, *Medical Anthropology*, Jul 11, pp. 1-13.
- Singh, S., Remez, L., Sedgh, G., Kwokand, L., Onda. T., (2018), *Abortion Worldwide 2017: Uneven Progress and Unequal Access*, Guttmacher Institute. <https://www.guttmacher.org/report/abortion-worldwide-2017>