Reproductive justice, the right to abortion, and the case of south Cyprus (Online Article)

Historical Note

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Content

Reproductive justice, the right to abortion, and the case of south Cyprus

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Over the long view of history, the reproductive rights debate has given rise to a vast number of conflicts as a result of an ever-expanding state, in which edicts of the church are often enshrined in law, and a gradual process of full politicization of the womb as a public space subject to legal and social regulation. These conflicts occurred both in the 19th and 20th centuries when many countries criminalized and recriminalized abortions (there were some exceptions as the fascist regimes in Germany and Austria adapted abortion restriction to eugenics and pro-natalist goals, while in Catalonia, Spain, abortion laws were briefly liberalized in the 1930s, but any efforts to implement reforms were squashed by the victory of the fascist Franco regime), and again in the late 20th century when many countries reformed and liberalized their abortion laws, after a heightened debate on the issue, leading to legislative change and partial decriminalization (1960s-1980s).

It is essential that every person has control over their body, and the ability to make informed decisions regarding their sexual and reproductive health, such as for example if and how many children one will have. Every woman, or person of any gender which might get pregnant (such as trans men, non-binary, agender people, etc.), must have the access and right to opt for abortion services, regardless of their reasons for wanting to terminate the pregnancy. This right to control our bodies is indispensable in the struggles for liberation and social justice, as nobody should be forcefully assigned the role of a child-bearing reproductive machine.

In our discussion it is crucial to think of abortion as just one of the issues of reproductive justice, which expands the pro-choice agenda to incorporate a wider array of economic, social and political issues affecting women’s power to decide about their bodily autonomy, reproduction and well-being. Legal abortions are meaningless if those who want them can’t afford them, and this framework allows to see the inequalities in women’s control over reproduction. Besides, middle and upper class women, with privileged access to relevant information, have always had access to abortion, by making use of the loopholes in the existing law, or by travelling to countries where abortion was/is legal. Working class women, on the other hand, not trained to argue with the authorities and/or could not pay for a doctor’s (legal or illegal) help, were the ones who have always been at risk. Thus, we can conceptualize a struggle not only for the right to choose, but for the social, political and economic conditions necessary to exercise that right. It entails a movement oriented approach, in addition to

demands for safeguarding reproductive rights and accessible reproductive health services.

The acknowledgement of reproductive work as unpaid labor in the 60s made it possible to redefine the domestic or private sphere as an anti-capitalist site of struggle. In this sense, strict restrictions on abortion can be interpreted as an attempt to control the labor-supply, and deviations from the form of the procreative, heteronormative family and gender roles as resistance to this mechanism [1]. Radical and liberal feminists often disagreed about the demands the women's movement should have, with the former arguing amongst others for free abortion on demand, free child-care and equal pay, while the latter were mainly concerned with the legal right to abortion and equal employment opportunities. The radical feminist agenda included practices such as consciousness raising and setting up self-help clinics and women's shelters; discourses centered on liberation and sexual difference (rather than equality); and a political stance to which abortion and, more generally, the reclaiming of the sexed body, was central. Those were considered moments of deep feminist challenge to the dominant patriarchal culture and the state. Those creating policy and articulating hegemonic cultural norms responded (to a greater or lesser extent) to feminist threats to the status quo, and engaged in processes of negotiation and transformation [2].

It seems that with the demise of the radical feminist movements of the 70s which expressed an unapologetic stance for abortions, and the co-optation of women in legal debates over the matter, a shift occurred towards a defensive and prevention based stance. The focus has shifted from reproductive autonomy and self-determination to issues of sex education and contraception methods, with abortion framed as an avoidable last resort. In this way, regardless of how useful and necessary sex education and the availability of contraceptives might be, abortion is kept secret, shameful and regrettable, and the liberating potential of choice is surrounded by feelings of shame and guilt. It seems that the new, gendered language that was developed along the radical feminist movement with which to speak of one's body, one's sexuality, one's pain and alienation faded away. Despite the efforts of radical feminist movements to center the debate on abortions around women's self-determination, linking thus abortion to men's assumed responsibility for controlling and monitoring women's sexuality and reproduction, in most countries the initial debate is framed around the unborn fetus, doctors' rights, or the state's response to rising illegal abortions. It is important to bring back the unapologetic demand for abortions and the repeal (what has been called the decriminalization of abortion without limitation), not reform, of abortion laws into current struggles, as modernization of abortion laws does no justice to women, who are still denied agency.

It seems that a woman's desire to end a pregnancy is not enough in itself, for it has to be approved first by a "respectable" authority figure, be it her husband, her father, her family, her community, her nation. Denying women the right to end a pregnancy is like denying them the right to own their bodies, which, in turn, results in women's infantilization, which is all about rendering them incapable of making an independent decision. Historically, and ontologically, women and the feminine were strictly associated with the passion of the body; a body which was simply considered, by the Cartesian/humanist philosophical canon, to be inert and passive, silent and inferior, part of an unchangeable nature. On the contrary, the so-called superiority of the logos of the mind was associated with men and the masculine. Consciousness, rationality, intelligence, selfhood and subjecthood were synonyms of the masculine, and men were identified with the thinking subject and, by extension, with the universal [3]. There was no place for women's voices to be heard, while their right to (own) a self was forbidden. They were supposed to live for others and their bodies were considered property of the autonomous (male) subject, as he was the one making all the decisions –nationally, institutionally, domestically– on her behalf. In a word, women were denied their existential freedom [4]; they were denied their status as thinking subjects, who could make decisions for their own bodies and choose between having a baby or not. This discourse is extremely important to the extent that it somehow sets the frame to understand better the arguments, claims, and

struggles of the pro-abortion/pro-choice movement.

In other words, despite the fact that abortions are performed on women's bodies, policymakers have often framed it in other terms –doctors' rights, fetal rights, law enforcement, morality, religion, progressivism, family planning, eugenics– rather than discussing women's choice, health, autonomy, agency, or sexuality. The dominant framework of the issue when abortion first arrived on the public agenda, was either the status of the unborn fetus (e.g. Great Britain, the Netherlands, Spain, Belgium), or doctors' rights (e.g. France, Canada, USA), or state's integrity in the face of rising rates of illegal abortions (e.g. Germany, Italy) [5]. The debate about how abortion policy could strengthen women's autonomy was completely absent. Once again, women were not the talking subject, but rather a silent participant in a malestream debate, whose decisions were to determine the future of her own body. The political semiotics of representation play a crucial role here as, in this case, the object of representation (the fetus), permanently speechless, becomes the representative's (patriarchal institutions) wet dreams because it can be easily naturalized and disengaged from the discursive realm. Women who want abortion simply vanish or become the enemy because they have opposing "interests". The only actor left whose voice can be heard is the one who represents and is traditionally related to the hegemonic masculinity mostly articulated in juridical and medical discourses [6]. For this reason, concepts such as self-determination and agency are really important for the abortion debate because they put women, as subjects who are not afraid to speak their truth, back at the center of the way we talk about abortion.

However, relying solely on politics of 'choice' and 'rights' obscures the presence of other factors affecting the person's choice over an abortion, such as access to subsidized care and job security [7]. Framing abortion and parenthood as an exclusively private issue suffers from an insensitivity to the way the private/public dichotomy fails communities whose social, political and economic realities are incompatible with this distinction. For example, migrant women's paid labor is often domestic labor, and child-rearing is often intertwined with interpersonal relations and bonds of solidarity and cooperation for the overall well-being of the community, even in individualistic societies. When systemic inequalities result in the material conditions which determine the necessity of an abortion, defending only the right to choose is inadequate. Such a narrow-focused approach leaves unchallenged the fact that even if accessible abortions permit greater women's access into the workforce, thus challenging the subordination of women in the private sphere, the burden of unpaid reproductive and domestic work remains disproportionately on them. In cases where abortion was legalized, legalization alone proved useless in claiming the resources women need to maintain control over their bodies and lives. While mainstream feminist movements made sure that women could have access to male-dominated workplaces, they abandoned reproductive work and the domestic sphere as a site of struggle. Terms like autonomy, empowerment and choice, historically employed by the feminist movements to raise consciousness, have been deployed by media and the state to promote the ideal of an active, individually responsible working and consuming female citizen. This promoted ideal does not suffice to challenge the exploitative relations of the capitalist mode of production and reproduction, and has accelerated the undoing of the radical women's movements.

Additionally, focusing only on modernizing abortion laws, neglects the way age, class and ability influence one's reproductive health priorities, and how under neoliberal restructuring of economies, the cost of the relevant reproductive health services is falling on the individuals. At the same time, women are more visible to governmental agencies, through the required medical intervention in abortions, giving birth, postnatal care, menopausal issues, breast-cancer checks, etc [8]. Reproductive capacity is monitored and medically controlled throughout a woman's life. Even in countries where abortions are more readily accessible, women who want to undergo sterilization, the most permanent of contraceptive methods, are often forced to lie about their reasons and denied the

agency in taking decisions affecting their bodies. Whereas the right to voluntary motherhood has become more accepted, the denial of a woman to procreate is often dismissed as an immature and immoral choice.

Upon impregnation, the person is stripped off their bodily autonomy, and anyone who wants to have an abortion must face the consequences of confronting not only medical authorities and their policies, but also the defenders of the procreative role assigned to women by capitalism and the nation-state. The latter insist on the patriotic mobilization of mothers against imagined demographic threats, either from minorities within the Republic of Cyprus, or by “Turkish settlers” in the north [9]. Lower birth rate, a phenomenon frequently associated with accessible abortions, is wrapped in nationalistic rhetoric and presented as a problem by government officials. The role of motherhood has been elevated over the past century to mother-of-the-nation, a heroic figure responsible for protecting traditional morals and producing the future defenders of the country’s national interests, as well as the younger sector of the workforce that would strive for the country’s economic recovery and growth. Future dehellenization and lack of local labor supply are expressed as the second most important problem after the Cypriot issue by conservatives and the right-wing, or even as an integral aspect of it [10]. This is not to say that everyone against abortions falls in these categories. As long as the debate over when human personhood begins remains open, some of the opposition might also be rooted in liberal defense of individual liberties. What we can conclude from this however, is that it would be a contradiction for the state to offer free accessible abortions. Defending abortions and reproductive justice requires to overcome the pervasive nationalistic rhetoric and militarist attitudes in society. In October 2017, there was an arrest and 5-day detention of a woman and her doctor for an abortion, which is a criminal offence according to current laws, after a complaint filed by her partner, who was unaware of the event [11].

The Criminal Code of Cyprus (sections 167-169 and 169A), as amended in 1986 (Law No. 186), permits abortion if two medical practitioners are of the opinion that continuance of the pregnancy would endanger the life of the pregnant woman, or that physical, mental or psychological injury would be suffered by her or by any existing child she may have, greater than if the pregnancy were terminated, or that there is a substantial risk that if the child were born it would suffer from such serious physical or psychological abnormalities causing severe disabilities. The Criminal Code also permits abortion following certification by the competent police authority, confirmed by medical certification whenever possible, that the pregnancy resulted from rape and under circumstances in which the pregnancy, if not terminated would seriously jeopardize the social status of the woman or of her family. Although the Code does not specifically address socio-economic grounds other than as a factor in the criminal indication for abortion, in practice, “mental and psychological injury” is generally interpreted as including socio-economic grounds. The Code was first liberalized in 1974, when provisions permitting abortions only on therapeutic grounds were replaced. Prior to the liberalization of abortion laws in Cyprus, laws were not strictly enforced. Abortion could be obtained in private clinics. Most abortion clients were married women with multiple births or young unmarried women.

Any person performing an unlawful abortion is liable to seven years’ imprisonment. A woman inducing her own abortion is liable to the same punishment. Any person unlawfully supplying or procuring anything knowing that it is unlawfully intended to be used to procure an abortion is subject to three years in prison. An abortion must be performed by a registered medical practitioner. Although not specified by law, in practice abortion is performed within 28 weeks of gestation[12a,12b].

In February 2015, a new bill for decriminalization of abortions was proposed by four big political parties, but was never discussed in parliament and no voting was carried out, due to also direct and indirect influence of the church in order for this new bill not to proceed [13]. Just last year, in September 2016, the Archbishopric, the National Committee of Bioethics and the Pancyprian Medical

Association organized the scientific convention “Abortions: medical, social, legal, spiritual dimensions” [14]. During the convention, positions against abortion under any justification were express and signed for by the three institutions in a memorandum of understanding. This alliance does not surprise us. The liberating potential of someone prioritizing themselves, usually against the patriarchal roles assigned to them, poses a threat towards the state, church and medical/scientific authorities. We perceive the decision for abortion as a matter of self-determination of our bodies, and consider unacceptable the criminalization and arrest of those pregnant and seeking abortion, as well as the doctors who help terminate a pregnancy safely.

As emerges from the analysis above, the capitalist-patriarchal state is deeply invested in control over reproduction, but when faced with acute social pressure key political and social actors are compelled to revise their positions. This includes elements of engagement with feminist arguments, but mostly a modification of those arguments, by refocusing the debate on a discourse of (sex-less) individual rights. Creating a legal consensus on abortion is seen across the political spectrum as key to the stabilization of socio-political life. More fundamentally, by controlling reproduction through an articulation of the conditions in which abortion is allowed, the state attempts not only to control population, but also to lay down the boundaries of acceptable values and behaviors [15]. Thus, it is important that abortion should be accessible to all women without discrimination, and each person seeking abortion to have access in safe abortion services around the world. On the contrary, abortion is either prohibited or criminalized or extremely limited (for example Ireland and Poland). When abortion is criminalized, it means that the person seeking abortion is denied fundamental rights over their bodies, health, self-determination, dignity and to have access to rights without discrimination. It means that the person will either seek abortion methods that would endanger their life and/or health and that they would try to seek for abortion in other countries. The right to abortion is just one part of the struggles for safe access to sexual and reproductive health care for everyone, which should entail access to counseling and support before and after the abortion if necessary. Lack of access to abortion services is an attack on the freedom to self-determination, and paves the way towards dangerous methods of terminating the pregnancy. Let’s not forget that the existing ‘way out’ through private doctors and clinics comes with a financial burden which prevents those with low income, migrants, teenagers and others from having an abortion. As long as the state monopolizes authority and uses it to define which medical and surgical procedures are accessible, it is necessary to proceed immediately into a discussion and amendment of the legislation, and decriminalize abortions without requirements for justification and medical opinions. It should ensure that everyone, regardless of gender and gender identity, will have access to these services when they need them.

The pro-choice, feminist movements and those in the radical left struggling for reproductive justice should not rest on their laurels, even in countries which witnessed progress on reproductive rights or positive abortion law reforms. As the anti-abortion camp is pushing for retrogression in abortion laws, it is becoming increasingly evident that abortion law reforms are insufficient to safeguard women’s increasing access to abortion. For example, Armenia, FYROM, Georgia, Russia and Slovakia have recently reintroduced preconditions for accessing abortions. Even in countries with legal abortions, long waiting periods and biased counseling services act as barriers to accessing an abortion safely. Legislative proposals for near-total bans or retrogression to stricter abortion laws also took place in Latvia, Lithuania, Spain, Romania, and Poland; however, they were met with public outcry and protests and never realized. Andorra, Malta, Liechtenstein, Ireland, Monaco and San Marino currently have very restrictive abortion laws, with the former two prohibiting all abortions. As in Cyprus, most of these countries’ criminal codes include sanctions for women who undergo unauthorized abortions and those who assist them to do so [16]. Amidst the rise of authoritarian populism and the resurgence of traditionalist values in public discourse, it is crucial that we do not remain silent in front of the attacks on reproductive rights and our sexualities. In our struggles for social justice, deciding for one’s own

body is an inalienable right, without the intervention of any authority threatening one's health, life or freedom. Our bodies are ours, and not reproductive machines of any system.

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