



FROM DEMOGRAPHIC TRANSITION TO SEXUAL REVOLUTIONS

Sin, Crime, Law: A History of Abortion in Europe

Azzurra TAFURO

ABSTRACT

The nineteenth century marked the history of abortion in modern Europe by formalizing its definitive legislative and religious condemnation. During the first half of the twentieth century, attitudes toward abortive practices combined the pro-natalist preoccupations of the French and Italian governments to take a harsher stance during the Second World War, while in Germany such practices became a tool to support the racial and eugenic policies of Nazism. The first signs of change appeared in the mid-1950s, when women's and feminist movements began to take an interest in the issue. Beginning in the 1970s, "free and freely available" abortion was central to the demands of second-wave European feminism, profoundly updating the public debate on the issue, and prompting changes to laws and customs. During the final decades of the century, the decriminalization laws adopted in numerous European countries eliminated the transgression under certain conditions, but did not make abortion the right asserted by feminist movements.



Unione Donne Italiane (sezione di Ravenna), *La legge 194 sull'aborto, non si tocca !*, Poster, n.d. (twenty-first century). Source : Archivio Centrale dell'Unione Donne in Italia



National Alliance against Depopulation, *Aborting means denying yourself happiness by destroying life! It means ruining your health and risking death!* Poster, circa 1940. Source: Ville de Paris/Bibliothèque Marguerite Durand.

Between religious condemnation and demographic policies

The nineteenth century marked the history of abortion, when the practice became a definitive part of contemporary law with the Napoleonic Penal Code (1810), which punished the person performing and receiving the abortion (art. 317). In 1869 religious authorities took a tougher stance, as the *Apostolicae Sedis* constitution by Pope Pius IX severely condemned *procurantes abortum effectu sequuto*.

These events were behind the legal and religious condemnation of abortion across the continent. The Napoleonic Penal Code, which was applied in a number of European countries, had a lasting influence even after the fall of the Empire: in both Belgium and Italy, the new penal codes of 1867 and 1889 confirmed the ban on abortion, albeit by punishing the person performing and receiving the abortion less harshly. The position of Pius IX, which determined the stance of the modern Church, was consolidated in the twentieth century by important documents such as the *Casti connubii* encyclical and the *Quaestio de abortu procurato* declaration by the Congregation for the Doctrine of the Faith (1974).

Legislation from the first half of the twentieth century nevertheless reveals diverse contexts. Some countries adopted more permissive measures, such as the Soviet Union, which decriminalized abortive practices from 1920 to 1936 in order to reform the traditional family, and Germany, where hygienist preoccupations were behind the reforms of 1926-1927, which lightened the sentences established in 1851. Other countries adopted increasingly repressive stances. In France, the great loss caused by the Great War renewed anxiety regarding depopulation, and fostered the enactment of a new law (1920) that associated abortion with contraception, and banned them along with any "anticonception propaganda." In interwar Italy, the fascist regime expressed its pro-natalist

obsession by making violations to the ban on publications about contraception and abortion a crime against the “race” (1926 and 1930). These provisions did not prevent women from aborting in secret, alone or with the help of backstreet abortionists, through a number of painful and often dangerous methods such as the insertion of tubes, herb infusions, and curettage.

Beginning in the 1930s and the Second World War, the ban on abortion was more closely tied to racial and eugenic policies. In Germany in 1940, the Ministry of the Interior encouraged doctors to promote abortion and even sterilize women in cases of hereditary disease or “racial mixity.” However, beginning in 1943 those individuals complicit in helping “Aryan” women abort—thereby threatening the “integrity” of the German people—were subject to the death penalty. Until the 1970s, Scandinavian countries—Sweden (1938), Denmark (1939), Finland (1950), and Norway (1960)—authorized abortion as part of a massive campaign to sterilize individuals with disabilities, psychiatric patients, and marginal people.

“Le temps de la colère”: European feminist movements speak out

The first signs of change appeared in the mid-1950s in the shadow of the Iron Curtain. In a climate of opposition and challenge that also involved reproductive rights, abortion was legalized in the Soviet Union in 1955, and soon thereafter in Eastern Europe. In Western Europe, the decriminalization process was slower. In 1956 in France, the gynecologist Marie-Andrée Lagroue Weill-Hallée (1916-1994) created an association (Mouvement français pour le Planning familial since 1960) calling for freely available of contraceptives in order to avoid backstreet abortions. In 1961, the Italian journalist Milla Pastorino published—in the communist monthly *Noi Donne*, an organ for the *Unione Donne Italiane*—an investigation that for the first time publicly denounced massive recourse to backstreet abortions. These two events were both in keeping with the same attitude, as women’s organizations became interested in contraception and abortion, and directly or indirectly challenged the laws governing them. The climate was favorable for the first legislative changes, as the sale of contraceptives was authorized in 1967 in France, and restrictions on diffusing information about contraception and abortion were repealed in 1971 in Italy.

From the 1970s onward, abortion became central to feminist demands. Their engagement had a radical impact on the public debate, which was no longer exclusively about women’s health, but also about their right to self-determination and right to choose. Practices connected to the struggle for “free and freely available abortion” spread transnationally, all while adapting to each country and group. For example, the diffusion of self-denunciations and the mediatization of criminal trials became forms of struggle against the stigmatization surrounding clandestine abortions and those who supported the accused. In 1971, 343 French women declared in *Le Nouvel Observateur* magazine that they had aborted, including the lawyer Gisèle Halimi (1927-2020), who founded the association Choisir, and defended Marie-Claire Chevalier during the Bobigny trial (1972). The example of French women was followed throughout Europe, as 374 West German women announced in 1971 in the weekly *Stern* that they had aborted, while 800 women and 200 doctors in Belgium declared they were “complicit,” and demanded that the gynecologist Willy Peers (1924-1984) be freed after his arrest. During the trial against Gigliola Pierobon (1973), Italian feminists chanted the slogan “*Abbiamo tutte abortito!*,” and in 1975, 2,700 activists and sympathizers of the Movimento di Liberazione della Donna and the Partito Radicale denounced themselves to judicial authorities. In 1979, during the “Bilbao Eleven” trial, 1,357 Spanish women publicly declared that they had had an abortion. In order to make abortion reliable and accessible, a number of groups—including French, Italian, and Spanish ones—clandestinely practiced the “Karman method” (which enabled abortions up through the eighth week of pregnancy, via the vacuum aspiration of the contents of the uterus with a cannula and a pump), and organized trips to the Netherlands and Great Britain, countries where one could abort up to 22-24 weeks since 1967.

This great mobilization, which faced conservative movements defending the “right to life” of a fetus, changed laws and customs. In its wake, multiple governments decriminalized the practice, including West Germany in 1974,

France in 1975, Italy in 1978, Spain in 1985, and Belgium in 1990, after nearly twenty years of struggle by secular and socialist circles.

These laws eliminated the offense under certain conditions, but without making abortion the “right” asserted by feminist movements. This was the result of a difficult compromise between multiple parties and political cultures; the development, application, and evolution of such laws were strongly influenced by different contexts and levels of secularization. For example in France, the law of 1975 was reinforced and defended by creating the misdemeanor of hindering an abortion (1993), extending the period to 12 weeks (2000), and eliminating the situation of distress expected for women requesting an abortion (2014). By contrast, in Italy the effectiveness of the law of 1978 was compromised by the clause of conscience, which was demanded by Catholics during the 1970s, and is today invoked by 70% of doctors and nursing staff according to data from the Ministry of Health. Despite the recommendations of European institutions and protest from feminist movements, the Italian Parliament has never intervened on the issue. The German situation is also critical, for the country has considered abortion to be illegal since 1995, allowing it under very strict conditions that de facto prohibit numerous women from accessing it.

Still today, decriminalization remains an ongoing and rather fragile process in Europe, one that is subject to brutal challenges, as demonstrated by recent history: while Ireland decriminalized it in 2018, it was almost entirely banned by the Polish government in January 2021.

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