

Abortion: Breaking the Barriers of Patriarchy

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Abstract

Abortion in Malta is a taboo. Abortion in Malta is a crime. Abortion in Malta is a sin. Women who perform abortion in Malta are breaking barriers, the barriers of patriarchy.

Historically, birth control has always been socially regulated. Radical feminists have indeed emphasised the control of women's reproductive role and how this is defined and controlled as being the root of patriarchal oppression. Since the emergence of the feminist movement, the right of access to effective and safe contraception, including the right to abortion on demand, has been a focal point around which many campaigns have been fought.

There has however been strong resistance to demands for women's right to control their own bodies, with abortion on demand as of right. Traditionally, the state, religion, and the medical profession have been pivotal agents in controlling access to safe abortion and instilling the discourse that it is criminal, sinful and abnormal. Nonetheless, women have always performed abortions by any means necessary regardless of restrictive legislation, religious dogma, and medical provision, often at considerable risk to their own health and lives.

Consequently, this paper will provide an analysis of the social control of abortion in Malta through examining the medico-legal-moral discourse on the issue and the experiences of women who defied and broke through the barriers of this patriarchal control.

Keywords: Feminism, Abortion, Power, Social Control

Introduction: The nature and scope of barriers

Barriers can take many forms. They can be cultural, legal, and moral. They impact on access to rights and services. They frame values, discourse, power and knowledge. They define what and when something is right or wrong. They differentiate between good and bad, us and them, what is acceptable and what is not. Barriers also have a functional role; they provide a safety net, offering a protective barrier against the unknown, a barrier against potential trajectories which may implode the status quo into a new cultural, legal and moral order. Through their 'regimes of truth' abetted

by normalising 'gazes', 'panoptican' surveillance and 'disciplinary power' (Foucault, 1980; 1973; 1977), they thus justify the status quo, hegemonise it and reproduce it.

Breaking barriers is not easy. It comes with a price, and a very high one at that. Those who have broken barriers or even attempted to do so, have often been oppressed, excluded, stigmatised and ridiculed. Yet, history has often proven them right and when triumphant they have managed to share new visions, instil alternative discourses and institute varying degrees of accepted 'truths'.

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The barriers of patriarchy

Patriarchy is the power of the fathers: a familial-social, ideological, political system in which men-by force, direct pressure, or through ritual, tradition, law, and language, customs, etiquette, education, and the division of labor, determine what part women shall or shall not play, and in which the female is everywhere subsumed under the male. (Rich, 1977, p.21)

Feminists, particularly radical feminists have emphasised the view that contemporary Western society is primarily patriarchal; it is dominated and ruled by men, in a way that men are the ruling class and women the subjugated class. This social control "assumes many forms, it may be internal or external, implicit or explicit, private or public, ideological or repressive...It may also not even be perceived or experienced as control" (Smart & Smart, 1978, p.2). Patriarchal institutions and discourses impose legal, cultural and moral norms which reduce the opportunity for women to make genuine choices about the way they may want to live their lives, including the ability to exert control over their own bodies.

Barriers to reproductive control

Since the emergence of the feminist movement in the late 1960's, the female body has been a focal point around which many campaigns have been fought. The right to the autonomy of the female body has indeed been argued in relation to effective and safe contraception, abortion and birthing methods (Gatens, 1996).

Radical feminists have emphasised the control of women's reproductive role and how this is defined and controlled as being the root of patriarchal oppression. Mitchell (1971) identified reproduction as one of four structures of women's oppression, the others being production, sexuality and the socialization of children. Firestone (1971) argued that women's oppression is a direct consequence of child-

bearing. Thus, reproduction is a source of power, which women should control, for as long as reproductive technology is controlled by men it will be utilized, not to empower women, but to consolidate patriarchal control (Rich, 1977).

Birth control has always been socially regulated (Ehrenreich & Deidre, 1978; Petchesky, 1990). Indeed, “almost all extant cultures regulate women’s procreation, through regulating marriage or women’s sexuality or both” (French, 1986, p.27). This is because through regulating sexual activity and population size birth control is pivotal for societal development. “Birth control bears, too on a third social phenomenon: the role of women” (Albury, 1999, p.3). Besides, it touches on the most intimate of human relations and the power sharing within those relationships. Women who can control their reproduction are women who are “less dependent, more self-assured, more active” (Huston, 1992, p.5). However, this “spectre of independent women brings fear to the hearts of those who would maintain their power and privilege” (Hudson, 1992, p.5).

Systems of sexual control change with women’s social status, in a way that they both reflect and affect one other. There has been an especially strong causal connection between the subjection of women and the prohibition of birth control; whereby the latter has been a means of enforcing the former (Albury, 1999; Huston, 1992; Chalker & Downer, 1992).

As a result, the question of who controlled birth-control technology has always been at issue. Biologically, it is ‘natural’ for women to control reproduction. In fact, birth control has always been a ‘women’s liberation’ issue, “developed by women and handed down from generation to generation” (Albury, 1999, p.27). However, “once men discovered their role in conception, they assumed control by exercising their general control over when, how often, and with whom women could have sexual intercourse” (Albury, 1999, p.4).

Historically, control over reproduction has often operated through repressive forces such as for example, through the use of chastity belts, confinement to the home, chaperoning and making birth-control, such as abortion, illegal. Although such visible mechanisms are still widely used today, they have been accompanied and/or replaced, particularly in Western cultures by more subtle and less visible mechanisms of control.

Such strong controls, according to Hutter & Williams (1981) suggest that, the attempt of women to liberate themselves from their subjugated position, poses a particularly strong threat to the existing social order. Indeed, there has been strong resistance to demands for women’s right to control their own bodies, such as for example the liberalisation of abortion legislation, with abortion on demand as of right. All sorts of arguments were and are used to resist social change:

Family planning pioneers were accused of promoting promiscuity, of being unpatriotic, of questioning God’s will, of distributing pornography and of encouraging pre-marital sex. Motherhood was endorsed as the supreme role of women, children acclaimed as ‘gifts

from God', treasures of the family and nation...Some expressed their fears more candidly: "What impertinence on the part of women to claim their rights when they are under men's perfect protection" (Huston, 1992, p.5).

Nonetheless, the prohibition of birth control required constant reinforcement since women have always performed abortions by any means necessary, regardless of restrictive legislation, religious dogma, and medical provision. Induced abortion is indeed one of the most performed medical interventions worldwide. Around 25% of all global pregnancies are terminated, resulting in around 56 million induced abortions per year. This accounts for more than half (56%) of the 99 million unplanned annual pregnancies¹ (Guttmacher Institute, 2018). There is good evidence that when abortion is not legally available, women will often resort to illegal means even at considerable risk to their own health (Callahan, 1970). Indeed, abortion rates are relatively equivalent, irrespective of a country's legal status.² The Guttmacher Institute (2018) estimates that 45% (25 million) of abortion interventions are performed under unsafe conditions and in an adverse social and legal climate. This results in the avoidable death of around 68,000 women per year, apart from various other underlying health complications and morbidity³ (Grimes et al., 2006, p.1908). Unsafe abortion as a result has been deemed as "a persistent, preventable pandemic" (Ibid., 2006, p.1908) arising from "apathy and disdain toward women" (Ibid., 2006, p.1908).

While legal prohibition and sanctions could suppress medical access, control could more effectively be sustained by persuading individuals that abortion was morally wrong. As a result, women's attempts to assert the right to terminate pregnancy have often involved direct defiance of religious teachings on reproduction and birth control. The right to abortion on demand has also involved struggles between feminists and the medical profession, who often controlled access to birth control services. Besides, the "meaning of the early women's liberation slogan, 'the personal is political', took on an added and unwelcome dimension when acts that women saw as personal choices were forbidden or penalized by the state" (Gatens, 1996, p.49).

1 Data on pregnancies occurring between 2010 and 2014.

2 In countries where abortion is legal and without any restrictions, the abortion rate is 34 per 1,000 women, while it is 37 per 1,000 in countries where it is prohibited or restricted only to save the woman's life (Guttmacher Institute, 2018).

3 Such data may be under-estimated, particularly in countries where abortion is illegal (Grimes et al., 2006).

Legal, Religious and Medical Barriers

The state's subjugation of women is best examined in terms of its legal frameworks since the "Law is a reflection and a source of prejudice" (Schulder, 1970, p.139). Despite the fact that abortion can prevent the "unnecessary suffering and death of women" (Women on Waves, 2003), in several countries, including Malta⁴, it remains a criminal offence, in violation of "women's human rights based on agreements made at the UN International Conference on Population and Development in Cairo, the Fourth World Conference on Women in Beijing and the Universal Declaration of Human Rights" (Women on Waves, 2003). Even in countries where abortion is legal, access was granted "as a private privilege, not as a public right" such that often "women got control over reproduction...controlled by 'a man or The Man'" (MacKinnon, 1989, p.192). Being subject to a variety of state restrictions regarding consent provisions and availability of public funding (Nicholas, Price Rubin, 1986), abortion was thus not so much decriminalised as it was legalised (MacKinnon, 1989). Though through law reform⁵ in various countries, the content of legislation has become less obviously chauvinist, the social control of women is mediated through various other agencies which, "may ultimately have the backing of law but which, in appearance, are far removed from legal institutions" (Hutter & Williams, 1981, p.43).

Apart from accessibility, women's choices are also highly affected by what they have come to know and feel about abortion. Religion, often acting as the state's critical conscience, plays a powerful role in this respect via its teachings on abortion as morally wrong and sinful. Indeed, the "fundamentals of the three great contemporary monotheistic religions...are all opposed to contraception, abortion, and the sexual autonomy of women" (Paris, 1992, p.14). For example, Church

4 Abortion in Malta constitutes a criminal offence in all circumstances, including where the woman's life is at risk. Under Article 241, 'Of Abortion, of the administration or supplying of substances poisonous or injurious to health, and of the spreading of disease', the Criminal Code specifies that "any woman who procure her own miscarriage, or who shall have consented to the use of the means by which the miscarriage is procured" shall be subjected to a term of imprisonment from 18 months to 3 years. The same punishment is meted out to "whosoever, by any food, drink, medicine, or by violence, or by any other means whatsoever, shall cause the miscarriage of any woman with child". Article 243 specifies that "physicians, surgeon, obstetricians, or apothecaries, who have knowingly prescribed or administered the means whereby a miscarriage is procured", shall be subjected to a term of imprisonment from 18 months to 4 years, and to perpetual interdiction from the exercise of one's profession.

5 In 1973, in *Roe vs. Wade* and *Doe.V. Bolton*, the US Supreme Court declared that the Constitution of the US protected a woman's right to terminate an early pregnancy (with doctor's consent).

teaching⁶ suggests that life begins at conception, thus abortion is a hideous sin which results in the killing of innocent people. Pro-choice feminists however have argued that abortion need not be illegal, since “a sin is not a crime” (Kenyon, 1986, p.72).

Apart from religious dogma, patriarchy is also sustained through scientific discourse and truth-claims. This is evidenced by the medicalisation of pregnancy and childbirth which “re-defines control of birth...as the property of doctors” (Oakley, 1984, p.276). On the issue of abortion, physicians asserted both moral stature and technical expertise, by claiming that abortion is wrong but that they also have the right to declare it necessary, thus determining whether, or on what grounds, women can perform an abortion. They sought thus “to regulate abortions, thereby serving their own professional goals” (Luker, 1984, p.32).

The ability of women to determine and transform their realities is hence impeded by various powers, in a way that “Women’s unjust legal, political, economic and social powerlessness explains much unsafe motherhood and maternal mortality and morbidity” (Cook & Dickens, 2002, p.64). Medico-legal moral control on abortion can be seen as part of this larger pattern of patriarchal control.

Methodology

Consequently, this paper inquires into the nature of social control carried out on women by the medico-legal-moral power elite⁷ in Malta, a country where abortion is still a taboo. Besides it is illegal, unavailable by mainstream medical means and considered a grave sin by Catholic Church teachings.

In the recognition that abortion is a controversial issue upon which several truths are constructed and ‘discursive’ power exerted, the study is based on two types of data; discourse content analysis of the power elite’s positions, policies and statements, and intensive interviewing with ten Maltese women who have themselves experienced abortion. While content analysis was upheld to analyse the prevailing ideologies that shape the present public discourse on abortion, intensive interviewing enabled the extrapolation of first-hand personal accounts in contrast to the dominant world view. In view of this, the research poses two main questions: is power and control exerted by the medico-legal-moral power elite? And, are women who perform abortion breaking the patriarchal barriers of medico-legal moral control?

The underlying methodological ideology of the study engages with critical social science research by linking research with trying to transform society, and standpoint feminist research (Stanley & Wise, 1983) which proceeds from the analysis of

6 in the Vatican’s Charter of Family Rights (1983) and papal encyclical ‘*Humanae Vitae*’ (1968).

7 Hereby considered as being; the Catholic Church, the State and the medical profession.

women's experiences to challenge 'malestream' andro-centric research. The main analytical theoretical tools employed are those of Radical Feminism and Foucault in the recognition that; "both feminists and Foucauldians see the body, and more specifically sexuality, as central to the interplay of power and resistance" (Gatens, 1996, p.22).

Discursive Barriers: Different World Views

Malta is the only EU country which entirely outlaws abortion. As a tabooed subject, abortion remains exceedingly controversial, yet under debated and unevenly flanked by the pro-choice and pro-life fronts.

Major differences are observed between the positions upheld by the State, the medical profession and the Catholic Church and that of Maltese women who have experienced abortion. These differences emerge on a number of factors, and arise from, as well as give rise, to different world views. Indeed, what pro-life and pro-choice advocates think about abortion, is merely "the tip of the iceberg" (Luker, 1984, p.159) since different beliefs about personhood, parenthood, the role of the sexes and human nature are all called into play, in a way that, "what is at odds is a fundamental view of reality" (Luker, 1984, p.128).

Public discourse as evidenced from the media content analysis is dominated by pro-life views, which project the issue above all as an ethical-moral one. This discourse largely promoted by the medico-legal moral elite considers abortion as intrinsically wrong because it takes human life, it intrudes on God's will and thwarts traditional gender roles. As articulated in a statement by the Bishops of Malta and Gozo (2008): "Abortion is not a choice but murder; abortion is not a right but a negation of the right to life; abortion is not beneficial, neither for society nor for the mother herself" (Baklinski, 2008). Such a world-view is generally associated with values that promote sexual relations for procreative reasons within marriage whilst viewing childbearing as the supreme role of women. Since these roles have been "satisfying ones for pro-life people, the act of abortion is wrong because it plays havoc with this arrangement of the world" (Luker, 1984, p.162).

In contrast, Luker argues that pro-choice people tend to believe that men and women are considerably equal, "by which they mean substantially similar" (1984, p.176). Thus, gender roles are viewed not as natural occurrences but as potential barriers to full equality. As a result of their strong belief in the rights of the individual, pro-choice people believe that abortion is an individual, private choice, such that it should not be subject to religious or governmental interference.

The women under study owe various similarities to the attributes of pro-choice women referred by Luker, namely that they are; "educated, affluent, liberal, whose lack of religious affiliation suggests a secular, 'modern', or utilitarian outlook on life" (1984, p.198). They adhere to feminist ideology, profess pro-choice views and

feel that the social control on abortion in Malta hinders the protection of their reproductive rights and freedoms and their general quality of life. As recounted by one of the participants, “How society looks at a person who performs abortion, I think that is the most difficult...because people do not accept it ...it is still a big taboo”. Another participant argued that this experience make you feel as “you are living a lie...because you get the feeling that you have done something wrong when you know that for you it wasn’t wrong at all”.

As a result, the research substantiates the view that, while the medico-legal-moral elite promote “restrictive policy arguments towards abortion [which] have been connected to the hierarchical cultural bias”, the women under study uphold more “permissive policy arguments [that] have been associated with egalitarian and individualistic worldviews” (Stenvoll, 2002, p.287).

Though there are signs that within Maltese society attitudes may be changing, as evident from the pro-choice stance sustained by a number of gender equality and human rights organisations⁸, the view of abortion as immoral and criminal remains at the basis of the controversy and the issue is not yet posed as a struggle over ideology and justice. Indeed, Maltese political culture, which lacks a tradition of progressive issue mobilisation and active female participation, remains heavily elitist and patriarchal.

The subject of abortion still does not occupy enough dedicated space in local public discourse and is not judged by the concerned authorities as sufficiently pressing to merit pro-choice action or to be placed higher on the policy-making agenda, suggesting a political expediency in maintaining the present status quo. Given these circumstances, the likelihood is that “a tyranny of silence will continue to envelop the problem of abortion” (Kulczycki 1999, p.44).

Breaking the barriers of patriarchal control

The present ‘truth’ on abortion resides primarily in the existing ideological structures, whereupon the Catholic Church, the medical profession and the Maltese state, through their complementary discourses and truth-claims generated by religion, scientific knowledge and the law, form a power elite bloc which profess that abortion is “A crime against psychology, a crime against morality and a crime against the law” (Hale, 1867).

As a result, the story of abortion in Malta culminates in a position which can easily be depicted through Althusseran analysis of the ideological and repressive state apparatus (Althusser, 1984). The ideological state apparatus epitomised by the Church and medical profession, and abetted by mainstream media, consolidate the

8 Such as ‘Moviment Graffiti’, ‘Malta Humanist Association’, the ‘Women’s Rights Foundation’ and the ‘Network for Young Women Leaders’.

view that abortion is unnatural and ethically and morally wrong, whilst the law as part of the repressive state apparatus, criminalises abortion and those who attempt to resort to it.

Viewed from a radical feminist perspective, the situation can be attributed as depicting a state of patriarchy, whereby those in power act as a hegemonic power elite bloc, to directly and indirectly control women on and through the issue of abortion, whilst consolidating their vested interests.

However, “Women are controlled, and free themselves from control, in many ways” (Hutter & Williams, 1981, p.9). Indeed, despite this ‘tyranny of silence’, its unavailability, illegality and ‘immorality’, abortion is still being performed by Maltese women⁹, as evident from the significant yet poorly accounted incidence of ‘abortion tourism’¹⁰.

The situation could indeed be depicted from a Foucauldian perspective, whereby despite the exertion of both ‘bio’ and ‘juridical’ power (Foucault, 1980) by the medico-legal-moral elite, the act of abortion in itself offers a concrete example of how through ‘technologies of the self’ (Foucault, 1985) women challenge, resist, and liberate themselves from practices of ‘subjectification’, and ‘disciplinary’ control. As “there are no relations of power without resistances” (Foucault, 1980, p.142), the act of abortion by Maltese women in an environment where abortion is illegal, immoral and unavailable by current medical practice presents a strong act of resistance which breaks through the barriers of patriarchal control.

Conclusion: Breaking barriers - An ongoing struggle

Feminists have gone a long way in asserting women’s rights and freedoms. Breaking the barriers of patriarchy is still work in progress and will remain so for many years to come. It entails an ongoing and relentless struggle of breaking barriers at all levels and structures of society, one after the other until full equality is achieved and rights and freedoms are restored. It is to thus positively noted that

9 Mainly women who have the financial means to procure it abroad and possess the opportunity means and know-how of going about the performance of such procedure.

10 There are no reliable figures on the incidence of abortion carried out by Maltese women either locally or abroad. Estimates on the number of abortions carried out in the UK between 1990 and 2000 refer to an average of 57 abortions annually (NSO, 2002). Similarly, estimates for 2001 to 2016 refer to an average of 58 annual cases (Johnston, 2018). However, this data is likely to be an underestimation since it only comprises the number of abortions carried out in the UK and does not include abortions carried out in other countries. Other estimates indeed speak of around 300 annual abortions carried out overseas by Maltese women, presenting an abortion rate of between 3.6 to 4.7 per thousand woman (as compared to an EU average of 4.4) (Cacopardo as cited in Iversen, 2018).

If patriarchy had a historical beginning, it can also have an historical end...one cannot simply step painlessly and effortlessly outside the web of one's world and begin spinning a new one; such an escape can only be won. Each time, the centre, the nerve of power, is gained only with a meticulous separation of strand after strand until the mechanisms of oppression are finally understood. (Nye, 1988, p.232)

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Bio-note

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