



HIGH LEVEL EUROPEAN SEMINAR

PREVENTING ABORTION IN EUROPE

Legal framework and social policies

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Abortion and Eugenics

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Therapeutic abortion is the abortion of a child because he is weak, sick or handicapped. Contrary to the causes of the elective abortion that are centred on the woman, the causes of therapeutic abortion are centred on the child. It is thus not because the woman is in distress that the pregnancy is considered as impossible, it is because the pregnancy is considered as impossible that the woman is in distress.

When the causes of an elective abortion do not need to be formulated since the distress depends on the sovereign appreciation of the woman alone, the causes of therapeutic abortion, on the other hand, evolve, since they depend on diagnosis techniques that are increasingly sophisticated and of a medical level of tolerance that is continually lowered. When the causes of elective abortion are of a personal and private nature, the causes of therapeutic abortion make socio-economic criteria, which have collective and public consequences, intervene. For these reasons, therapeutic abortion bears a eugenic dimension that is specific to it. Yet, therapeutic abortion appears as a practice free of guilt and is even presented as positive.

A – Because it is not considered as an act of convenience, therapeutic abortion is an abortion free of guilt

1° Therapeutic abortion is not chosen by the woman but undergone by her

a – Therapeutic abortion wins the comparison with elective abortion

The story of elective abortion begins with initial proposals of suppression of ill formed children that could be detected thanks to the innovations of karyotype and imagery. It is in the breach thus created that elective abortion settled. The celebration of this victory of women's freedom –with no other reason to invoke than distress and constrained delays– will eclipse therapeutic abortion that was first called therapeutic interruption of pregnancy and that will be permitted without delay and for multiple reasons. For pro-choice partisans, if abortion with no other condition than that of constrained delay is allowed, *a fortiori* abortion for “good reasons” has to be allowed with no restriction.

In the mind of those who are reluctant to abortion, a moral barrier is created between so-called convenience abortion and so-called therapeutic abortion. The first is the object of a reservation because it is suspected of being selfish, the second is the object of tolerance, or even of support, because it imposes itself on the woman.

b – Diagnoses that are not open to discussion

The more and more performing tools of the antenatal diagnoses reveal pathologies that, because they are today deprived of cure, lead to almost always interrupting a pregnancy without discussion. As is the case, in particular, of Down syndrome. “It is generally admitted, for example, that except for a contrary conviction or affective disposition of the parents, a *fœtus* affected with Down Syndrome can, legitimately, in the sense of the collective and individual ethics, benefit from a therapeutic abortion. There is a sort of general consent, a collective approbation, a consensus of opinion, an established order in favour of this decision, to the point that couples that will have to undergo a therapeutic abortion for Down Syndrome will not wonder about the pertinence of their individual choice. Society, in a way, has answered for them. Everyone, or almost, would have acted in the same way. The indication seems even so established that the parents somehow consider that it is a right. Who, by the way, would think of challenging that right? We are thus saved the trouble of difficult interrogations on the relevance of the choice”.¹ These statements that concern Down syndrome –a non-lethal disease– apply *a fortiori* also to lethal diseases of the *fœtus*.

¹ Jacques Milliez, *L'euthanasie du fœtus*, Editions Odile Jacob, 1999.

2° Therapeutic abortion is executed by the woman but by the doctor

a– Doctors take on the responsibility of an impossible choice for the parents

Therapeutic abortion is not the woman's business but the doctor's. It is only to them that the law gives the freedom to give the woman the possibility to interrupt her pregnancy on the condition that there exists a high probability that the unborn child could be affected by a grave and an incurable disease at the time of the diagnosis.

Not only does the woman not offer and only accept but if the indication is ambiguous, doctors also deem it their responsibility to take on a choice that is too heavy for her. The medical community does not even hesitate to take on the responsibility of a decision supposed to save the woman the remorse of a bad choice. If it turns out that the diagnosis was false and that the therapeutic abortion lead to the abortion of a healthy child (case of false positives), the doctor will hide this from the woman. Being almost imposed by the practitioner for reasons of humanity that are not even debatable, abortion can easily be perceived as a sort of painful and inevitable accident for the doctor as much as for the woman herself.

b – Eugenics is individual and not collective

The practice that results in the suppression of entire populations based on a phenotypical or genotypic imperfection is characteristic of eugenics. But the identification to this practice does not scare anyone anymore, it is even claimed by a part of the medical community as far as it is individual and not collective, as far as it is medical and not criminal. For Professor Jaques Milliez already mentioned, nothing distinguishes medical eugenics from criminal eugenics whether it is in its execution modalities or in its operational modes. What justifies medical eugenics is “the purity of the intention, the sincerity of the motivation and the quality of the pursued finality [...] Everything is up to the intention. Foetal euthanasia is ethically tolerable only because it is conceived, organised and premeditated solely for the interest of the persons, the individual benefit of couples and that it is accepted by them in the most absolute liberty, without any exterior constraint [...] It thus does proceed from a compassionate and individual attitude consented to. It represents the opposite of submission to the directives of a public health policy, of an economic program or a deadly policy”. This position is not isolated. Public opinion is thus reassured: there are good eugenics to praise and bad eugenics to condemn.

B – Because it falls within a sanitary and solidary perspective, therapeutic abortion is a positivized abortion

1° Therapeutic abortion is a necessary evil to prevent certain sickness

a – Extract undesirable children from women's wombs (through the Prenatal Diagnosis)

Public policies of screening, generalised, systematic and reimbursed by health insurance, are adjusted and regularly improved to reduce the number of handicapped or sick baby births. These systems rest on three criteria: the technical feasibility, the savings officially calculated of the cost of the life of a handicapped person, the intolerance for imperfection. They validate the idea that the birth of an imperfect child being a “disorder” and a “misfortune”, the avoidance through therapeutic abortion of such births re-establishes order in society and happiness in the family. Thus, therapeutic abortion progressively gains a positive coloration. Screening techniques do not cease to improve themselves, the Non-Invasive Prenatal Screening (hereinafter NIPS) that is currently spreading to the whole world, must be mentioned. It presents the particularity of being based on a major discovery: the presence in the maternal blood of the genome of the child she is carrying. This progress will in the end allow to avoid the dangerous act of amniocentesis (which is a marketing argument). It will also provide more precise and premature information at a stage in the pregnancy where the woman is still within the delay of elective abortion (and not of therapeutic abortion). This will result in a revolution in prenatal screening to the extent that the woman alone will be able to decide of eugenic abortions on the basis of simple dispositions. Thus, elective abortion will become eugenic, which it was not. Concerning Down syndrome for which 96% of affected foetus are eliminated, such test will allow to reach 100% of elimination. The NIPS was developed by American firms that did not hide the extremely lucrative perspectives of this new test marked by the obsession of exhaustively and the fear of missing the target.

b – To introduce only desired children in women's wombs (through the PID)

From the extraction of undesired children through the Prenatal Diagnosis to the introduction of desired children, sorted beforehand by the Pre-implantation Diagnosis (PID), there is an inevitable continuity. The PID is presented as allowing to solve the difficult question of abortion since, precisely, it saves the woman a therapeutic abortion, the selection being done before the implantation in the uterus as the result of a medically-assisted procreation.

The current evolutions towards the systematic sampling of eggs in all women, their sorting, their vitrification and their conservation in a bank in the goal of

satisfying an ulterior parental project will allow to exercise the eugenic pressure not only on the child but also on the gametes.

Here also, the improvement of the techniques allows Scientifics, test merchants and legislators to give the illusion of ethical progress. In reality, one must be conscious that this technical progress intervenes in the general frame of an acceptance of eugenics, the principle of which is not even discussed anymore or debatable.

2° Through the “wrongful life” claim and child substitution, therapeutic abortion becomes a way of doing what’s good

a – The wrongful life claim

It only draws the consequence on a legal and financial level of the eugenic policies. If the birth of a handicapped or sick child occurs when everything must be done for it not to occur, it is logical to think that the parents and society are undergoing a prejudice. Such is the case law that is little by little developing in developed countries. The rule being the birth of a normal child, it is abortion that re-establishes the norm, order, security, peace and happiness. Non-abortion becomes a loss of opportunity that must be evocable, valued and financially compensated. Several doctors have already been condemned as a result of trials led in the name of the handicapped person itself, of the parents but also of the brothers and sisters...

The system is on the way to the privatisation of the care of children born sick or handicapped as soon as their mothers would not have accepted to undergo the prenatal tests. The insurance premiums will also increase for these reluctant women and their doctors.

Warning signs foreshadow tomorrow's society: in France the *Conseil supérieur de l'audiovisuel* prohibited TV channels from broadcasting a clip showing happy children with Down syndrome, the motive being that this presentation could make women having had an abortion feel guilty. This dossier is currently before the ECHR.

b – The substitution of children

In reality, the unborn child has become interchangeable, redeemable and negotiable if he does not correspond to the parental project. Therapeutic abortion has become a technique of procreation of the child in accordance with the norms of society. The practitioners of therapeutic abortions also never stop proclaiming *urbi et orbi* that they are in favour of a natalist policy and work for the happiness of women who want children corresponding to their choices. What counts is not the reality of a child but the idea of a child, the virtual child more than the real child. Technique allows it, the market finds its interest in it and the law secures

every progress. It is from then on inevitable that our societies will accept medically-assisted procreation for all women as well as ethical surrogate motherhood, each of these transgressions involving a eugenic selection stage. Everyone remembers the child, born of a surrogate mother who had been refused by the buyers because he had Down syndrome.