



HIGH LEVEL EUROPEAN SEMINAR

# PREVENTING ABORTION IN EUROPE

Legal framework and social policies

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## *The obligation of the States to prevent the recourse to abortion*

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To this day, the number of abortions accomplished in countries with available statistical data is estimated to more than a billion. Every year, abortion puts an end to a third of European pregnancies, with 4.5 million abortions against 8.5 million births in the countries of the Council of Europe. Considering the scale of the phenomenon, its causes and its consequences, notably demographic, abortion is a major social problem of public health to which society can and must respond by a prevention policy.

It must be mentioned from the outset that the first cause of abortion is not pregnancy itself, but the context in which it occurs. A woman undergoes an abortion, not because of the pregnancy – which is only a triggering factor – but because of particular circumstances, and the same woman, placed in other circumstances, would not necessarily resort to abortion. Abortion is thus the result of a combination of circumstances for which society is in part responsible.

In fact, 75% of women who have undergone an abortion indicate having been pushed to do so by social or economic **constraints**<sup>1</sup>.

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<sup>1</sup> According to the Guttmacher Institut, <[http://www.guttmacher.org/pubs/fb\\_induced\\_abortion.html](http://www.guttmacher.org/pubs/fb_induced_abortion.html)>

This statement casts doubt over the existence and efficiency of abortion prevention policies that should normally seek to respond to the causes of the phenomenon in an adequate manner.

**The governments have the legal obligation of preventing the recourse to abortion,** on the basis, in particular, of their general obligations to protect the family, motherhood and human life.

Concerning the protection of the family, the States have made an international commitment to guarantee the “*right to get married and to found a family*”, which implies “*the possibility to procreate*”. They committed to provide a “*protection and assistance as broad as possible*” to the family “*as long as it has the responsibility of maintaining and educating children in its care*”. The State thus has the obligation of providing support to women and couples who do not feel capable of welcoming a child.

The States have also committed to protecting motherhood, before and after the birth. Thus, for example, by ratifying the International Covenant on Economic, Social and Cultural Rights (hereinafter the ICESCR), the States recognise that a “*special protection must be accorded to mothers during a reasonable period of time before and after the birth of the children*”<sup>2</sup>.

In a more precise manner, the States have taken the engagement to reduce the recourse to abortion. In that respect, during the International Conference on Population and Development of 1994, the said *Cairo Conference*<sup>3</sup>, the governments committed to, I quote, “***reducing the recourse to abortion***” and to “*take appropriate measures to help women avoid abortion*”. The Council of Europe also invited the European States to “*promote an attitude that is more favourable to the family in public information campaigns and provide concrete counselling to help women who are asking for an abortion because of familial or financial pressures*” (PACE, 2008).

A policy of prevention of abortion must answer the social and economic causes because of which a pregnancy comes to be called “unwanted”: affective immaturity, fragility of families, economic precarity, narrowness of the accommodation, professional difficulties and constraints, etc. **To most of these causes should, normally, respond the different “social rights” that the States committed to guarantee.** Indeed, the *European Social Charter* and the *ICESCR* guaranty in particular, the right to accommodation, the protection of the family, the protection of motherhood, the protection of life before birth or even the conciliation of family life with professional life, etc.

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<sup>2</sup> International Covenant on Economic, Social and Cultural Rights, article 10.2.

<sup>3</sup> Cairo Conference, *International Conference on Population and Development*, Cairo (Egypt), 5th-13th September 1994.

**Abortion is not a fatality; several countries have managed to reduce the recourse to it through prevention policies.**

In Italy for example, the number of abortions fell by 56% between 1982 and 2013, reaching 102 000, meaning half of the number in France for a population that is barely smaller. Its abortion and contraception rates are one of the lowest in Europe. In the United-States, the teenage pregnancy rate was reduced by half between 1990 and 2010 thanks to a campaign aiming to make teenagers responsible and valorise human sexuality and life. The number of students in their senior year declaring themselves abstinent has doubled, going from 33% to 66%, provoking a reduction of two thirds of abortions among young people, a decline of sexually transmitted diseases and an improvement of their affective and psychological balance.

Several concrete measures of prevention thus deserve to be applied, mainly aiming at better educating young people, at helping women and at making fathers responsible. Sex education and contraception have long been presented as the best ways to prevent abortion. Yet, in countries that generalised contraception and sex education as soon as primary school, the number of abortions is not decreasing, in particular among minors. Besides, the aim of contraception has never been to prevent abortion, but to reduce the fertility of women and demographic growth.

In countries like the United-Kingdom, Belgium or France, where the recourse to contraception has long been widespread, the number of abortions has not reduced because women resort more often to elective abortion in the case of an unplanned pregnancy. When four out of ten unplanned pregnancies (41%) ended in an elective abortion in 1975, it is the case for 6 out of ten today (62%). It is the result of the “contraceptive mentality”. In this respect, it is striking that 72% of women that undergo abortion in France use a method of contraception, according to the Inspection générale des affaires sociales.

It is thus urgent to think of a real prevention of abortion, to reduce it in particular among young people, so that women are not coerced to it anymore by their economic and social situation. This prevention policy must be renewed up to its premises and be widened: as all real prevention, it must be based on a progress of personal responsibility.

The prevention begins with a better sex and affective education, but also a physiologic education, that informs in truth on the feminine cycle and the development of the child, on the relational dimension of sexuality, as well as on the concrete reality of abortion and its consequences. This education would help young people, women and couples to act in a more responsible and human way.

Before even the obligation to prevent and reduce the recourse to abortion, there exists for all women a “**right to not undergo abortion**” of which the guarantee must be provided through the prevention of not only irresponsible sexual behaviours and the “unwanted pregnancies” that they result in, but also of abortion when the woman is already pregnant. This policy implies not only an adequate education but also a determined fight against constrained and forced abortions. If education can considerably contribute to prevention when the pregnancy or abortion is caused by immaturity, ignorance or irresponsibility, there are causes against which education stays largely powerless: when the woman is forced or obliged to abort. Surely, “forced” abortion is criminally prohibited in most European countries; “forced” abortion is even qualified of a crime against humanity since the Nuremberg trials. But what about “coerced abortions”?

**The difference between force and constraint is faint**, it is but a difference of degree. The decision to abort often results of a coercion that can take diverse forms: there are the social and medical constraints and pressures, the pressures and the irresponsibility of the father, the pressures exercised by the family, in particular on minor girls; there are also the pressures of the employer and all the material pressures (unemployment, accommodation, finances). These constraints weigh directly upon the liberty of women and couples; they jeopardize the “*fundamental right*” of women, recognized during the Beijing Conference, “*to control their sexuality, including their sexual and procreative health, without any constraints, discrimination or violence and to take decisions in this field freely and in a responsible way*”<sup>4</sup>. Similarly, these constraints oppose themselves to the invitation made to the States by the Parliamentary Assembly of the Council of Europe “*to respect the liberty of the choice of the woman and to offer the conditions of a free and enlightened choice, without particularly promoting abortion.*”<sup>5</sup>

**Human Rights international law and social rights can be the basis to build a more ambitious policy of prevention of abortion.** Indeed, every time a woman or a couple aborts for an economic or social reason, it is these social and fundamental rights that are violated. Even more, it is a violence. Society cannot settle for proposing abortion as a response to the difficulties of women and their families.

To claim, like an official truth, that abortion is an individual freedom, is an ideological blindfold that separates the question from its real causes and in the end, leads to making the woman feel guilty, since this violence apparently results from her own will, her own freedom. If abortion is but a freedom, an individual choice, then the woman is fully responsible. It is to leave her alone in the face of a violence: both guilty and victim, in an inextricable psychological situation, when this violence is largely generated, structurally, by society. One mustn't be surprised that abortion

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<sup>4</sup> United-Nations, Report of the fourth worldwide conference on women, 4th-15<sup>th</sup> September 1995.

<sup>5</sup> PACE, Resolution 1607 of 2008, §§ 7.3 et 7.8.

provokes so many psychological disorders, depressions and suicidal ideas, particularly among young people.

It thus belongs to society to prevent abortion, as the States have formally engaged themselves to do so, in particular during the Cairo Conference. Some of them achieve it and we must follow their example. It is the subject of this seminar to study together the conditions of such an abortion prevention policy in Europe, in order to serve as an inspiration to national politics.