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THE RIGHT TO ABORTION

The Ethical Theory.

From a practical standpoint, the essential requisite for sexual reform on a scientific and humanist basis is the power to separate the fulfilment of the sexual impulse from the procreation of children, except and unless the latter are desired. Both practically and ethically, the possibility and the discussion of Birth Control by contraception have made an enormous difference to the climate of opinion in these matters. But British public opinion has not faced the further logical implication of the humanist point of view—the full right of free motherhood, as it is claimed by Left Wing feminism and socialism on the Continent, and as I have ventured to express the demand for this right in lectures to Labour and Secularist audiences, and in the *Malthusian*, the *New Generation*, and the publications of Dr. W. J. Robinson since the middle of the War years, and in the B.C. Conference in 1922.

Our comrades from Central and Eastern Europe and from France will no doubt give an absorbing account of the progress of this demand in their countries. As to the history of the concept of abortion as a crime, I would refer you to Dr. Havlock Ellis's sixth volume of *Studies in the Psychology of Sex*, and to the admirable monograph in German "Fort mit der Abtreibungsstrafe" ("Away with the Penalty on Abortions") by Dr. Stoecker, Dr. Stabel, and Herr S. Weinberg.

I will confine myself to a few remarks on the present situation in England and to stating the case for the absolute freedom of choice on the woman's part in the early months of pregnancy.

The Legal Position.

By the Offences Against the Person Act of 1861 (Cl. 100, Section 58), the unlawful administration of drugs or use of instruments by a pregnant woman to herself, or (whether she be with child or not) by any person to her, with intent to procure miscarriage, is a felony punishable by penal servitude or by imprisonment at the discretion of the Courts. Section 59 makes the unlawful procuring of such drug or instrument a misdemeanour, whether the pregnancy is actual or imaginary. Thus a woman may be convicted of conspiracy to procure her own miscarriage. The *lawful* procurement of miscarriage can only take place by qualified physicians in specific and established cases of danger to the woman's health and life, as in cases of contracted pelvis and certain forms of heart and kidney disease, and is hedged round with difficulties.

In 1924 an attempt was actually made to extend the scope of this mercies Act, in Clause 2 of the Children and Young Persons Protection Bill—a Private Members' Bill. This Clause—a legal and grammatical curiosity—would have made it possible to change an indictment from homicide to procuring abortion; and would have made the penal servitude for any term less than ten years or more than three, or imprisonment with or without hard labour for not less than two years.¹

Fortunately it was possible to organize enlightened opinion against this Clause and to bring such pressure to bear that the Bill was dropped. But the possibilities of Puritan reaction are by no means exhausted.

The recent Bill in the House of Lords for the Penalizing of Infanticide during Birth is an example!

Some Illogicalities.

Now with the sacramental or traditional point of view on Abortion, as on all Sex questions, Birth Control, Marriage, Divorce, Abnormality—it is impossible to really argue. One can only realize it, and submit or fight it. But with the half-hearted, who profess and practise birth control, but express abhorrence of abortion, it is possible to come to grips. For, firstly, in the early stages of pregnancy, nothing we can recognize as a living human being is extinguished. And secondly, the present position of our contraceptive knowledge and technique indicates very clearly that an absolutely 100 per cent reliable and otherwise acceptable preventive is not only as yet undiscovered, but possibly in many cases *undiscoverable*. I would refer doubters to the excellent Second Report of the International Committee on Birth Control, which quite frankly faced the probability that in many cases abortion was the only possible method of preventing in-crease. (Abortion, N.B. by new, endocrinological methods.)

Every worker in our cause knows that for every one case of poor women demanding contraceptive knowledge and help, there are at least three (some say eight or ten) who swallow poisons or fatally injure themselves with hairpins, knitting needles and even meat-skewers (!!) in the effort to procure miscarriage. Or they achieve an incomplete operation, which by their very ignorance and its

¹ CHILDREN AND YOUNG PERSONS BILL, 1924.

There is the Clause 2, paragraph 1:—

(1) "If a person commits any act which, if it had caused the death of a person would have rendered him liable to be prosecuted and punished for criminal homicide, and by such act causes the death of an unborn child, he shall be guilty of felony and shall be liable upon conviction on indictment to be kept in penal servitude for ten years or any shorter term not less than three years, or be imprisoned with or without hard labour for any term not exceeding two years."

The second paragraph provides that no such indictment is to be tried at Quarter Sessions; the third defines the "unborn child" to mean the child wholly *in utero*. The fourth paragraph runs: "If upon the trial of an indictment for homicide the jury are not satisfied that the accused person is guilty of the offence charged in the indictment, but are satisfied that he is guilty of an offence under this Section, they may acquit him of the offence charged in the indictment, and find him guilty of that other offence, and in that case he shall be liable to be punished as though he had been convicted on an indictment for that other offence."

—From *The New Generation*, November, 1923.

incompleteness, becomes septic. Every hospital, every nurse, every doctor knows of such cases, where the help that can be given is asked too late.

No Necessary Danger.

Let this be cried from the house-tops. The sacrifice of women is unnecessary. A miscarriage is not necessarily fatal or permanently injurious. The statistics of the great Russian experiment prove that very clearly, even apart from the possible extension of methods by endocrine injections.

The old-fashioned ignorance—which some birth controllers seem willing to uphold—was quite needless. Women have been sacrificed where there was no need, though here, too, there is great individual variation.

The Case for Complete Freedom.

An apparently plausible case may be made for restricting the right to an abortion in the early months to cases where the mother is unmarried, or to cases of rape, The situation of the deserted girl, pregnant and alone, is extraordinarily poignant and worthy of all consideration, but I think it would be a mistake on principle to confine the right to abortion to such cases as this. For it would be making the institution of marriage, which some of us regard as obsolete, or at any rate as only one among many equally justifiable and excellent ways of life and love, the Criterion; and marriage was made for humans, not humans for marriage. The position of many married women who are unwilling expectant mothers in the slums of our large towns, or lonely villages, overcrowded, underfed, with unemployed husbands and swarms of starving children, is equally hideous and even more deadly hopeless, though without the especial emotional agony of Gretchen or Hetty Sorrel. (Too often agony has given place to numb apathy.) It would be a tragic mistake to limit our demand to the unmarried mother. The women's need and wish, not a ring or a scrap of paper, should be the test. Secondly, in cases of enforced motherhood due to rape, a particularly ghastly and brutal injustice is perpetrated. But I think that it would be an equal mistake to ask for relief to unwilling motherhood in the case of rape only. To begin with, such cases are notoriously difficult to prove, and it is admitted by sexologists that many false accusations of this crime are made. To limit the right to abortion to such cases would be to place a premium on such accusations. Is that wise or just? Moreover, it is probable that the vast majority of unwilling and enforced conceptions take place within the marriage tie. This is no reason for refusing relief, but it is a reason against legal quibbling and pettifoggery. It would be just as foolish to refuse relief from unwanted motherhood to women whose general (not sexual) character and ethics were contemptible. Do we want to perpetuate cad's stock? Is a child to be inflicted as a punishment?

Eugenic Considerations.

On the racial damage caused by unwilling maternity and pregnancy, I hold a very strong view. I am aware that this view cannot be scientifically proved, as yet, but such an authority as e.g. Professor F. A. E. Crew has admitted its force.

I pass on to two final considerations in favour of free right to abortion (by skilled doctors) up to the fourth month, if the woman desires it.

The Psychic Effect of Pregnancy.

It is accepted that the physical processes of gestation have tremendous effects on mind and emotions. Many women who have conceived a child unwillingly, or, at least, unintentionally, soon become entirely reconciled to the prospect. The new life with its powerful fermentations in their nerves and veins lifts their resistance to sleep and conquers them. If at the end of three months this has not happened, and the woman's refusal is still definite and passionate, I submit that the case for relief is overwhelming—both for the sake of the mother and the unborn. Do we want more nervous wrecks, more embittered, and yet half-hearted mortals?

Abortion Erotically Preferable.

Again, in many cases all known forms of contraception are inadequate and unsatisfactory, in that they destroy or impair pleasure. This is largely a matter of individual constitution, and is of course an added reason for further research in contraceptive methods. But it is also a reason for *extending the area of living*, and the *art of living*, and for making it possible for e.g. women in whom the portals vaginalis and the cervix are as nervously sensitive and active as the clitoris—for as Dr. Van de Velde pointed out in 1924, there are these distinct types, and a tremendous register of genital diversity—to enjoy and benefit by normal intercourse, without enforced motherhood. In many cases, if the habit of early abortion is once established it becomes automatic. Health may be fully preserved by the resources of modern science. I note that one distinguished doctor in one of the Maternal Morality and Official Fertility Conferences was chiefly concerned lest the possibility of safe and healthy abortions should become known to women. Slaves are safer!

Against that attitude I protest and rebel.

The new demand for free motherhood is going to be the next step in feminism. Finally, before I close, may I express my thanks, and appreciation, too, of the work of those Russian and German pioneers who have made this cause practical politics in their countries, and to the little group of medical and social workers—Dr. Ellen Paul, Dr. Blumle Dunlop, and Dr. W. J. Robinson, and the Editors of the *Malthusian* and *New Generation*—who have not been afraid to support the women's right to freedom of choice, or, at least, to allow the case to be put? In the name of the mothers I have known, I thank them. And I thank those here who believe that knowledge, freedom, and honesty are preferable to ignorance, terror, blood-poisoning, and an enormous amount of safe and secret blackmail. In this matter I would quote one of our dead leaders:—

"Over our face a web of lies is woven,

Laws that are falsehoods bind us to the ground."

Who will help in this fight? Not abortion, but forced motherhood, is the crime.