Legalization and Decriminalization of Abortion in Brazil: ten years of feminist struggle

LEILA DE ANDRADE LINHARES BARSTED

Translation by CHRISTOPHER PETERSON

The abortion issue emerged in Brazil as part of a social movement in a society marked by an extremely repressive military dictatorship. This differentiates it from the context of modern, highly-developed capitalist societies, where feminism has struggled to broaden democratic horizons by incorporating the set of ideals of equality for women, wherein the right to abortion is won as a recognition of the right to individual autonomy[1] and as a challenge to the state's power to legislate over issues of individual intimacy. This right thus constitutes the most radical expression of citizens' freedom vis-à-vis the state.

On the other hand, during the 1970s in Brazil it was not an issue of broadening democracy but of obtaining it in the first place. Equality, freedom, individual autonomy, citizenship, and constraining the power of the state were not part of our political tradition. Still, such ideas were not totally out of place. They represented claims from quite diverse segments of society. Feminism was thus a sort of "unarmed" reaction to extreme political represssion. Like other social movements, it emerged and gained strength during the authoritarian period, raising new social demands and questioning gender and race relations, among others, that until then had been swept under the carpet or engulfed in the issue of class struggle.

The core of the struggle for the right to abortion in Brazil is the radical challenge to the state's interference in women's bodies, moral and religious disciplining by religious sectors, and society's moralism in general, particularly among sectors of the Left, which considered the abortion issue divisionary and socially irrelevant.

Looking back on the unfolding struggle for the right to abortion in Brazil allows us to identify some important points.

Throughout the 1980s, the abortion issue was articulated with a number of other issues which gave it legitimacy based on various forms of discourse.

In the first place, the right to abortion was defended as an inherent right to autonomous individual will over issues related to one's body. This position is expressed in the slogan, "Our bodies belong to us". The radical nature of this position challenges the various powers that had been established throughout history to control men's and women's bodies, especially women's.

The defense of the right to abortion was also based on the need to protect women's health. Since abortion is a reality stemming from economic and social factors and a sort of feminine culture that includes it as part of women's reproductive cycle, there was an evident need to legalize it in order to eliminate the complications of clandestine abortion and protect women's health as a higher value than that of protecting the potential life of the fetus.

Based on the right-to-health argument, emphasis was placed on a social concern:

[1] See HALIMI, Gisèle. *La Cause des Femmes*. Paris: Bernard Grasset, 1973.

poor women are the biggest victims of complications of clandestine abortions. In this sense, opposition to legalization of abortion was considered a reactionary position that punished women from the poorer classes who could not afford to use the clandestine abortion clinics that had a better, safer standard of treatment.

Another question that was articulated with the right to abortion was that of scientific progress in early detection of fetal genetic defects. In fact, when legislators were concerned with establishing legal measures taking the pregnant woman's honor or life into account, they still did not have access to the modern prenatal exams which make it possible to determine with great precision the existence of serious fetal defects making future life unfeasible for the newborn.

Finally, the abortion issue was also articulated with the implementation of a system for integral women's health care providing access to orientation and contraceptive services and methods that tended to decrease the incidence of abortions.

Furthermore, the need was identified to separate the abortion issue from the exclusively religious one, and the state thereby began to take a lay position with regard to it.

These positions were reflected in the various abortion bills that were submitted in the 1980s and early 1990s. Both broad legalization and the alternative, restricted, gradual legalization were defended as pro-abortion positions in opposition to the Catholic Church's dogmatic stance of total crimination of abortion, even under situations that prevailing legislation already provided for.

In the search for alliances, the women's movement ran up against limitations to support due to the country's political situation and society's difficulty in polemicizing an issue related to sexuality. While some regional offices of the Brazilian Bar Association like the one in Rio de Janeiro took sides with the women's movement, the Association's national board preferred not to take a stance on the issue. The same thing happened with the Regional Medical Councils, where there were few allies and few in opposition, while the majority kept silent. Some political parties included the right to abortion in their platforms. Still, in terms of articulated action to make this right feasible, the allied parties were lukewarm. The real allies were actually individuals - lawyers, doctors, and legislators - rather than their respective institutions. Members of Congress who were allies of the women's movement for ideological reasons became the spokespersons for various abortion bills. The same was true for the doctors. Very few were brave enough to defend this right, either in its broadest form in the name of women's autonomy or in its more restricted form, related to fetal defects. It was only in the early 1990s that the Federal Medical Council took a public stance in favor of abortion in cases of serious fetal genetic defects.

Those in opposition to abortion were not so numerous, but they were powerful: the Catholic Church, with its national network of pulpits and its influence over the mainstream press and sectors of government; the Evangelical members of Congress with their legislative mandates; some more conservative sectors of the press; and some Regional Medical Councils.

There was some new opposition in the 1990s. There was dissension within the women's movement itself, based on criticism aimed at new reproductive technologies and the influence of the fundamentalist vision that was emerging in women's movements around the world. In addition, some reknowned jurists were taking a stance against abortion in the mainstream press. Initiatives by some feminist groups in the early 1990s to keep discussion on abortion alive and define strategies for action once again raise the struggle for women's right to adopt for or against maternity.

Background

Abortion first began to be taken up as an issue, a social fact, in the 1970s, beginning with some academic studies in the public health area. Outstanding examples of such

studies included works by Milanesi (1970), Falconi (1975), and Martine (1975).

Milanesi's work[2] considered voluntary abortion a public health issue, stressed the high incidence of hospitalization due to complications, and reviewed the various rudimentary abortion practices. According to the author, considering the high incidence of voluntary abortions, there was a de facto informal institutionalization of this procedure, with widespread participation of physicians. In this sense, her conclusions proposed that there be stricter adherence to professional ethics by physicians.

Falconi[3] stressed the relationship between voluntary abortion and hospitalization rates due to complications. Like Milanesi, he called for stricter control to discourage voluntary abortion.

Martine[4] studied behaviors related to family planning and found that considering the high abortion rates, it was virtually the only method accessible to lower-income women.

Inspite of their normative character, the first two studies were the first to reveal and publicize statistics on abortion rates among the lower classes. However, such information only reached the academic medical field.

During the 1970s, the *Opinião* newspaper[5] published several articles on feminism, among which an article defending voluntary abortion and another providing information on the new, safe abortion techniques.

However, both feminism in general and abortion in particular were still considered themes that had been "transplanted" from other social contexts. In reality, as a political issue, abortion had only appeared on the public scene (and even then timidly) after the feminist movement emerged in Brazil.

In fact, in 1975, within an intensely repressive political and social context, a group of women from Rio de Janeiro organized a week-long seminar on the role and behavior of women in Brazilian society, under the auspices of the United Nations and the Brazilian Press Association[6]. The seminar brought the specificity of the women's issue to the surface and was an attempt to shed light on the condition of women in the country. As such, it was the point of departure for public debate on feminism in Brazil.

The seminar's final report presents a brief analysis of the condition of women in our country based on work issues, physical and mental health, legislation, stereotypes and gender roles, education, and racial discrimination, among others. Considering that the vast majority of the women who organized the event and wrote the report were militant leftists, there was an unmistakable intent to link in dialogue with other groups that were opposed to the dictatorship and to establish legitimacy as an opposition movement. This political alliance, which included Catholic groups, explains the emphasis placed on labor issues and great care taken in omitting the expression **feminism** as well as the lack of reference to the abortion issue in the final report (inspite of the fact that other controversial issues, such as homosexuality, were mentioned).[7]

The statutes of the Centro da Mulher Brasileira (Center for Brazilian Women), founded in Rio de Janeiro almost immediately after the 1975 seminar, also left out the words

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[2] This study by MILANESI, Maria Lúcia, was presented as a doctoral thesis at Universidade de São Paulo in 1968 and later published under the title *O Aborto Provocado*. São Paulo: Editora Pioneira/Editora USP, 1970.

[3] See FALCONI, Flávio R. M.. Incidencia de Aborto en el Amparo Maternal Durante el Año de 1967. Master's thesis, school of Medicine, Universidade de São Paulo, 1970.

[4] See MARTINE, George. Formación de la Famílía y Marginalidad Urbana en Rio de Janeiro. Study carried out for CELADE - Centro Latinoamericano de Demografia, Santiago, Chile, 1975.

[5] See *Opinião*, n.º 19, March, 1973.

[6] The group that organized this seminar was made up of Mariska Ribeiro, Leila Linhares Barsted, Branca Moreira Alves, Elice Munerato, Berenice, Miriam Campello, Maria Luiza Heilborn, Maria Helena Darcy, and Maria da Glória Yung, among others.

[7] It is interesting to note that the manifesto approved at this seminar was reprinted in toto by the bulletin of SEDOC - Serviço de Documentação, a Catholic information bulletin published by the Vozes publishing house in Rio de Janeiro, 1975.

feminism and feminist and made no reference to abortion.

At this initial stage, two trends were emerging in the women's groups: on the one hand, the platform gave priority to the legal and labor rights struggle in addition to the struggle for daycare centers. These were the issues dealt with in movement newspapers such as those published by *Nós Mulheres* (We Women), *Brasil Mulher* (Brazil Women), and the Center for Brazilian Women. Obligatory background subjects included macro issues ranging from the wage squeeze to the building of the Trans-Amazonian Highway. Another tendency emphasized the issue of sexuality, abortion, contraception, and a critique of sexual asymmetry and family organization in Brazilian society. While both trends had links with the leftist political movements of the time, only the former was considered political.

The existence of these two distinct methodologies in feminism can be tentatively related to the impasses and issues raised by the dictatorship. The country was under an arbitrary decree known as AI-5 (Institutional Act nº 5), including denial of basic civil rights, political repression, wage squeeze, and denial of habeas corpus, among others. These issues were also important for militants in the women's movement, who feared being labelled as alienated if they move away from the issues defined as priorities by the groups in opposition to the military regimen.

Reflecting on the feminists' fear of being considered alienated by their peer group, Mariska Ribeiro (1986) explains why Celso Furtado, a Minister in the deposed João Goulart government and who was coming back from exile in Europe for the first time in 1975, was asked to give the closing speech at the seminar sponsored by the United Nations and the Brazilian Press Association: "While the women's issue and the UN banner provided us with legitimacy in the eyes of the right-wing repression, we also needed legitimacy in the eyes of the Left. The latter considered it unacceptable to discuss women's specific struggles in a country like Brazil, where the social struggle had been suffocated by the dictatorship. Any women's movement that did not fill its platform with overall claims related to labor, poverty, and the country's socio-economic and political issues was considered untimely, inconvenient, and divisionary. Celso Furtado was thus an alibi that the feminists found to work their way into nooks and crannies and raise their banner for the first time. And it was a banner that surprised everyone and awakened much more interest and support than was expected...."[8]

With regard to specific women's issues, another impasse had been created. Which was more important: the struggle for the right to daycare centers or for the right to abortion? The Left's ideological stance and the need for one huge united front against the dictatorship raised unheard-of questions: were working women really concerned with their sexuality or was sexual pleasure only an issue for bourgeois intellectuals? Goldberg[9] stresses how some leftist writers, including Paul Singer, had already expressed their opinion on the subject. In 1973, in an article published in *Opinião*, Singer stated that "...only a small group of middle - and upper-class women can identify with the issue raised by the feminist movements in the developed countries ... The feminist movement in Brazil will have to consider women's labor the vital issue...."

In Rio de Janeiro, the Center for Brazilian Women avoided taking an official stance as to abortion (in order not to cause problems with the Catholic Church, a major ally in the struggle against the military regimen) and to family planning (to not

[8] Mariska Ribeiro is coordinator of women's reproductive health at IDAC, a member of the CERES group, and founder of the Rio de Janeiro feminist movement in 1975. With regard to the feminist movement's need to find legitimacy among leftist sectors, see also GOLDBERG, Annette. *Feminismo em Regime Autoritário*: a experiência do movimento de mulheres no Rio de Janeiro. Rio de Janeiro: PUC, 1982 and BARSTED, Leila Linhares. *O Movimento Feminista no Rio de Janeiro:* trajetória, demandas e impasses. Rio de Janeiro: Universidade das Nações Unidas/FESP, 1985.

[9] See GOLDBERG, Annette. Op. cit..

cause dissension with the Left), inspite of the fact that many individual members took open stances on both issues.

In a way, the feminist movement in the 1970s faced some problems related to its own identity:

Should it be subordinate to its allies on the Left and restrict its demands to labor issues, daycare centers, and legal equality, or should it stay autonomous and take independent positions and broaden its range of claims and concerns to include sexuality, contraception, abortion, and violence against women?

In its meetings and manifestos, should it only publicly support general struggles or should it also fight for the legitimacy of specific issues?

Should it take an immediate stance on sexuality, abortion, and contraception, or should it postpone these issues till a distant future, thus preserving its alliance with the Church and the Left with regard to general issues?

Finally, what alliances should it form, what alliances should it question, how far should it go in preserving them, and what were the limits to concessions?

The movement's contradictions in defining its identity became explicit in the late 1970s in several meetings and publications all over Brazil. For example, in Rio de Janeiro in 1978, a group of feminists broke off from the Center for Brazilian Women and released a manifesto vindicating space for such taboo issues as sexuality and abortion.

In addition, political decompression in the authoritarian regimen made greater democratization of the leftist groups possible, allowing the feminist movement to take up issues that had previously not been given priority by their political wing. This internal democratization made it possible for all issues to take on the same level of legitimacy, thus abolishing the traditional system of priorities.[10] The 1980s thus found the feminist movement ready to publicly assume the abortion issue.

In chronological terms, the process obviously occurred differently in various parts of Brazil. But in general it was only in the 1980s that the abortion issue came to be discussed publicly by the feminist movement.

It is important to note that when Congressman João Menezes presented a bill to decriminalize abortion in 1975, public demonstrations by feminists were discreet, and there was no open campaign to support the bill.

Beginning in 1980, the feminist movement used various means to publicize discussion of abortion. Newspaper and magazine articles in the mainstream and alternative press, books, theses, seminars, conferences, distribution of pamphlets on the street, TV interviews, pressure on progressive parties and candidates for political office were all part of the new phase in the struggle for the right to abortion.

The 1980s: public debate on abortion

The strait jacket on the feminist movement concerning the abortion issue, which had originated in the alliance with the Left and the Church, began to be loosened in the late 1970s. In fact, research by feminists in 1978[11] showed that in terms of women's sexuality in Brazil, abortion was an actual fact rather than an exception.

The feminist movement thus took a greater offensive on the issue in the 1980s.

In 1980, a group of patients, nurses, and doctors from a clinic in the Jacarepaguá

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[10] See *Mulheres em Movimento*, by several authors. Rio de Janeiro: Editora Marco Zero/IDAC, 1981. This book is a compilation of the proceedings of the meeting held in Rio de Janeiro by the women's movement. There was an attempt to reach a consensus among the participating groups from various states of Brazil in terms of the relevance of all the issues and kinds of work that the women's movement dealt with, thus overcoming the prevailing view of priority versus non-priority issues.

[11] In 1978, the Carlos Chagas Foundation funded research by the CERES Group (Branca Moreira Alves, Mariska Ribeiro, Leila Linhares Barsted, Jacqueline Pitanguy, and Sandra Azeredo) on women's social and sexual identity, including interviews with women from various social segments and age brackets, approaching the abortion issue, among others. This research was published in the book entitled *Espelho de Vênus*: identidade social e sexual da mulher. São Paulo: Editora Brasiliense, 1981.

neighborhood were arrested on charges of practicing abortion, which led a group of feminists to hold demonstrations at the entry to the police station and in front of the municipal courthouse in downtown Rio.[12] The demonstrations received big coverage in Rio's mainstream press.

Hildete Pereira de Mello[13] writes the following on this episode: "...beginning with this incident, a national campaign was organized to decriminalize abortion. The next strategy was to write a pamphlet: 'Women, the time has come to fight for free abortion', which was handed out every week at the open-air markets. This distribution of pamphlets allowed the feminist activists to get a direct reaction on the issue from the silent majority."

Concerning this same incident, Jacqueline Pitanguy wrote an article in the *Jornal do Brasil*[14], a major Rio newspaper with large nationwide circulation, defending the right to abortion as women's option.

This offensive by feminist groups in taking the abortion issue out onto the streets and into the press meant a conscious break with some traditional allies in the struggle against the dictatorship, including the Catholic Church. The Church reacted with several articles in mainstream newspapers, threatening to excommunicate those who defended abortion.

This process coincided with the huge national mobilization to redemocratize the country and with the revitalization of social movements, bringing forth new demands, new issues, and new strategies.

The abortion issue was thus brought out into the open and onto the streets. Feminists interviewed the general population and asked them to vote in an opinion poll at such places as in front of a church in Copacabana and at the Rio city bus terminal. Two questions were asked:

a. Are you for or against abortion?

b. Do you think a woman who has an abortion should be arrested?

Two positions emerged in the analysis of the answers:

1. The majority were against abortion.

2. Nearly all of both the men and women interviewed were against legal punishment for practicing abortion.

Social censure of abortion was thus limited to a moral and religious kind and did not include legal censure by the state as expressed by imprisonment.

This result allows one to infer that inspite of being socially censured, abortion is merely considered a kind of deviant behavior with ethical, moral, and religious implications but where legal punishment is not indicated. In other words, it does not require tutorship by the state.

For the feminists who participated in this process, it was clear that the rallying call was not to defend abortion per se but its decriminalization. In other words, that the penal code should no longer consider it a crime.

That same year, 1980, the Rio de Janeiro press gave considerable coverage to the case of minor J., age 12, and her mother Cícera. The *Jornal do Brasil*, *O Dia*, *O Fluminense*, and *O Globo* reported that J., who had been raped by her stepfather, had not obtained medical permission to have an abortion as provided for by the law. This fact laid bare another reality, that even in situations where abortion was not prohibited by law (pregnancy resulting from rape or that was life-threatening for the mother), access to abortion was denied by the medical establishment. This situation was publicized in a caustic denouncement written by J.'s lawyers and covered by the press, when nothing more could be done because the girl was already in the third quarter of her pregnancy. The story of Cícera and her daughter later became a book by Danda Prado.[15]

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[12] See MELLO, Hildete Pereira de. Sexo Finalmente Explícito: retrospectiva de uma experiência. In *Revista Impressões*, nº. 1, Rio de Janeiro, undated. See also GIOVANNI, Rosângela di. *Projeto de Vida*: um estudo das representações femininas do aborto. São Paulo: UNICAMP, 1983.

[13] MELLO, Hildete Pereira de. Op. cit.

[14] Article published in *Jornal do Brasil* in 1981 under the title O Aborto - Direito de Opção.

[15] PRADO, Danda. *Cícera, um Destino de Mulher*. São Paulo: Editora Brasiliense, 1980.

The lawyers' denouncement shows how hard it was to forge alliances with doctors over the issue of the right to abortion. Newspaper columnist Ibraim Sued had recently written about Congressman João Menezes' bill to broaden the range of situations where abortion was allowed, and in their letter lawyers Jair Leite Pereira and Ronaldo Ferlich de Sá showed their scepticism and told the story of J. and her mother in their calvary to obtain an abortion in a kind of situation that had been covered by law since 1940:

"...we have no doubt about Congressman João Menezes' good intentions ... in addition to non-punishment for physicians who perform necessary abortions, he would allow under law ... those kinds of abortions which are performed to avoid the birth of babies with genetic defects as well as those performed on poor mothers. The bill is praiseworthy, but in practice it will not work, because physicians peremptorially refuse to perform abortions where pregnancy has resulted from rape and are even more adamant when there is evidence of a genetic defect or the mother is poor ... We were approached by a woman who complained that her companion ... had, over a period of months, forced her daughter J., age 13, to have sexual relations with him until finally he got her pregnant, and we took all the legal steps that ended up in the man's conviction ... he was sentenced to three years and nine months in prison .... We contacted the doctors at the Miguel Couto, Souza Aguiar, and even Pioneiras Sociais Hospital (the latter being devoted especially to single and/or poor mothers). We became very discouraged, however...

"Inspite of a very clear order by Judge Itamar Barbalho in which he said that whatever physician performed that second-trimester abortion would not be punished, no physician would do it...

"There was always the same allegation and same fear - of getting a reputation as an abortionist. We finally went to the central hospital of INAMPS (the Federal health and social security system) ... They demanded a series of documents. We provided them. We photocopied all the papers and had them notarized, including the order by Judge Itamar Barbalho of the 21st Criminal Court, where he guaranteed that the physician would not suffer any kind of penalty...

"Then another problem came up. The head of the maternity ward told us that authorization was needed from the Minors' Court, a requirement coming from the Regional Medical Board, which had been consulted...

"We informed the doctor that the Minors' Court could not "authorize" the abortion, since the girl was neither a delinquent nor abandoned, so that she did not fit under the Court's jurisdiction, and that the law did not support abortion in principle but that it also did not penalize physicians who performed abortions in this kind of situation (rape). But the INAMPS system was categorical: if the Minors' Court would not authorize the abortion, they would not perform it - it was an order from the Regional Medical Board. We went to the Minors' Court judge. Judge Campos Neto attested that the case did not come under his jurisdiction, since J. was neither abandoned nor a delinquent.

The director of the hospital then made it clear that he was afraid of getting a reputation as an abortionist: "I won't do it ... but maybe one of my colleagues will." None of them did, because he might get a reputation as an abortionist...

"On August 6, 1980 ... J., who had not yet turned 14 ... gave birth to a boy in the Andaraí Hospital .... A feminist league came to J.'s aid near the end of her pregnancy .... By focusing on the problem from the point of view of victimology, we came to the conclusion that when somebody gets pregnant in Brazil as the result of rape and wants to solve the problem through legal channels, a new figure emerges in the victimological phenomenon: the victim triangle, namely, the rapist who ends up as victim of the prison system, the woman, who is the legal victim of the rape, and the child, who is the victim of poverty...

"Therefore, the only solution is the decriminalization of abortion. The five forms of abortion should be eliminated from our penal code. Physicians who are afraid of a reputation as abortionists will have to decide whose side they are on."[16]

This evaluation by the lawyers is pertinent even in 1991. It was part of the controversy that was sparked within the women's movement concerning tactics for struggling for the right to abortion: decriminalization or broadening of the legal criteria and struggle for the guarantee to treatment in the public hospital system in both the cases already provided for under law as well as in those which might come to be included under broadened legislation.

The lawyers' letter also stressed the conservative stance taken by the Regional Medical Board, contradicting even the existing legislation, and how fruitless it had been to turn to the doctors. Their position explains why even in cases of abortion provided for by law, women still turn to the underground clinics, thus exposing themselves to the travails of illegality.

The abortion issue was also sparked in São Paulo in 1980 by the Frente de Mulheres Feministas (Feminist Women's Front), which published the book *O que é o Aborto*? (What is Abortion?), by Carmem Barroso and Maria José Carneiro da Cunha.[17] The book deals with the social, moral, legal, and demographic aspects of abortion and provides medical information including the techniques used as well as interviews with women who have had abortions. The book stresses the following:

"...in fighting for the legalization of abortion, Brazilian feminist groups have emphasized that this is just one among many claims by feminists, including an overall transformation of society so as not to deny any woman the right to decent human living conditions for herself and the children she wishes to have. This right includes access to information on birth control methods so that women can opt for the best individual method with due support from a qualified gynecologist. To this end, with the expansion of free health clinics controlled by the community, it is necessary to ensure that poor women also have access to information and medical care related to the use of contraceptive methods. Only thus will it be possible to eliminate one of the causes of unwanted pregnancy, namely the lack of knowledge concerning adequate contraceptive methods and the means to acquire them .... No one is in favor of replacing contraceptive methods with abortion...." (1980)

Further on, the authors affirm that "...it is reasonable to assume that the legalization of abortion may help improve women's health conditions, particularly those of poor women, who now risk their lives when they have abortions under extremely precarious conditions. This is what we mean when we say that to oppose legalization means taking a conservative position that results in the persistence of one more privilege for the wealthier classes."

The Feminist Women's Front's endorsement of Barroso and Cunha's study brings up two issues: first, it links the abortion issue with knowledge of and access to contraceptive methods, and second, it relates the issue to working-class women's living conditions. The authors thus enter into dialogue with leftist sectors who had at best remained aloof to the issue of voluntary abortion and at worst had been amiss or opposed to the feminist demand for its legalization.

Allied with a view of abortion as an autonomous right of women as expressed by the slogan "Our Bodies Belong to Us", the book by Barroso and Cunha considers the struggle to legalize abortion as an attempt to "...prevent serious physical injury and even death that numerous women suffer when they undergo clandestine abortions". (1980)

Congressman João Menezes, who in 1975 had submitted a bill to decriminalize abortion, submitted another to broaden the legal criteria to include two indications:

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[16] The entire text of the letter by the lawyers representing Cícera and her daughter J. is in the book by PRADO, Danda. Op. cit., p. 123-125.

[17] BARROSO, Carmem and CUNHA, Maria José Carneiro. *O Que É o Aborto*, Frente de Mulheres Feministas. São Paulo: Editora Cortez, 1980.

cases of fetal genetic defects and poverty affecting the pregnant woman.

The *Visão* magazine was anticipating the results of the vote on this bill in the Brazilian Congress when it wrote on August 11, 1980: "...the Catholic Church will fight vigorously against it. The anti-abortion campaign is based on the notion that it is a crime to take the life of a fetus in order to meet the parents' wishes. The pro-abortion campaign is based on the idea that it is up to the couple, especially the woman, to decide whether or not to have a child, and that there is the further reality of illegal abortions threatening the mother's life, a situation that only legalization would be able to change."[18]

Although this second bill was also rejected, for the feminist movement it showed the need to take up the legislative struggle, whether for decriminalization or for a broadening of the criteria referring to situations provided for under law. On the one hand, this double approach may be viewed as a strategy to take either the short or long run to reach the same objective, namely the right to abortion as an expression of women's autonomy over their bodies. On the other, it reflects ideologically distinct positions. While by this time the abortion issue had been taken up as a priority by the feminist movement as a whole, in fact some women's groups feared taking what might be considered a more radical approach in favor of decriminalization. Those who defended decriminalization proposed that the incriminating articles be stricken from the penal code, keeping only article 125, which considers it a crime to perform an abortion without the pregnant woman's consent.

Defenders of the gradual approach proposed a broadening of criteria for legality beyond those already included in the legal code, based on the premise that there was not a sufficient political base to push further at that time.

This was the prevailing climate when feminists began attempting to forge alliances with other sectors in society, including the Brazilian Bar Association, for example.

Thus, woman lawyer Romy Medeiros da Fonseca, a traditional women's rights advocate[19] and author of a preliminary study for the civil statutes of married women in 1962, submitted a position paper in favor of the decriminalization of abortion at the National Conference of the Brazilian Bar Association in 1962.[20]

While her proposal was approved by a subcommittee, it was not submitted to the conference plenary (as foreseen under statutory procedures), due to a decision by Congressman Bernardo Cabral, then president of the Federal Council of the Bar Association, who felt that the proposal would be rejected by the plenary. He counseled the author and other feminist lawyers to tactically withdraw it and submit it again at another opportunity. His advice was accepted, and the feminist lawyers assumed the task of submitting the proposal for decriminalization of abortion to the state chapters of the Brazilian Bar Association.

With regard to this conference, the feminist newspaper *Mulherio*[21] wrote in 1982: "...the controversy almost turned into a physical fight ... some jurists accused the author of the proposal of dividing colleagues' attention and trying to split the Bar." In an interview to the same newspaper, Romy stated, "The abortion issue tugs at the priests' habits, and the Bar Association is only concerned with the Constitutional Congress. And what of the women who are dying, are they not part of the people?" Zulaiê Cobra Ribeiro, a woman lawyer from

[18] See *Visão*, August 11, 1980.

[19] Author of the preliminary bill that led to the so-called law of the civil statutes for married women, which broadened women's rights in the Brazilian civil code in 1962, Romy Medeiros da Fonseca was a pioneer in the feminist movement in raising the banner of the right to abortion.

[20] FONSECA, Romy Medeiros da. Justiça Social e Aborto. IX Conferência Nacional da Ordem dos Advogados do Brasil, Florianópolis, Santa Catarina, May, 1982.

[21] Cresce a Campanha pela Legalização do Aborto. In *Mulherio*, July-August, 1982.

São Paulo who was present at the conference, noted in an interview to *Mulherio* that "...as long as we were discussing proposals on the National Security Law, the Constitutional Congress, agrarian reform, and labor rights, there was consensus. But when it came time to talk about legal equality between the sexes ... the conversation changed and there was talk about protecting the life of the fetus, while nothing was said about the thousands of women who die or end up mutilated as a result of clandestine abortions on a large scale."

From 1982 to the present the Federal Council of the Brazilian Bar Association has failed as an institution to take a position in favor of abortion, inspite of international experience moving towards less repressive legislation. Only the isolated voices of some state chapters of the Bar, such Rio de Janeiro, and a few individual lawyers have taken a position in favor of decriminalization or broadening the legal criteria.

It became increasingly clear that with the redemocratization of Brazil, both decriminalization and the gradualist approach would be decided by the National Congress. In 1982, this realization led feminists to establish a dialogue with the political parties, particularly with women candidates in the elections that were to be held that year.

This dialogue was recorded in *Mulherio*[22], which interviewed candidates Lúcia Arruda (PT-Workers' Party, Rio), Heloneida Studart (PMDB-Party of the Brazilian Democratic Movement, Rio), Maria Tereza Amaral (PDT-Democratic Labor Party, Rio), Ruth Escobar (PMDB, São Paulo), Olara Sharf (PT, São Paulo), and Lídice da Mata (PMDB, Bahia). All were asked to give their positions on abortion, and inspite of some slight differences, all were in favor of legalization based on a concern for women's health, particularly that of poor women.

The year 1982 also witnessed the formation of the Feminist Alert for the Elections, in Rio de Janeiro, a supra-partisan coalition of women's groups who submitted feminist demands to the various political parties, particularly the demand for legalizing abortion. Some of the parties included this demand in their platforms.[23]

Rio de Janeiro feminists felt that the arguments in favor of legalization of abortion were strengthened by research done by feminist Hildete Pereira de Mello[24], who did a survey in the INAMPS (public, Federal) hospitals on complications of clandestine voluntary abortions. Rio de Janeiro feminists fought for the decriminalization of abortion up to the 12th week of pregnancy and for orientation that abortion should not be understood as a contraceptive method.

A series of events occurred in 1983 that were relevant for the struggle to legalize abortion.

A meeting was held in March 1983 in Rio de Janeiro on health, sexuality, contraception, and abortion, under the auspices of the Casa da Mulher do Rio de Janeiro, Grupo Ceres, Coletivo de Mulheres do Rio de Janeiro, Projeto Mulher do IDAC, and Grupo Mulherando. According to the evaluation report, the goal of this meeting had been "...to discuss the controversial issue of family planning and abortion under various approaches and points of view .... We feel it is highly important for the women's movement in Brazil to have a definite position on family planning and abortion based on a broad discussion, void of prejudice.... We feel this discussion is necessary and opportune, for two reasons among others: a. under a proposal by the Executive Branch (1983), the Legislative Branch is discussing changes in the current Brazilian penal code, which now penalizes

[22] Rio: A Busca da Forma Feminina de Fazer Política. In *Mulherio*, July-August, 1982.

[23] The two most active parties in this context were the PMDB (Party of the Brazilian Democratic Movement) and the PT (Workers' Party).

[24] MELLO, Hildete Pereira de. *Sequelas do Aborto:* custos e implicações sociais, Fundação Carlos Chagas, INAMPS, Rio de Janeiro, May, 1982. This book gives the results of a survey that Hildete Pereira de Mello and Maria Teres Indiani presented to the Fundação Carlos Chagas, which supported the study under its program for financing research on women.

voluntary abortion; and b. in recent years and at present, the Legislature has been manifesting interest in relation to the formulation of a population policy .... It is thus essential for the women's movement in Brazil to take a stand, not only through isolated positions by the various groups, but as a consensus."

This meeting became a milestone in the public discussion on abortion because of its national nature. For three days, three hundred women representing 57 groups from all over the country (Pará, Maranhão, and Sergipe were the only states that were not represented), and members of Congress (Senators, members of the Federal and respective State Houses, and city councilpersons) met to discuss voluntary abortion in two panels. The speakers on these panels were highly representative individuals from their respective professional fields.[25]

As the newspaper *Mulherio* reported[26], "...the discussions were characterized by a diversity of positions, and there was even a representative of the government, woman Senator Eunice Michillis of the PDS (Democratic Social Party, pro-government) from the state of Amazonas...."

According to *Mulherio*, "...the most important aspect was how mature the discussion was, opening up a common struggle based on the need for women to have control over their own bodies." September 28 was declared National Day of Struggle for Abortion Rights.

There were points of consensus and divergence in the discussions that followed presentations by the speakers and the showing of a film by Eunice Gutman, *Vida de Mãe é Assim Mesmo*? (Can This Be Motherhood?). Some conceptual confusion became evident. Was decriminalizing the same as legalizing? Was it the proper time to launch a national abortion rights campaign? Should men be heard? These doubts pointed to the need to delve further into the abortion issue within the movement itself, considering that Rio de Janeiro and São Paulo had already moved further forward on the issue than groups from the other states. Even so, the proposal for a National Day of Struggle for Abortion Rights was approved almost unanimously.

The final report included a demand with the mark of Zuleika Alembert, who had the legitimacy of militant leftist and feminist, member of the São Paulo Feminist Women's Front, namely: "...the right to abortion as the last resort to solve a situation of unwanted pregancy. A widespread campaign on the abortion issue should be carried out, including information on the risks it involves for women's health when performed without medical care. The gradual liberation of abortion should include free, complete gynecological care, including abortion in the social security/public health system clinics. This is the only policy that considers women subjects rather than objects. This is why we will support and defend such a policy, because more than ever before, our bodies belong to us!"

The meeting served to encourage the groups that were involved in the organization of it to edit a bulletin on health, sexuality, and abortion in May 1983.[27] This bulletin was

[25] Speakers in the panel on abortion included Martha Suplicy (sexologist), Hélio Aguinaga (physician), Christian Gauderer (physician), Hildete Pereira de Mello (economist), Eliane Labra (social scientist), Danda Prado (writer), Leny Silverstein (anthropologist), Mirian Fauri (physician), Zuleika Alembert (journalist), Eunice Michillis (Senator), Cristina Tavares (Representative), and Nilo Batista (criminal lawyer). Rosângela Giovanni, in reporting on this meeting in her book, stresses the opinion given by participant Carmem da Silva, as expressed in an article in *Cláudia*, June 26, 1983: "...we are going to win a right that no one wants to use, but that is due to us at any rate. Just as we got the right to divorce, even though everyone would prefer marriage to work out. It is like the right to wear glasses or crutches, to amputate a limb with gangrene, or to have heart surgery. It is something that nobody wants for herself, but it is a freedom that no one can reasonably deny us if the need arises."

[26] *Mulherio*, May-July, 1983. In the previous issue, March-April, 1983, this newspaper covered the seminar by reporting: "...taboo lifted on discussion of abortion rights."

[27] MELLO, Hildete Pereira de. In *Impressões*, and GIOVANNI, Rosângela di. Op. cit..

[28] SUPLICY, Martha. *Conversando sobre Sexo*. São Paulo: Editora da Autora, 1983.

called *Sexo Finalmente Explícito* (At Last, Explicit Sex). Five thousand copies were printed. It defended the decriminalization of abortion and publicized information on contraception within a perspective of defense of reproductive rights.

Martha Suplicy also published her book *Conversando sobre Sexo* (Talking about Sex)[28] in 1983, based on her experience heading a major TV talk program on the Globo network. Martha Suplicy's book deals with the struggle to legalize abortion, provides details on the different types of abortion, and talks about the Church's position. The issue is covered in an unbiased way. Oddly enough, the book was published by a Catholic publishing house, *Vozes*.

Mulherio published several articles on abortion in 1983. There was an article on family planning in the January-February issue by Carmem Barroso, who declared, "...for the same reasons that advocates of family planning are not interested in fully publicizing information about methods that hinge on the desire to have children, they are also not concerned about making abortion safer and more accessible through decriminalization. As long as it remains illegal, abortion is a serious risk for a woman who decides to interrupt a pregnancy that she could not avoid...."

It was also in 1983 that a coalition of women's groups, including Casa da Mulher de São Paulo, CIM - Women's Information Center, SOS-Sexuality and Politics, Pró-Mulher, the Women's Union, the Feminist Women's Front, the Lesbian-Feminist Action Group, and the State Council on the Condition of Women defined a common platform including the following: "...free abortion for women who want it and have not been able to avoid an unwanted pregnancy. Orientation that abortion should not be viewed as a contraceptive measure. As long as there are clandestine abortions, there must be decent hospital care for women who need it because of complications."[29]

A document was also sent to the government of the state of Rio de Janeiro, signed by women's organizations and groups, trade union committees, and political party movements (from the PDT, PMDB, and PT) with suggestions concerning health, education, violence, and the double work day, demanding "...orientation for women concerning abortion: indications, consequences, risks, and psychological care, making sure that it is not seen as a contraceptive method."[30]

Veja magazine published an article in 1983 entitled Brazil: Abortion Champion, and *Isto É* reported on a round-table discussion at the University of Campinas in the state of São Paulo: "...no policy related to (family planning) can ignore the abortion issue. It is estimated that there are as many as four million clandestine abortions a year in Brazil. The specialists meeting at the University of Campinas believe that a plebiscite should be held on the decriminalization of abortion."[31]

National Representative Cristina Tavares (PMDB, Pernambuco) presented a bill to Congress in 1983 which proposed to broaden the range of legal possibilities for abortion. In justifying the bill, the Congresswoman pointed to the need to put an end to the abortion industry, which she charged with surgical accidents and deaths.

According to *Mulherio*[32], "Cristina does not intend to decriminalize abortion, since she considers this alternative controversial, sparking 'adverse, impassioned' opinions. Rather, she has chosen to 'broaden the legal indications for abortion.'"

Mulherio went further to say, "The project was very well-received by women's groups." Several Congresswomen who were interviewed by the newspaper, including Ivete Vargas (PTB-Brazilian Labor Party, São Paulo), Rita Furtado (PDS, Roraima), and Bete Mendes (PT, São Paulo) spoke in favor of the bill.

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[29] *Mulherio*, Jan.-Feb., 1983.

[30] *Mulherio*, Jan.-Feb., 1983.

[31] *Veja*, Nov. 16, 1983, p. 74, and *Isto É*, June 29, 1983, p. 42.

[32] Congresso Discutirá o Aborto. In *Mulherio*, May-June, 1983.

Ivete Vargas went so far as to say, "The struggle for abortion not to be penalized is an absolutely legitimate one. I can ensure you that the PTB is going to vote for the bill, since to penalize abortion is an absurd way of incriminating women and preventing them from having control over their own bodies. It is a reactionary attitude."

Rita Furtado stated, "It is necessary to liberalize, open up, and democratize the legislation on abortion."

Bete Mendes stated in turn, "When Congress discusses abortion, it will be dealing with the health of the people, that portion of the population that is subject to this situation of criminal abortion, using rudimentary backyard techniques, those members of the population that are not even knowledgable about their own bodies."

In 1985, at the initiative of State Representative Lúcia Arruda (PT, Rio), the Rio de Janeiro State House of Representatives approved bill no. 832/85, which required the public health system in the State to provide medical care to women in cases of abortion permitted under the penal code.

This law was only in force for a short period of time, and the fact that it was later revoked shows explicitly that inspite of the Republican system in Brazil having officially separated Church and state, the Church still wields tremendous power in intimate connection with the state in terms of issues related to morality and sexuality.

Act nº 832/85 was revoked at the initiative of the State Governor, who submitted an appeal to the State Leislature at the urging of Cardinal Eugênio Salles.

The Catholic hierarchy in Rio de Janeiro had set off a huge campaign against the bill. On the Sunday prior to the voting of the bill's revocation, it distributed a letter to the parishes, to be read from the pulpit during mass, repudiating the bill as a legal norm that required physicians and clinics to practice the "crime of abortion". The same campaign was broadcast over radio.

During this controversy, the Rio de Janeiro Regional Medical Council also came out publicly against Act nº 832/85.

State Representative Lúcia Arruda issued a statement on the revocation of Act nº 832/85 in which she pointed out that the São Paulo Regional Medical Council had "...defended an open position in proposing a broad discussion by society on the issue of abortion .... The São Paulo Medical Council considers the prevailing legislation outdated... and thinks that abortion should be legal, not only for pregnancies which imply risk to the woman's health.... The members of the Council are also in favor of abortion when the fetus presents a disease that is harmful to its development, or a serious genetic defect...." The same statement also quotes shows of support for Act nº 832/85, including those from the president of the Rio de Janeiro chapter of the Brazilian Bar Association, Nilo Batista, the women's committee of the same chapter, state representatives and councilpersons from various parts of Brazil, and over 60 groups from civil society, including women's groups and professional associations from all over the country including Rio de Janeiro, São Paulo, Minas Gerais, Pernambuco, Ceará, Santa Catarina, Espírito Santo, and even São Félix do Araguaia.[33]

From 1983 to 1987, the abortion issue was kept alive in the public debate through articles in the mainstream press, such as *Jornal do Brasil, Folha de S. Paulo,* and *Veja,* as well as medical journals, publications by the women's movement, publications by nongovernmental organizations, national and international meetings and symposia, and even the official government press bulletin.[34]

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[33] This document was written up by the staff of Rio de Janeiro State Representative Lúcia Arruda and is a dossier on the elaboration, approval, and revocation of said law. This document's reference to the São Paulo Regional Medical Council is on the Council's position concerning abortion. In 1984 the São Paulo Council had written a report entitled A Questão do Aborto Legal no Brasil, drawing on information from the feminist movement, including data from Romy Medeiros da Fonseca's thesis and publishing results of a study undertaken with the Council's support. The study, done by Prof. Maria Cecília Ferro Donnangelo, interviewed São Paulo physicians as to their opinions regarding voluntary abortion.

[34] Among the outstanding books and articles

In 1985, under the headline *Venceu a Hipocrisia* (Hypocrisy Wins Out), the newspaper *Sexo Finalmente Explícito*[35] reported that "on May 31 the Constitution and Justice Commission of the House of Representatives voted 10 to 3 against the bill by Congresswoman Cristina Tavares which proposed to broaden the decriminalization of abortion" and attacked the vote by rapporteur Representative Hamilton Xavier (PDS, Rio).

In 1986, INAMPS, the Ministry of Health, and the National Council for the Rights of Women, with support from feminist groups, established a policy for integral health care for women known as PAISM - the Program for Integral Health Care for Women. One of the main objectives of this program was "to avoid voluntary abortion by preventing unwanted pregnancy". It was based on the premise that orientation and access to contraceptive methods helped prevent voluntary abortion.

In 1987, the National Seminar on Reproductive Rights was held in São Paulo under the auspices of the Black Women's Collective, the Feminist Collective on Sexuality and Health, the São Paulo State Council on the Condition of Women, and Dr. Elza Berquó of CEBRAP.

This seminar consisted of three major sessions dealing with the issue of human reproduction, criteria for producing research, and the utilization of contraceptives and scientific advances in detecting fetal genetic defects.

The last session led to discussion on abortion, which had not been included as an autonomous theme on the seminar's agenda. Speaking on scientific progress in detecting fetal defects, Dr. Thomaz Gollop of the University of São Paulo suggested that a third legal criterion be included for necessary abortion under Article 128 of the penal code, as follows:

"No punishment is applied for abortion performed by a physician: III - when serious, incurable disease is detected in the fetus."

During this same session, Danda Prado[36] spoke on scientific progress in detecting fetal genetic defects and critically warned participants about the anti-ethical potential of such progress; in her opinion, the proposal to broaden the legislation to include fetal defects was only valid "...from the angle of women's integrity and autonomy, resting in the fact that it broadens the range of possibilities for abortion as a tactical stage within a strategy for struggle, to reach a broader liberation of cases permitted under the law in which a pregnancy can be interrupted."

Father Júlio Munaro[37] expressed the Catholic Church's position, which for dogmati reasons was contrary to Dr. Gollop's proposal to allow abortion in cases of fetal defects: "...a woman or couple who decide to have a prenatal exam with the purpose of taking the fetus's life should it prove to have a serious defect or disease are proceeding against a person and therefore against the right to life. The same can be said of the physician or representative of the institution that dares to do this."

The seminar's report, especially the chapter on the session concerning Scientific Progress in Detecting Fetal Defects, records the heated controversy over the abortion issue. The argument between Father Munaro and

published were the following: a study by IDAC coordinated by Mariska Ribeiro, Ter Filhos: uma escolha consciente, 1986; articles in *Revista Impressões*, Rio de Janeiro, 1987; articles published in *Folha de S. Paulo* by Carmem Barroso, 1987 and 1989, Anésia Pacheco Chaves and Sílvia Pimentel, 1987; an article by Sílvia Pimentel in *Veja*, 1988; a study by Dr. Thomaz Gollop published in *Revista Brasileira de Genética*, 1987; etc.. The meetings included the International Meeting of the CEDAW in São Paulo in 1987; the National Seminar on Reproductive Rights in São Paulo in 1987; the Christopher Tietze International Symposium, Women's Health in the Third World, in Rio de Janeiro in 1988; the National Meeting on Women's Health in Brasília in 1989; etc..

[35] With regard to the newspaper *Sexo Finalmente Explícito* see MELLO, Hildete Pereira. In *Revista Impressões*, nº 1, Rio de Janeiro, undated.

[36] PRADO, Danda. *Os Avanços da Ciência na Detecção da Má-Formação Congênita*. In Relatório do Seminário Nacional dos Direitos Reprodutivos. Embu, São Paulo, 1987.

[37] MUNARO, Júlio. *Avanços Científicos na Detecção da Má-Formação Congênita - Problemas Éticos e Institucionais*. In Relatório do Seminário Nacional dos Direitos Reprodutivos. Embu, São Paulo, 1987.

the feminists shows that it is impossible to have a dialogue when one side bases its authority on religious dogma.

It was also clear that particularly with regard to issues involving sexuality, the Catholic Church in Brazil has the power to influence and even determine the government's position. However, this influence is not exerted without contradictions or opposing forces.

Proof of this was the 1986 edition of the Program for Integral Health Care for Women (PAISM), which included activities related to contraceptive orientation and services. Another example, albeit still not written into the legislation, is the penal code review. In 1987, Minister of Justice Paulo Brossard authorized publication of the prelimary bill for the penal code in the *Diário Oficial* (official government record), including a special part written up in 1983 by a specially designated commission. In the chapter on crimes against life, specifically abortion, the preliminary bill broadened the criteria for legal abortion to include "cases where the fetus presents serious and irreversible physical or mental defects".[38] According to this proposed change, Article 128 would thus include cases of so-called "merciful abortion".

In 1987, in the early stages of discussion on the elaboration of the new Federal Constitution, women's groups began to articulate nationwide to set a strategy for approaching members of the Constitutional Congress on the issue of abortion rights. At first, the feminists intended for the right to abortion to be declared in the new Constitution. In opposition to this proposal, the Catholic Church and Evangelical Congressmen intended for abortion to be declared a crime.

Nilce Gomes de Souza[39], who followed women's issues in the Constitutional Congress process as a staff member of the National Council for Women's Rights, reported on this controversy:

"There was also polarization over the defense of decriminalization of abortion. On the one hand, the feminists were in favor of decriminalization of abortion or at least not including articles that penalized it under the Constitution. On the other hand there were the conservatives, not the least of whom were the religious groups. The first report of the Sub-Committee on Individual Rights and Guarantees included the following explicit reference: '...directly voluntary abortion is a crime.' This later became ... the right to life, from conception until death. This same wording also appeared in the sub-committees on health and family...

"There was a great deal of controversy in the Sub-Committee on Family. The Church's representatives showed an extremely biased, made-to-order film called *The Silent Cry*[40], which led to discussion over good and evil...

"We warned even the more conservative members of the Constitutional Congress about what a tremendous step backward this article could mean in the penal code, which since 1940 had provided for abortion in two different situations...."

Nilce Gomes de Souza also reported that in the Committee on Men and Women there was wording favorable to the legalization of abortion: "A person only acquires the condition of a subject with rights through live birth," and "...intra-uterine life, inseparable from the body that conceived it, is the responsability of the woman...." In evaluating the work by the Sub-Committee on Family, it stresses that "...there was a strong presence by Catholic religious organizations (through the National Council of Brazilian Bishops) as well as Evangelical ones. In addition, there were representatives from government agencies and women's movements .... The discussions were characterized by the ideological and

[38] See DOTTI, René Ariel. *Código Penal*. Rio de Janeiro: Editora Forense, 1989.

[39] GOMES, Nilce. E Assim se Falou da Mulher nos Bastidores da Constituinte. In *Revista Impressões*, nº 1, Rio de Janeiro, undated.

[40] This film received wide coverage by the country's main television networks and mainstream newspapers and magazines.

political tone of the various conceptions of protection of life, and abortion was once again the most controversial theme in this sub-committee."

During this square-off, the feminists took a stand of struggling for abortion not to be included in the text of the Constitution, preferring to postpone its legalization until the penal code was reviewed. The feminist lobby, organized by the National Council for Women's Rights and autonomous groups from all over the country, succeeded in changing the wording proposed by the religious groups for article 5 of the Constitution, which defended "the inviolability of the right to life beginning at conception". The final wording of this article as it was approved in the Constitution merely reads "the inviolability of the right to life, liberty...."

Acting as the official clearinghouse for nationwide mobilization of women, the National Council for Women's Rights organized a conference entitled Women's Health: A Right to be Conquered, held in the wings of Congress in Brasília in 1989. The meeting's agenda included issues such as maternal morbidity and mortality, health care at parturition, cesarians, contraception, sterilization, and abortion.

Abortion was dealt with in a specific panel, including perspectives on ethics, policy, legislation, and medicine. Nationally reknowned physicians such as José Aristodemo Pinotti and Thomaz Gollop expressed their opinions in favor of abortion and the need for a broad-based debate on the issue. Two Congressmen, José Genoino (PT, São Paulo) and Luiz Alfredo Salomão (PDT, Rio) came out with two bills in favor of the right to abortion.

The National Council for Women's Rights wrote up a publication and a *Carta das Mulheres em Defesa de seu Direito à Saúde* (Women's Charter in Defense of the Right to Health), which refers specifically to abortion as follows:

"1. Voluntary abortion should be considered a women's health issue.

2. All articles of the penal code defining abortion as a crime should be immediately revoked, considering that the Constitution in force, under article 196, determines that health is the right of all and the duty of the state.

3. Voluntary abortion should be performed by the public health services system at the Federal, State, and municipal levels.

4. A bill should be written up including the following principles:

a. Women have the right to interrupt pregnancy.

b. The state is responsible for integral health care for women in the public system, considering their right to conceive, avoid conception, and interrupt pregnancy.

c. September 28 is to be considered National Day for the Struggle to Decriminalize Abortion."

The 1980s can be considered both a decade of struggle for the right to abortion and a period of intense mobilization by women with regard to their health and reproductive rights in association with other issues of women's citizenship. The movement defended women's autonomy and health under the slogan "Our Bodies Belong to Us" and made the abortion issue a political one which sparked both support and opposition, but which no one could ignore. Pressure from religious sectors was constant - sometimes discreet, in the back wings of politics, sometimes more ostensive, through intense marketting strategies in the mainstream press or powerful lobbying of members of Congress and sectors of government in general. However, what was most noteworthy about the feminists in the abortion rights struggle was their ability to carry forth with this solitary struggle. They alone radically sparked the public debate with undeniable persistence. In fact, they had very few allies. The Reginal Medical Councils (with some exceptions), the Federal Council of the Brazilian Bar Association, trade union locals and conferations, and the progressive intelligentsia were at best indifferent to the feminist struggle and at worst contrary to it.

The Brazilian Congress did not pass any of the bills that were submitted on abortion, inspite of the strong political constituency of Representatives Cristina Tavares, José Genoino, and Luiz Alfredo Salomão.

Feminists in Brazil had found allies and achieved legal victories on the issues of labor, civil rights, health care, and even denouncement of violence in the home, but the struggle for abortion rights ran up against moralism, fear of the Church, and the priests' habits.

The feminist groups' strategy for continuing the national debate on abortion identified some targets: to insist on support for liberalizing projects in the National Congress, to bring influence to bear on the elaboration of State constitutions in 1989 and the municipal common legislation in 1990, and the proposal for review of the penal code. This strategy of dialogue with the various legislatures led to partial gains, but it also took the bite out of the public debate with other sectors of society.

The Abortion Issue in the 1990s: impasses and prospects

The women's pro-abortion rights movement carried out several activities in the early 1990s. These included lobbying various city councils, particularly in capital cities, to force municipal legislation to include medical care by the public health system in types of abortion allowed by law. This passed in many cities without the kind of resistance that the Catholic Church raised against Act no. 832/85 in Rio de Janeiro.

There was thus a certain ease in formally approving the right to medical care for legal approved abortions in the public health care system both at the State and municipal level in various parts of the country, mainly where the feminist movement had participated in the legislative process. These gains were also made possible under the principle that municipal and State norms can widen the scope of legislation as long as they do not contradict Federal legislation and providing that the Federal Constitution allows the local legislature to legislate on the matter.

Thus, the Brazilian penal code cannot be contradicted by State or municipal laws, because penal jurisdiction in Brazil belongs to the National Congress. States and municipalities can only legislate on an issue in the absence of a corresponding Federal norm. With regard to the kinds of abortion provided for under law, it was thus possible for some city councils to regulate article 128, ensuring women the right to have such abortions free of cost in the public health care system.

The feminists' tactics of working legislatively in the States and municipalities allowed for the creation of a liberal regulation of cases provided for under Article 128. However, following the national meeting Women's Health: A Right to Be Conquered, held in Brasília in 1989 at the initiative of the National Council for Women's Rights, the abortion issue lost its priority among women's groups. Even the push for the implementation of the Program for Integral Health Care for Women failed to find greater support among women's groups.

The big issue in terms of women's health in the early 1990s was that of mass sterilization. Inspite of the truly alarming figures on the magnitude of mass sterilization, it is often still a discussion marked by positions that contribute little towards clarification of the issue. While statistics indicate excessively high rates of sterilization of women, the causes of this phenomenon need to be fully analyzed. One cannot attribute this high incidence simply to fraud against women or international adjustment policy norms.

It is necessary to identify and analyze other factors that lead women to seek this irreversible method: the non-implementation of the Program for Integral Health Care for Women, which would have allowed women access to non-irreversible contraceptive methods; socio-economic difficulties experienced by women in motherhood; social penalization of mothers in the labor market with a double work day; lack of daycare centers and other social facilities to help mothers raise children decently; new standards imposed by the media or desired by women; instability in relationships due to a decrease in moralism as to multiplicity of partners; differentiated survival strategies and life projects; difficulty in encountering cooperation from male partners on the issue of contraception;

messages from the feminist movement encouraging women to take on new social roles in public areas; and a number of other factors that need to be studied in order to understand the phenomenon of sterilization of women in Brazil.

What is certain is that the women's movement has no longer devoted its time to investigating and denouncing the situation of clandestine abortion in Brazil or to following legislative bills or organizing lobbies to this end in Congress or in society as a whole.

This apparent wearing down or change of priority struggles in the women's movement deserves a closer reading.

Some women's groups have raised proposals to criminalize sterilization, even in cases of tubal ligations performed with the patient's consent.

This position is highly problematic with regard to the demand for the right to abortion. If sterilization with the woman's consent is criminalized, it will imply the permanent criminalization of abortion.

What is behind the right to abortion is a political and philosophical question - a citizen's or individual's right to autonomy over her own body. In the name of this right, there is no punishment for either attempted suicide or hunger strikes, which are even respected by the Medical Code of Ethics. Many jurists invoke this right to defend non-incrimination for drug abusers. These are controversial issues that must be taken into consideration.

In this sense, crimination of sterilization performed with the woman's consent is a rejection of this principle of autonomy of will and implies maintaining the crimination of abortion in all cases except perhaps when there is risk to the pregnant woman's life.

In addition, the difficulty in moving forward with the abortion issue in general and particularly with that of voluntary abortion based on fetal genetic defects has been aggravated by criticism by segments of the women's movement towards new reproductive technologies. The tendency to question parameters of scientific development also converges with positions that revalue feminine nature, natural processes, and human ecology. This trend, in turn, has points in common with the resurgence of Eastern and Western fundamentalism.

On the one hand, such issues bolster the need for a public debate on the ethics of science, the power of physicians in modern society, and women's stances toward processes that ultimately affect their own bodies.

On the other, they can lead to retrocession in relation to the importance of ethical scientific progress and the independence women have achieved in terms of not being subordinated to unavoidable biological fate both in terms of conception and the situation of infertility.

The Catholic Church's power in the abortion issue has neither decreased nor increased. There is no doubt that in specific situations, like during the Pope's visit to Brazil, rejection of abortion has surfaced again, stronger than ever. However, there is also indication that some lay and clerical Catholic groups have been discussing the abortion issue inside the Church from a non-dogmatic perspective, attempting to reflect on women's living conditions and taking an open stance in favor of legalization. The Catholic Church has undeniable power in a state that does not assume its own laicization. In this sense, while the hearts and minds of the masses, particularly of the poor strata of society, are no longer monopolized by Catholicism (see the intense proliferation of Evangelical denominations in Brazil), the state's major religious interlocutor is still the Catholic Church.

It is also important to point out that during the course of the struggle for abortion rights, women have lost an important channel for national articulation, the National Council for Women's Rights. While it still exists formally, the Council ceased to exist de facto in 1989, when the Federal government emptied and dismantled it. This was a terrible blow, since for the first time in Brazil's history the women's movement had had a representative agency at the Federal government level, a direct representation

that allowed for the articulation of networks, communications, and national alliances.
In a society dominated by the media, the absence of channels for shaping public opinion has also been a major problem for the women's movement in submitting its claims. While the media has sometimes been sympathetic to women's causes, access to the mainstream press, particularly the television networks, is still limited and intermittent.
Perception of this state of disheartenment with the abortion issue has led some women's groups to once again promote internal discussions and public debate on proposals for legalization.
Such initiatives do not go unanswered. The mainstream press opens its pages to well-known national figures to criticize such liberalizing proposals, along with the traditional articles signed by members of the Catholic hierarchy. Great emphasis is placed on surveys that indicate rejection of abortion by society.

What is needed now in the early 1990s is a regathering of forces in favor of the right to abortion based on the following points that emerged from the discussion in the 1980s:
a. defense of individual autonomy over one's body;
b. concern with women's health;
c. concern with poor women who are victims of clandestine abortion;
d. extension and democratization of scientific progress in detecting fetal genetic defects;
e. laicization of both the discussion and the state.

This articulation should converge towards the elaboration of consensual strategies and tactics to deal with the right to abortion as a political demand. Its underpinnings would thus be the perception that this citizens' demand is raised within the context of a society that is moralistic, authoritarian, and discriminatory towards women.