

GOLDSMITHS, UNIVERSITY OF LONDON

Abortion in Chile:  
Biopolitics and Contemporary Feminist Resistance

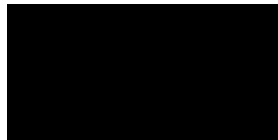
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Declaration:

I, Lieta Valeria Vivaldi Macho, declare that this thesis is all my own work.



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## **Abstract**

Until as recently as September 2017, Chile was one of the few countries in the world that did not permit abortion under any circumstances. Although the Health Code had regulated therapeutic abortion (or abortion on health grounds) from 1931, this was repealed in 1989 as one of Pinochet's last acts in office, leaving women to seek terminations clandestinely. Feminists initially thought that this was an administrative act and would be easy to revert, but it actually took more than 25 years. The Act that was finally approved in 2017 allows abortion on three grounds: when a woman's life is in danger, when there are foetal anomalies incompatible with life, and in the case of rape. As the law allows abortion only in limited cases, most women will have to continue to seek illegal abortions as previously.

As the law has been passed, I argue that to focus solely on the legal as the site at which feminism 'loses' or 'succeeds' is to eclipse the wider feminist activity and removes the requisite attention needed to understand the task of feminism. This thesis shows how the feminist struggle is part of a wider *dispositif* in which feminism emerges as a set of interventions into the different ways in which abortion is constructed. Feminism is in this sense a relational mode of constructing power/knowledge, intervening and attempting to influence the *dispositif* and being influenced in turn. I consider key events, the parliamentary debates, visual campaigns, and contemporary challenges. In particular, feminist work shows the importance of vulnerable bodies resisting and challenging conservative or reactionary modes of biopolitics in contemporary Chile.

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## Chapter 1 Introduction

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### I. General Context

Until September 2017, Chile was one of the few countries that did not permit abortion under any circumstances. The Health Code had regulated therapeutic abortion (or abortion on health grounds) since 1931, until it was repealed in 1989 as one of Pinochet's last acts in office. What was seen by feminists as an administrative act, easy to revert, has taken 25 years to change.

The idea of writing this thesis began with the frustration of living in a country in which women were not able to abort even if they were dying, if the pregnancy was non-viable, or if it was the product of rape (in many cases girls had been systematically abused). While I was writing this thesis, a bill was introduced and debated to allow abortions on these limited grounds. When I was finishing this thesis, the bill was finally approved, so Chile is no longer one of the few remaining countries in the world where abortion is prohibited. However, the cases in which abortion is legally allowed are still very limited, and conservatives are trying to limit further women's access to abortion. Many women will still have to deal with clandestine abortions, some of them with access to support networks; others not. So the subject of this research is still very urgent and current. This thesis is an attempt to explore the abortion *dispositif* or apparatus (in the sense explained below), through which subjects, and in particular women, are situated and constituted as such.

In my personal experience, since I arrived in London to do my MSc in 2011, when talking with non-Chilean people about this subject they all seemed quite surprised and shocked to hear about the absolute restriction on abortion in Chile. Indeed, while Chile is a very liberal country in terms of economic regulations, it is a very conservative one in terms of legislation concerning sexuality and reproduction. The case of abortion is a prime example of this. The surprise, then, was focused on the intransigence of the hard kernel of discourses, practices, and principles that continue to resist reinterpretation in the public arena, not to say social and political transformation.

Since 1970, there has been a global trend towards liberalising and regulating abortion. As mentioned, there are very few countries in the world where abortion is still banned:

97% of countries allow abortion to save the life of a pregnant woman, and in 29% of countries, which is 40% of the world population (Mishra et al., 2014), abortion is permitted at the woman's request. Chile is a 'developing country', a member of the OECD (Organisation for Economic Cooperation and Development), recently removed from the ODA (official development assistance) list, and a secular state. The country is also one of the major exponents of the neoliberal system, with economic freedom being fundamental to its organisation, and State intervention reduced to the minimum. In this sense, the moral repression associated with abortion is paradoxical. Additionally, since the return of democracy in 1990, despite important debts remaining in crucial areas such as human rights, the distribution of wealth, and access to basic services such as healthcare and education, Chile has 'liberalised' its moral codes in many respects. Issues that used to be considered taboo, like homosexuality, different types of family, reproductive freedom, or divorce, started to be 'assumed' as part of society, gaining some support in public discussion and being translated into new laws. For instance, a resolution abolishing the distinction between legitimate and illegitimate children was approved in 1998; the same for sodomy in 1999, and divorce in 2004; and access to emergency contraception was guaranteed by law in 2010 (Maturana, 2014). There were also significant advances in women's human rights, political participation, access to health services, and employment, among others (CEPAL, 2010). Public opinion also supported the liberalisation of the status quo regarding abortion. A survey conducted in 2013 by *Corporación Humanas* (Humans' Corporation<sup>1</sup>), a Chilean institute for political and feminist studies, found that high percentages of women favoured legal therapeutic abortion (84%) and abortion in the case of rape or foetal problems (80%), although in the case of abortion at the woman's request or for socioeconomic reasons, the percentage of approval was much lower (29% and 24% respectively) (Corporación Humanas, 2013: 15). Considering all these elements, one pressing question is, why did the legislation take so long to change?

There have been different feminist theories applied to analyse and understand the causes of the continuity of the prohibition of abortion during democracy (Palma and

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<sup>1</sup> *Humanas* in Spanish is the female plural for humans.

Moreno, 2014). Mala Htun (2003), for instance, suggests that there is a 'moral debt' of the left wing towards the Catholic Church, which underlies the maintenance of the status quo in this respect. During the military dictatorship, at least one (less conservative) branch of the Church was an important supporter and promoter of the defence and protection of human rights and social equality, caring for the poor and then serving as a 'powerbroker in the democratic transition', thus gaining 'tremendous moral authority' (Htun, 2003: 102). According to Htun, the parties from the left and centre-left felt indebted to the Church, so did not oppose the religious stance on moral issues such as divorce or abortion. The right wing also generated strategic alliances with Vatican authorities during the dictatorship, and they easily found convergence with bishops and other religious authorities on these subjects. This is an interesting perspective that in part could explain the first years of the transition to democracy, but it is difficult to extend this concept of 'moral debt' much further without underestimating the capacity of the Left to negotiate with the Right, overshadowing at the same time other social and economic factors. Indeed, Merike Blofield suggests the theory of the hegemony of the conservative elites (2001). She stresses the impact of political and economic inequalities: as feminist groups were in a disadvantaged position with respect to the more affluent and influential conservative elites, it was very difficult for them to influence public policies regarding women's rights. Finally, Shepard (2000) simply postulates the existence of a 'double discourse system', which would explain the resistance to liberalisation in sexual and reproductive matters. In her view, 'societies accommodate conflicting views on sexuality and reproduction via a "double discourse system", which maintains the status quo in repressive or negligent public policies while expanding private sexual and reproductive choices behind the scenes' (2000: 111). In my view, however, none of these theories are capable of explaining the situation, mostly because the situation has changed. Moral debt, the hegemony of the elites, the double discourse, and the manifold influence of the Church are still key agents in Chilean politics, but their roles have changed. While they still contribute to the explanation, the context for presenting feminist demands has changed, and this may explain the shift towards liberalisation.

In 2011 the attention of the global press was on Chile because thousands of students protested in the streets challenging the basis of the neoliberal system, protesting for free quality education. For the first time, the core of the neoliberal project was questioned: a new constitution was demanded. But there were also other demands: for

the legalisation of same-sex marriage and for natural resource protection. As these were incorporated into the national debate and different social movements participated, cultural pillars that had seemed undisputable started to be questioned. They included abortion.

From 1990 to 2013, abortion was continually kept off governmental or ministries' agendas, and the demands of the feminist movement regarding reproductive rights were systematically ignored, based on agreements between the different political parties (Richard, 2001; Blofield, 2006 and 2008; Blofield and Haas, 2005; Htun, 2003; Shepard and Casas, 2007; Schiappacasse et al., 2003). However, different bills were presented, either to permit abortion in some circumstances or to toughen its criminalisation (Maturana, 2014; Casas and Vivaldi, 2014). The first time that bills to liberalise abortion were actually discussed in the Senate was in 2011 when three bills were introduced; the three projects were rejected in April 2012 (Maturana, 2014: 83), but at least the process had contributed to a national debate.

In 2013 President Bachelet included abortion as an explicit item for the governmental agenda for the first time, presenting a bill at the beginning of 2015, which was finally approved in September 2017: *Ley que regula la despenalización de la interrupción voluntaria del embarazo en tres causales* (Act that regulates the decriminalisation of voluntary pregnancy termination on three grounds). The Abortion Act allows a woman to end a pregnancy only if the woman's life is at risk, in cases of rape, or if there are foetal anomalies incompatible with life.

The constant struggle of different feminist groups certainly contributed to achieving this transformation. In particular, this recent legal transformation would have been unthinkable without the grounding of some key in-depth debates that have been articulated by the feminist movement in Chile, together with international movements.

Although feminism might be said to have 'failed' in bringing about the legal reform earlier, or in bringing about a more substantial legal reform, it is a mistake to measure feminism's efforts and efficacy only by these two narrow standards. Indeed, for decades now, diverse feminist groups have developed several responses, creative strategies, and forms of coping with the prohibition; strategies that impact upon women's subjectivities. A crucial strategy has been the creation of 'solidarity

networks' for mutual support among women, for instance those focused on sharing and spreading information about safe abortion procedures.

If one insists on the 'failure' perspective, one might be tempted to consider the contradictions within feminism itself. Feminist positions regarding abortion were (and remain today) hotly debated. Some groups of feminists, mostly those who were working closely with the government or even within the government on the elaboration of the law, worked aiming to directly influence the legislative process. Their rationale was that even though it would only help a small percentage of women to access safe abortions (estimations indicate 3-4%), the bill was a real and necessary step forward. In this sense, the liberalisation of abortion was a 'good step'. Within this position, most of these groups aimed for abortion on request as an ultimate goal, but considered that to support abortion on the three grounds, as proposed by the bill, was needed as a way to at least recover a 'minimum' that was lost in the dictatorship period. However, for other feminist groups, the liberalisation of abortion on only these specific grounds was completely insufficient, and even contradictory or counterproductive to a real recognition of women as autonomous subjects. According to this position, the feminist movement should have opened up the debate and demanded a richer concept of reproductive rights, holding out for the ultimate goal which would see abortion guaranteed on women's request or even without State intervention. However, we need to consider that the contradictions within feminism are also what renders it such an interesting political and epistemological project: there are different positions that interact and that are continuously changing. Moreover, once abortion was approved in Chile, the two feminist positions became blurred, mainly because both now share the goal of working towards the next step: 'free and safe abortion'. In this way, feminist groups started to work on monitoring the Act, continuing with the 'social and cultural decriminalisation of abortion', and offering information and practical support to women.

## **II. Why Research Abortion? Some Personal Observations**

During my life I have been, even without realising it, deeply involved in the fight for women's abortion rights. Since high school I have heard about cases of abortion and have helped friends who needed the procedure. I remember two significant examples. First, a friend who decided to have an abortion and was then thrown out of her home

because she was considered a ‘murderer’ and a ‘bad example’ for her siblings. The second example came from my grandmother, who took care of me as a child during the day while my parents were working. She always talked naturally about abortion: she used to tell me, laughing, that she intended to abort her last child (my aunt), but the midwife was sick, so she decided not to. The first case impressed me. The violence imposed upon women because of the prohibition, not only due to the possibility of being criminally prosecuted but also because of the social and cultural criminalisation that abortion entails, is a violence that impacts on actual lives and bodies. The second example suggested to me another (almost an opposite) point of reference regarding abortion: the ‘natural’ way – free of shame and guilt – in which abortion was discussed and experienced in certain environments. Maybe this tension is what impressed me most, especially as it continues to animate many of the paradoxes of the practice. Why does this subject cause so many different responses? Why did my friends have to suffer? How are these different perspectives formed? How are these positions brought into speech and how are these discourses formed? How do they interact with other discourses and practices? As a young woman I was aware of these differences and tensions, and they have been shaping my political and theoretical interests and understanding of abortion ever since.

Since 2011, I have explored these questions in a number of studies on abortion in Chile which I was lucky to participate in and to conduct, and which will be considered in more detail in Chapter Three. These studies involved the collection of data (from official sources such as governmental bodies and secondary data from different archives) and also conducting interviews with women who had had illegal abortions, their partners, friends, and relatives, and with healthcare providers who assisted them in the process. Relatedly, I have also participated as an activist in feminist groups organising campaigns and workshops. These experiences provided me with some first-hand knowledge of the Chilean situation, both in the sense of seeing and talking with the people involved, and of being ‘involved’ in my object of study, situating myself in the relational lines that compose the abortion *dispositif* as a friend, as a woman, as a feminist, as a researcher, etc. – a situation that can be quite challenging simply for its heterogeneity. Indeed, these heterogeneous lines are not discrete, but often cross and mix. In the interviews that I conducted as a researcher, it struck me that the women who were more confident about their decisions, and experienced fewer conflicts with regard to their own abortion, were those who had a more elaborated ‘feminist

discourse'. This discourse need not be very sophisticated and was often quite straightforward: the women recognised that there were feminist networks that helped them to abort, either giving them information about how to use a specific pill (misoprostol) or giving them advice on how to take the pills and the likely consequences – on how they will feel, what their bodies would be going through, etc. – as well as giving comfort and support. Moreover, their discourse and the way in which they talked about abortion were perspicuously feminist, using terms like 'reappropriation' and 'autonomy of the body', 'patriarchy', etc.

I recall the case of an 18-year-old girl who I interviewed in 2013, from a working-class family, who reflected on the importance of breaking the chain of unwanted pregnancies in her family. She was painfully aware that a woman plays the victim if she just assumes that getting pregnant is 'something that happens' (the idea that 'one just gets pregnant'). She said:

Most women say: 'My life came to a halt; I just stopped doing things'. Then it is assumed that motherhood is something of selfless and self-sacrificing women, whose role as woman has been displaced by that of mother. Having an abortion made me realise that, if I ever become a mother, it will be because I decide it, not because life condemned me.

Another issue that impressed me was to see the different meaning that each woman gives to the unborn. One interviewee told me that, for her, the procedure was like *sacar una muela* (removing a molar). In other words, abortion was merely a medical procedure for her: painful but otherwise free of emotional connotations. Another interviewee, who was not religious and always supported abortion, told me that for her it was a surprise to find herself talking to the foetus before having the abortion, calling it the '*murcielaguito*' ('little bat'), and asking it to forgive her but that she decided to have the abortion because she thought that it was for the best, and that probably it was going to be born in the future, under better circumstances. This kind of variety of representations in coping with pregnancy and abortion, and especially the way in which they impact upon us and (de)construct our subjectivity, also play an important role in shaping the issue, and our ability to consider a variety of perspectives on the issue.

Finally, there is another element of my personal experience that motivated and informed this research in the last few years. While working on the thesis I had a



miscarriage. I wanted to have the baby, and I suffered when I realised that I was not going to have her/him. I just want to point out a couple of things related to the experience that I think are also relevant to my perception of the subject. I received lots of support from many people, but some of them also insinuated that maybe I was working too much and that that could have affected the foetus. Others suggested, similarly, that I should have taken some vitamins that I may have lacked. In this sense I could experience the pressure and expectations that are placed on women when pregnant, and how they are somehow blamed when the pregnancy does not succeed, even for 'natural' causes. A friend even asked me if the miscarriage made me change my perception of and support for abortion. Later, I got pregnant again and gave birth to my daughter. What I also found extremely interesting was, when I was having a couple of 'alternative' therapies for coping with stress (like magnets or massages), the therapists suggested that I needed to mourn the lost baby; that I needed to symbolically bury him/her and even to tell my daughter that she was not the elder daughter but that she had a brother or sister who was looking at her from 'another place'. I strongly believe that each woman has her personal way to cope with such a situation, to live this personal experience and even to find her own ways to understand what is happening at a certain moment. It may be necessary for some women to have such a mourning ritual. But it also impressed me how there seems to be a spontaneous (or very easily available) tendency to attribute a personality to the embryo: and this idea of what is 'natural' in terms of sexual and reproductive matters is something extremely problematic, as I will discuss in the thesis.

In sum, abortion has been an ever-present issue in my life, either through helping friends or other women to obtain abortions, working as an activist, or in my academic research, and these experiences have been slowly shaping my approach to the subject.

### **III. Some Considerations About the Research of Abortion in Chile**

The phenomenon of abortion presents particular challenges and paradoxes for social research. Firstly, its illegality and clandestinity implies clear and significant difficulties, affecting as it does the registering in the system of health statistics, the variability of quantitative projections, and also the difficulty in acquiring first-hand testimonies, due to the social stigma associated with an illegal practice (Palma and Moreno, 2014: 51-52). For instance, in Chile, gathering reliable data is problematic.

The health system does not have an exact register of the number of abortions carried out. Moreover, women's concrete practices and experiences surrounding abortion are difficult to access, because people are reluctant to talk about it, either because of the fear of being prosecuted, because the experience is too traumatic, or because of the concern of social stigma associated with an illegal practice. As a consequence, there is paucity of research about women's experiences and circumstances.

Additionally, abortion is a particularly controversial subject, involving as it does, for better or worse, many issues that are quite sensitive to (modern) society: the beginning of life, personhood, human rights, the constitution of the family, women's autonomy and sexuality, the character and reach of welfare-state policies, to mention some of the most prominent. It has been a subject of moral and political dispute, constituting a rich history of debates and literature from scientific, religious, legal, and philosophical points of view.

In this sense, it shouldn't seem strange that the scant data and scientific information available is often misrepresented and distorted by moral and political assumptions that usually remained understudied. An example is the conservative response to the argument that abortion should be permitted in order to save a woman's life: since the level of maternal mortality is low, there is no need for the liberalisation of abortion, because the prohibition has not had an impact on women's lives and health (Koch et al., 2012). Conservative voices also maintain that legal permission for abortion on health grounds is unnecessary because advances in medical sciences have reduced not just maternal mortality but also the circumstances in which the life of the foetus and the mother are in conflict (Htun, 2003). In these cases, 'scientific data' is invoked to defend the status quo.

What remains unspoken and unarticulated in most of these debates is precisely the social and historico-political considerations I explore below. As a rule, a broader and interdisciplinary approach, capable of capturing the multiplicity of heterogeneous elements interconnected in the Chilean situation, is absent.

Finally, there are difficulties that seem of concern exclusively (or primarily) to feminism and gender studies. The extent and impact of abortion in Chile remains uncertain, representing a serious preoccupation for feminist critique (Palma and Moreno, 2014). As Maira et al. state, 'even when the language of domination has

presented the heterosexual body as linked to reproduction – a condition shared by us all – the regulatory regimes that emanate from politics, demography, medicine, education, religion, and the law give way to women’s specific realities’ (2010, my translation). There is a danger, thus, in collapsing all women’s experiences into a single defining experience without paying attention to the diversity of women’s lives, regarding race, class, gender, sexual orientation, etc. An intersectional approach in this sense is indispensable, but it has also proved difficult to elaborate. Some studies describe the stage of life and the social context in which women decide to have an abortion (see, for instance, Monreal, 1961; Armijo and Monreal, 1964; and, more recently, Palma 2010, 2012). Others have focused on how the criminalisation of abortion is differently experienced, as is the possibility of access or not to a more or less safe procedure (Casas, 2008; Maira et al., 2008; Casas and Vivaldi, 2013). There are few studies about race and indigenous populations (for example, Quiñimil, 2012). According to these studies, social class, race, and age play a key role in the levels of safety and the probability of being criminally prosecuted. In fact, many women – mostly young and poor women – are reported to the police by healthcare providers in public hospitals while being treated for abortion complications. The burden of the prohibition of abortion, thus, is heavier for those women who cannot afford to pay for private medical attention or do not have the necessary social contacts (Shepard and Casas, 2007). Those involved in cases of abortion can face jail, psychological and physical violence, the sanction of public opinion, etc.

#### **IV. Thesis Questions and Foucault**

On this basis, in which the role of feminism in the liberalisation of abortion remains unclear, and in which there are irreducible (unavoidable) experiences and social circumstances that need to be included in our sociological understanding of abortion in Chile, I propose to frame the questions in these terms: How has feminism entered into the complex lines of power/knowledge that make up the abortion dispositif within which understandings of the issue, of self and other (especially the figures of woman and foetus) are constructed? More concretely, how do feminist movements articulate their resistance, negotiations, and complexities, and mobilise politically?

Abortion has been and remains a key site for feminism in Chile: not only does it refer to a basic right of women to decide over what happens to their own bodies, but it is

also a key site insofar as the body is the locus of social control and discipline more generally, as well as of resistance. Moving away from an abstract debate on the morality and legality of abortion, an approach that takes on abortion as a sociological issue needs to consider the heterogeneity of the intersecting lines that constitute it. I am particularly interested in the way in which feminists have organised themselves, ‘clandestinely’ due to the illegality of abortion. Feminists have created effective communities of care and solidarity networks that spread information about abortions with pills (misoprostol) and offer support throughout the process to those women who decide to have an abortion, and some groups also monitor the implementation of the recently approved Abortion Act. Their creative ways of shaping existences certainly go beyond the subject of law, offering new possibilities of resistance. In this context, I will defend the role of feminism as an exercise of freedom in terms of resistance; a key mode of challenge to State power, as well as a negotiation of power. In order to do so, I will approach the contemporary abortion debate through different analytic points of entry. I borrow from Foucault’s methodology to trace the discourses and subject positions surrounding the abortion *dispositif* as a form of ‘biopolitics’ in which there is a tangle of lines of power/knowledge. In this framework, feminist discourses have an impact on women and also on governmentality (in the rationality of power). In studying the prohibition of abortion we consider the ways in which people understand the prohibition, in both a legal and an ethical sense. Beyond the descriptions of the various ways in which people cope and make sense of the situation, Foucault invites us to pay attention to the ways in which these understandings of the situation (and these ways of dealing with the present) collectively model or produce it (Bell, 2015). Furthermore, as Bell has also highlighted, scholars working on Foucault are not confined to ‘any particular way to conduct research, but we are always prompted to see how people adopt rationalities and logics, how they negotiate them in specific domains of life, how they are changed by them individually and collectively’ (2015: 58).

## **V. Outline**

In the thesis I explore the abortion *dispositif*, or apparatus, from different points of entry.

In Chapter Two, 'Literature Review: The Body's Freedom and Autonomy, an Ongoing Struggle', I contextualise the debate around abortion in Chile by looking at three more general discussions. First, I look at the problem of reproductive technologies as discussed in feminist scholarship from the 1980s onwards. Second, I consider how the Foucauldian notions of relational power, anatomo- and biopolitics, resistance, care of the self, and governmentality can help us to develop and nuance our understanding of these debates, and the relevance of the notion of vulnerability for the thesis. Third, I explore the language of rights that informs an important part of the debate. Crucially, the Foucauldian approach enables us to go beyond the separation of subjectivities and power, underlining how power struggles involve technologies of the self that collectively shape such subjectivities; in the case of abortion, how the subject is disciplined and what forms of resistance the feminist debate (both academic and grassroots movements) has developed. Reproductive policies are a paradigmatic example of the intersection of both poles of biopower: disciplinary power and biopolitics.

In Chapter Three, 'Methods: Foucault's *Dispositif*, Performativity, and Genealogy', I explain the way in which I analyse the abortion *dispositif* through different entry points, which include discourses, practices, and events. I explain how in the thesis I try to find those moments, debates, institutions, and struggles within which I can observe the different lines of power/knowledge (*pouvoir/savoir*) that are attempting to influence how abortion is understood, governed, and experienced.

In Chapter Four, 'A Brief History of the Feminist Struggle for Abortion', I explore the recent history of feminism and abortion in Chile in order to map the biopolitical present. I outline some features of the progressive formation of feminist activism and the struggle for reproductive rights in Chile, the impact of Pinochet's dictatorship, and the first years after the recovery of democracy.

In Chapter Five, 'Abortion on the Public Scene: Three Eruptive Events', I consider and highlight three events that, after a period of 'silence', put the issue of abortion into the public sphere, generating lively debate and exposing the complex of discourses and actors involved in articulating and making claims around abortion. These were: the legal battle for the distribution of the emergency contraceptive pill; the case of Belen, an 11-year-old girl who was pregnant in 2013 as a result of being

systematically abused by her stepfather; and the 'Free Abortion Hotline', which started the distribution of information regarding medical abortions.

In Chapter Six, 'The Parliamentary Debates: The Legal Context, the Figure of the 'Unborn' and the Characterisation of Women', I analyse the governmentality of abortion through the parliamentary debates that preceded the passing of the recent legislation. I consider how facts were presented, what counted as knowledge, and in particular how the figure of the foetus and the figure of the woman (along with other concepts and subjects) were constructed and understood. These debates were an especially important and interesting site to explore the contours of the lines of power/knowledge at stake. From a Foucauldian perspective, I will consider how the law is a privileged site from which power is exercised.

In Chapter Seven, 'Visual Representations in the Chilean Abortion Campaigns: Suffering Bodies and Feminist Displacements', I explore the debate through its visual representations, where I take seriously the idea that the reality of gendered lives is to be found in the effects of its representation (drawing upon the work of de Lauretis, 1987). I analyse different campaigns in the abortion debate, and in particular those feminist representations that show a displacement of the victimisation/humanitarian dichotomy.

In Chapter Eight, 'New Feminist Challenges: The Current Agenda', I analyse some of the contemporary challenges that remain open for feminism: the rearticulating of the opposition to abortion; the risk of being co-opted by neoliberal governmentality, looking especially at the relation between vulnerability and resistance (Butler et al., 2016); and, finally, the different and competing affects and realities that new interlocutors have brought forward (especially activists for sexual dissidence) to challenge feminism's capacity to deal with that multiplicity. These are challenges that remain, in part because in the abortion *dispositif* there are continuously changing discourses and interventions.

In Chapter Nine, 'Conclusion', I briefly reflect on what feminists have achieved (in particular, the impact on women's life and on the rationalities of power), as well as the impact of Foucault in my research.

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**Chapter 2**  
**Literature Review**  
**The Body's Freedom and Autonomy, An Ongoing Struggle**

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As Rosi Braidotti explains, the body is ‘the site of intersection between the biological, the social, and the linguistic, that is, of language as the fundamental symbolic system of a culture’ (1994: 238). Accordingly, feminists have aimed to ‘liberate’ women’s bodies from the multiple meanings imposed on it by a patriarchal society. Nevertheless, what this liberation means in the context of neoliberal democracy needs to be contextualised and properly analysed. I will start arguing that we can access a deeper understanding by focusing on some of the aspects of Foucault’s analysis of power and ethics, with special attention to vulnerability and resistance. Secondly, I will consider some aspects of how the theory of rights has influenced feminist theory and in turn how feminist theory has enriched the theory of rights. Foucault pays attention to the language that we use, and in the Chilean debate the language that has been predominantly used is the language of rights. In this way, we can gain a sufficiently rich theoretical and conceptual framework to analyse the role of feminism in the way women have dealt with the prohibition of abortion in Chile.

### **I. Foucault’s Influence on Feminism**

Foucault did not write specifically about women’s bodies (Bartky, 1988; King, 2004; Sawicki, 1991). Some, indeed, have claimed that ‘Foucauldian feminism’ is a contradiction in terms (Balbus, 1987). Nevertheless, the contribution of Foucault’s discourses and methods to the understanding and criticism of reproductive policies and technologies is unquestionable (Bartky, 1990; Sawicki, 1991: 50). The policies affecting reproduction and sexuality have emerged out of dynamic network of forces in which (and through which) women have to negotiate their relationship to childbearing and sexuality. In order to understand this network, Foucauldian approaches allow an exploration of the contingent and dynamic meanings and power relations of reproductive technologies (Farquhar, 1996; Squier and Kaplan, 1999; van der Ploeg, 2001). I will focus on the following areas of Foucault that have had a significant impact on feminism and are particularly relevant for my thesis: relational power, anatomo- and bio-politics, resistance and vulnerability, care of the self, and governmentality.

## **i) Relational Power**

In the classical view of power inherited from the Enlightenment, characterised in *The History of Sexuality Volume I: An Introduction* (1978) as the ‘juridico-discursive’ power exercised mainly by the sovereign, the State concentrates all authority: it is the source of all the rules and the principle from which the use of force and its legitimacy is derived upon national territory. This is the Hobbesian State of the Leviathan. Power is embodied in official institutions: government, police, law enforcement, education, etc. This emphasis on the role of the State renders a certain autonomy to the family, to the market, and to civil society as epiphenomena of the political power. Moreover, power is seen as something negative, as a constraining force that aims to control our actions through more or less violent methods, operating through suppression, subtraction, or deduction; prohibition and punishment prevent action. Furthermore, according to this view, power is something that can be possessed, something that one can hold for oneself, something that can be accumulated. It is a view of power as something ‘substantial’, almost tangible. By contrast, Foucault’s view of power notes how a drastic shift has occurred since the classical age, so that ‘deduction has become merely one element in a range of mechanisms working to generate, incite, reinforce, control, monitor, optimize and organize the forces under it’ (Rabinow and Rose, 2006: 196). Since power is everywhere and not concentrated in one political figure or representation, the focus is on the relations of power.

I scarcely use the word power, and if I use it on occasion it is simply as shorthand for the expression I generally use: relations of power. But there are readymade models: when one speaks of power, people immediately think of a political structure, a government, a dominant social class, the master and the slave, and so on. I am not thinking of this at all when I speak of relations of power. I mean that in human relationships, whether they involve verbal communication such as we are engaged in at this moment, or amorous, institutional, or economic relationships, power is always present: I mean a relationship in which one person tries to control the conduct of the other. So I am speaking of relations that exist at different levels, in different forms; these power relations are mobile, they can be modified, they are not fixed once and for all (Foucault, 1984a: 291-292).

As Deleuze has pointed out, the essential aspect of Foucault’s definition of power is precisely that it is a relation of forces; not a vertical imposition, but a binding exchange; an attribute not only of those that ‘rule’ but also of those under the rules (Deleuze and Guattari, 1988: 25). Thus, while the traditional view of political power is of something that can be possessed, something homogeneous, concentrated, or at least represented



and representable in a single person or group, the point of view developed by Foucault requires us to explore a multitude of different forms of power: hence the reference to the ‘microphysics of power’.

## **ii) Anato-mo-politics and Biopolitics**

Changing the focus from the ‘right of death’ to the ‘power over life’, Foucault makes us realise that even though in many respects we seemed more ‘liberated’ because we talk more freely about specific issues or we are permitted to do more things than, for instance, in the Victorian period, being power ‘positive’, this is precisely one of the techniques in which power relations constitute subjects and organise populations.

Since, for Foucault, power is ‘situated and exercised at the level of life’, two places become the main focus of study: on the one hand, the anato-mo-politics of the human body, and on the other, the biopolitics of the population (1977: 137). Prominent in the first view are the ideas of ‘the body as a machine’ (1978: 139) and so as something that can and should be made ever-more efficient. The optimisation of its capabilities is pursued through numerous and various means. The discipline of the body is mostly transmitted implicitly and unconsciously through habits and practices: diets, medical checks, education, punishments, rituals of socialisation, and in general all that contributes to give form to ‘ways of life’.

Discipline may be identified neither with an institution nor with an apparatus; it is a type of power, a modality for its exercise, comprising a whole set of instruments, techniques, procedures, levels of application, targets; it is a ‘physics’ or an ‘anatomy’ of power, a technology. And it may be taken over either by ‘specialized’ institutions (the penitentiaries or ‘houses of correction’ of the nineteenth century), or by institutions that use it as an essential instrument for a particular end (schools, hospitals), or by pre-existing authorities that find in it a means of reinforcing or reorganizing their internal mechanisms of power (Foucault, 1977: 215).

This process of socialisation has rendered us all ‘reliable, regular, necessary’ (Nietzsche, 2010: 36) and, moreover, self-aware in the sense of being ‘in charge of ourselves’, of being capable of watching over ourselves.

Regarding the biopolitics (or biopower) of the population, this manifests itself through the assurances that the life of the population will be optimised through diverse mechanisms (education, statistical analysis, medical care) aimed at the organisation of

life (birth, morbidity, mortality, longevity). The main difference here with respect to anatomo-politics is one of scale, not of content or form.

Reproductive policies are a paradigmatic example of the intersection of both poles of biopower. The excessive and repressive legislation over the body that manifests in the Chilean abortion regulation, for instance, is one of the mechanisms of control and discipline that influences the relationship between women and their bodies. Power relations and patriarchal conceptions are exercised every day: 'Individuals can be brought to work on themselves, under certain forms of authority in relation to truth discourses, by means of practices of the self, in the name of individual or collective life or health' (Rabinow and Rose, 2006: 203-204). In relation to the second pole, we can consider the control of reproduction as an aim for national development, the regulation of the population, and the reduction of poverty (Casas, 2013). It is this second point that needs to be studied in relation to the policies of natality. In turn, the implementation of these policies of natality have to be considered in a specific historical moment and in relation to demographic issues. As Rabinow and Rose state, 'the question of reproduction gets problematized, both nationally and supra-nationally, because of its economic, ecological and political consequences – over-population, limits to growth, etc.' (2006: 208).

Another crucial point for the analysis of reproduction is that women, like men, are subject to many of the practices described by Foucault in terms of the production of subjects, engendering the production of 'docile bodies' by discipline and power. Many of his insights into disciplinary procedures have been transposed or translated into the history of women, and indeed these histories have been written since the 1980s (Arditti et al., 1984; Corea, 1985; Gordon, 1977; Hubbard, 1990; Petchesky, 1986; Sawicki, 1991: 68; Stanworth, 1987a and 1987b) and they are still being written today (Franklin, 2013; Thompson, 2005). An interesting example is Sawicki's early use of Foucault, taking biopower as a core analytic category to study reproductive technologies. She stresses that disciplinary practices that generate 'docile bodies' act 'not through the threat of violence or force, but rather by creating desires, attaching individuals to specific identities, and establishing norms by which individuals and their behaviours and bodies are judged and against which they police themselves' (Sawicki, 1991: 67; Zalewski, 2000: 117).

### iii) Resistance and Vulnerability

On some readings (see, for example, Miller, 1993), the ambiguity of the concept of resistance suggests a change of heart in Foucault between the project of *The History of Sexuality: Volume I* (1978) (resistance as tactical reversal) and the turn towards governmentality and the technologies of the self (autonomy through heteronomy) of Volumes II and III. According to another view, the study of 'resistance' appears in contrast to the study of 'docile bodies' in which there seems to be no room for resistance; bodies completely docile to the influence of power and discipline (Deveaux, 1994: 223). There are two different interpretations of Foucault's notion of resistance: one 'positive' and one 'negative'; an active and a reactive reading.

Resistance is just a complementary and reciprocal term to power. In the classic passage of *The History of Sexuality: Volume I*, Foucault claims: 'Where there is power, there is resistance, and yet, or rather consequently, this resistance is never in a position of exteriority in relation to power' (1978: 95). The passage highlights the reciprocal and codetermining relation of power and resistance: resistance is not something outside power but rather intrinsic to it. There is power only where there is resistance. A relation between the two in which one is at the complete disposal of the other, where there is no resistance whatsoever to the violence of the other, is not a power relation.

Thus, in order for power relations to come into play, there must be at least a certain degree of freedom on both sides. Even when the power relation is completely out of balance, when it can truly be claimed that one side has 'total power' over the other, that power can be exercised over the other only insofar as the other still has the option of killing himself, of leaping out of the window, or of killing the other person, for example. This means that in power relations there is necessarily the possibility of resistance, because if there were no such possibility (of violent resistance, flight, deception, strategies capable of reversing the situation), there would be no power relations at all (Foucault, 1984a: 292).

Even in relatively fixed relations of asymmetrical power there is always a margin of freedom and resistance. The emphasis on power relations does not imply the disappearance of freedom, but on the contrary reaffirms its presence. So, for instance, the power relations of Victorian marriages were such (power relations) because, while

the women had few options, they were options nonetheless: ‘they could deceive their husbands, pilfer money from them, refuse them sex’ (Foucault, 1984a: 292).

Cases like this last one might suggest that resistance is confined to stratagems that are incapable of changing a situation, and so to a kind of passivity and reactive impotency, of ‘just reacting’ to the truly effective activity of power. In other words, if resistance is just another aspect of power, we seem to be missing the ‘active’ character that we usually look for in freedom and political agency. Foucault clarifies this point by offering a deeper analysis of power in terms of governmentality and technologies of the self. Resistance, for instance, contrasts with violence. Indeed, with violence, ‘the possibility of resistance is taken away, and power, the exercise of which is necessary only when there is the possibility of the “targets” resisting’ (Bell, 1993: 32). Power is a set of relations, and as such its exercise is more related to manipulation, to the capacity to generate a feeling or emotion, to put pressure, to intimidate. In sum, as Foucault explains in an interview: ‘To shape your behaviour through certain means. [...] I’m not forcing you at all and I’m leaving you completely free – that’s when I begin to exercise power.’ Power ‘takes place when there is a relation between two free subjects, and this relation is unbalanced, so that one can act upon the other, and the other is acted upon, or allows himself to be acted upon. Therefore, power is not always repressive. It can take a certain number of forms. And it is possible to have relations of power that are open.’ In other words, ‘power relations are possible only insofar as the subjects are free’ (Foucault, 1984a: 291-292).

Resistance is inherent to power, but not in the sense that there is no escaping power; rather in the sense that there is a multiplicity of points of resistance. In this context multiplicity means a whole range of possibilities: resistance can be conservative or progressive. It can be possible, necessary, improbable, spontaneous, savage, solitary, concerted, rampant, violent, anonymous, quick to compromise, interested, sacrificial, etc. (Foucault, 1978: 96).

According to Judith Butler,

in general, I do not think of freedom in terms of liberation. I continue to be very strongly influenced by Foucault’s *History of Sexuality*, in which he warns us against imagining a complete liberation from power. There can never be a total liberation from power, especially in relation to the politics of sexuality. Foucault says two things at the same time: we can never totally liberate ourselves from power (there is no space from which to say ‘no’ to power) and, on the other hand, we are never

completely determined by power. Thus, despite the impossibility of transcending power, a space of liberty opens up, and both determinism and radical voluntarism are refuted (2008).

In this way, since the conditions for the possibility of resistance are the same conditions for the possibility of power, and considering the multiplicity of forms of resistance, Foucault is then rightly confident about the possibilities of ‘practising’ or ‘experiencing’ liberty, because such a possibility resides ‘in a quasi-empirical concern with the relative capacity or space for action in the context of certain regimes of domination’ (Brown, 1993: 397-8). The assumed space of activity is the imagination and understanding of the people, as well as the ‘stuff’ with which the agent is confronted and constrained, and which they can modify and shape: for instance, information and communication among women can be an example of resistance toward repressive policies towards reproduction. Resistance can effect a change in the conditions of possibility, and in that way is productive.

An interesting recent turn has been a questioning of the assumed opposition between resistance and vulnerability (Butler et al., 2016). Traditional views on vulnerability tend to assume that it implies a purely passive position that yields the site of agency to different forms of paternalism. On the contrary, it is argued, vulnerability is rather the condition of the possibility of resistance, in the sense of being ‘a deliberate exposure to power’ (Butler, 2016: 22). In this sense, Butler analyses different understandings of vulnerability:

On the one hand, there is a resistance to vulnerability that takes both psychic and political dimensions; the psychic resistance to vulnerability wishes that it were never the case that discourse and power were imposed upon us in ways that we never chose, and so seeks to shore up a notion of individual sovereignty against the shaping forces of history on our embodied lives; on the other hand, the very meaning of vulnerability changes when it becomes understood as part of the very practice of political resistance (Butler, 2016: 15).

It is in this second sense that, for feminists, vulnerability has been understood as a value, in which the relational subject stands in opposition to the liberal and individualistic self (see, for instance, Butler et al., 2016: 3). Indeed, ‘vulnerability emerges from the subject’s relationality and it is constitutive of our capacity of action’ (Sabsay, 2016b: 285). In Sabsay’s terms, ‘this relational perspective is based on the subject’s radical dependency and capacity to affect and be affected, which, in turn, indicates the vulnerable and embodied character of subjectivity’ (2016b: 279).

Additionally, 'it always appears in the context of specific social and historical relations that call to be analysed concretely' (Butler et al., 2016: 4). It is important to consider this recent work on vulnerability as a constituent element of social relations as well as a ground for politics and ethics, especially the way in which vulnerability informs resistance and how precarious and concerted bodies in neoliberal times relate. This interplay between vulnerability and resistance seems particularly relevant to this thesis, because the theme of abortion is one in which vulnerable bodies articulate themselves in a crisis.

Now, as Wendy Brown points out, 'whether or not resistance is possible is a different question from what its aim is, what it is for and specially whether or not it resubjugates the resisting subject' (1993: 398). This generates a further question about resistance in its relation to power. Having established the possibility of resistance, a new problem arises in terms of how resistance is concretely realised, in what direction, and to what end. One of Foucault's answers to this point is suggested by his attention to the ethics of care.

#### **iv) The Care of the Self**

The fundamental idea of the care of the self in the context of our discussion is the reorientation of the ethical from norms of impartiality (including deontological, consequentialist, and rights-based arguments) to an emphasis on the response of the other. This response can be variously characterised, but I will mention certain features: the organisational aspect, and the responsibility aspect. Foucault was the leading author in calling our attention, in the second half of the twentieth century, to the idea of the care of the self as the heart of a new way of thinking about politics. In Volumes II and III of *The History of Sexuality*, Foucault underlines the testimony of Hellenistic culture with respect to different technologies of the self: different ways in which dietary restrictions and exercises of abstinence or pleasure are operations that permit one to transform the self. This is the sense of the Platonic/Socratic principle (as found in the dialogue *Alcibiades*) of taking care of ourselves: the point was that it is necessary to take care of the self (*heautou epimelesthai, cura sui*) as a condition to make a good ruler; the care of the self is 'a pedagogical, ethical, and also ontological condition for the development of a good ruler' (Foucault, 1984a: 293). The Platonic/Socratic model was particularly intellectual in the sense of being governed by a particular kind of 'stylistics of living': the maxim 'know yourself' (*gnothi seauton*)

(Foucault, 1986: 149). Nonetheless, the art of living that Foucault describes is by no means reducible to this maxim, encompassing a whole range of exercises (*askeses*) which were at the service of treating the self as a work of art. The work on the self is varied and requires actual labour (Foucault, 1986: 50).

At a more general level, the idea of the cultivation of the self is about the intensification and valorisation of the relations of oneself to oneself (cf. Foucault, 1986: 43). These exercises include dieting, of course, forms of study, ‘retreat within oneself’, different uses for and abstention from pleasure, the development of ‘medical thought and practice’ (Foucault, 1986: 54; the idea of therapy is particularly important here), and in general an idea of self-accountability which contains as its proper aim a kind of ‘conversion to self’ (Foucault, 1983a: 64). A detailed examination of this era in our past led Foucault to resurrect the idea that one’s life and mode of existence could be considered as a work of art. In a way, what is really intriguing is the fact that ‘in our society, art has become something that is related only to objects and not to individuals or to life. [...] [Couldn’t everyone’s life become a work of art? Why should the lamp or the house be an art object but not our life?’ (Foucault, 1983a: 261).

Although the idea of the care of the self appeared in Foucault’s later work, it fits well with his previous work on the subject: if there is going to be resistance and an aesthetic of the self, the self has to be something malleable, something neither purely abstract nor fixed. Foucault emphasised our radical contingency, the influence of history, and a correlative suspicion of progress. We are creatures of our own history. What, then, does the care of the self mean? How does it fit with the historical, contingent and even oppressive conception of the subject? The analysis of resistance moves ‘from the contingency that has made us what we are, the possibility of no longer being, doing, or thinking, what we are, do, or think. [...] It is seeking to give new impetus, as far and wide as possible, to the undefined work of freedom’ (Foucault, 1984b: 46). The critique of the subject was not an effort to make it disappear but rather to put it into question. According to this critique, the subject is not the ultimate ground of thinking and action but rather a complex product and effect of its own history. It is precisely this criticism of the absolute and unconditioned subject which makes it possible for the self to also be the result of human action. And if the self is the product of human action, we can put together art and life, and be creators of ourselves just as we are creators of works of art. This work on the self is not a process

of discovery (a hermeneutic of the self over the self) but rather an ‘aesthetics of existence’ that follows the model of Ancient Greece, which established that ‘the moral value did not depend either on one’s being in conformity with a code of behaviour, [...] but certain formal principles in the use of pleasures, in the way one distributed them, in the limits one observed, in the hierarchy one respected’ (Foucault, 1990: 89). It is not about liberating an autonomous self but about creating the self; shaping existence through behaviour, implicit critique, and action. Again, this creative process does not separate us from our historical contingencies but, on the contrary, must necessarily make use of the materials and traditions at hand. This ethics, the care of the self, expands the notion of subject, of what a subject can be. Thus, as Foucault puts it, ‘from the idea that the self is not given to us, I think that there is only one practical consequence: we have to create ourselves as a work of art’ (Foucault, 1983a: 262).

Finally, the care of the self is not the key to solve all moral problems, but it certainly provides a way to look at the problem with fresh eyes. Moreover, it offers not only a theoretical advantage but also the practical implication that (if right and to that extent) ethical life is not merely a theoretical possibility but ‘a mode of existence open to all’ (Menihan, 2012: 28). This might be a truism, but, as we will consider, this understanding of ethical life can be forgotten and eclipsed. Moreover, Foucault’s emphasis on care aligns him with feminist attention to care, a movement away from the political subject as a subject of law which characterises much of the political thought of our democratic tradition. As we will see later on in the thesis, specially in Chapters Five, Seven, and Eight, this emphasis on care will be useful in analysing what is happening to the abortion situation.

#### **v) Governmentality**

We have seen that the Foucauldian analysis of power emphasises that power is not a thing but a relation. In terms of the State/people relation, this relation has historically shifted from an organisation of death to an organisation of life. The organisation of life involves a particular problem with subjects and self-formation: the self is not fixed but can be modelled. How are we then to understand human conduct in a contemporary environment?



The concept of government is nowadays commonly reduced only to political and State power, but back in eighteenth-century Europe, for instance, it encompassed a wider philosophical, religious, medical, and pedagogic debate about the management of life (the household, the children, the business, the soul, etc.) in terms of the conduct of conduct, ranging from the governing of the self to the governing of others. As Foucault points out, ‘the equivocal nature of the term *conduct* is one of the best aids for coming to terms with the specificity of power relations. For “conduct” is at the same time to “lead” others (according to mechanisms of coercion which are, to varying degrees, strict) and a way of behaving within a more or less open field of possibilities’ (Foucault, 1983b: 220-221).

Foucault’s notion of governmentality, especially as worked out in his lectures on biopolitics at the Collège de France (1978-79), redefines conduct in opposition to (but not exclusion of) both a legal and an economic understanding of subject-formation and the governed body. For Foucault, governmentality was an ‘ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics, that allow the exercise of this very specific albeit complex form of power’ (Foucault, 2007: 20).

Governmentality underlies the semantic link between governing (*gouverner*) and associated modes of thought (*mentalité*), suggesting that the technologies of power in neoliberal societies are bound up with forms of rationality. It is a new reading of the relation between power and knowledge. Thus, as Wendy Brown explains, neoliberalism is a political rationality that makes the market ‘the organizing and regulative principle of the state and society’ (2005: 41). Moreover, this ‘rationality emerges as a form of governmentality, a mode of governance encompassing but not limited to the state, and one that produces subjects, forms of citizenship and behaviour, and a new organization of the social’ (Brown, 2005: 37).

One key idea is that in neoliberal governments, even though the economic is perceived as an autonomous realm of reality, with its own laws and regularities, the rationality of markets expands to other spheres of life. Neoliberal rationality depends on ideas of responsibility, self-management, and the active self-improving individual. In this sense, one of the key features of neoliberalism has been ‘liberal subjects’. But, what kind of liberation is this? Nicholas Gane notes that ‘neoliberalism is the constant push

to define and regulate social life through principles that come from the market' (2012: 613). Moreover, neoliberalism seems to imply a change in the governmental connections between the market and the State, so that it is about market freedoms but also about 'forms of governmentality that operate through such freedoms and, moreover, through forms of surveillance and regulation that are designed to inject market principles of competition into all spheres of social and cultural life' (Gane, 2012: 625). Indeed, Hayek and neoliberalism in general understand freedom more as an absence of State coercion than freedom to act in society; in political and economic terms, freedom of choice replaces the idea of social rights guaranteed by the State (see, for instance, Gray, 1981 and Ball, 2012). According to Colin Koopman, there is a substantial difference between 'freedom as a doctrinal right to private autonomy at the heart of liberation practices and freedom as a critical-experimental practice of self-transformation' (2013: 174). We need to keep this distinction in mind. As has been mentioned, for Foucault there is no such thing as 'liberation from power' but, on the other hand, we are never completely determined by power either. In opposition to total determinism and pure voluntarism, the analysis of power in terms of resistance and governmentality is based on a notion of freedom as a continuous practice and process, in which individuals are not alone but are always in connection with others (Butler, 2008).

## **II. Feminism and Rights**

In this last section, I will analyse the impact of 'rights' in general and 'human rights' in particular on the defence of abortion and how feminists have developed the concepts and language. Abortion has been presented as a matter of human and civil rights, an issue of social justice, and a public health concern. But the clearest articulation has been made through the concept of rights.

### **i) Are Rights Useful for Women's Reproductive Freedom? Personhood, Reproduction, and Bodies**

Regarding abortion in particular, the central feminist strategy has been to defend abortion as a woman's right to choose, which is generally closely related to ideas of privacy and autonomy (Smyth, 2002). This construction is certainly problematic. The liberal public/private distinction has been challenged in many ways by feminists (see, for instance, Okin, 1990; Phillips, 1991 and 1993; Young, 1990; Pateman, 1988 and

1989). In the name of the public/private division women have been systematically excluded from public decisions but the private sphere has remained unprotected and as a place where oppression and exclusion may take place. This critique does not necessarily aim to deny the importance of the private sphere but aims to expose the ways in which the division itself has been constructed as a patriarchal tool. The feminist motto 'the personal is political' emphasises that no area of life can be left outside the political and its manifestation in the body, and thus that the realm of sexuality should also be politicised. For instance, reproductive choices can be thought as a private matter, as a woman's right to control her own body. However, to pose abortion as an individual and private decision ignores the political, social, economic, and cultural elements that influence reproductive decisions (see, for instance, Petchesky, 1986: 11; Corrêa and Petchesky, 1994; Corrêa et al., 2008; Corrêa and Reichmann, 1994). Additionally, if abortion is a matter of private choice, the woman becomes the only party responsible and accountable: the State is exempt from any obligation to provide access to safe abortion and also to advocate for effective policies to give access to sexual education and contraception. Furthermore, it may seem paradoxical to demand 'both control by women over reproductive matters and greater sharing of responsibility for such matters between women and men' (Petchesky, 1980: 663). However, this is related to the sexual division of labour, which is part of the social conditions of possibilities in which reproductive decisions are made, and if we see abortion as an individual matter this issue is obscured. In this sense, 'we have to struggle for a society in which responsibility for contraception, procreation, and child rearing is no longer relegated to women primarily; and, at the same time [...] we have to defend the principle of control over our bodies and our reproductive capacities' (Petchesky, 1980: 663). As I discuss later in the thesis, a notion of autonomy in (neo)liberal terms, which obviates or denies the relational and sociopolitical background of choice, is also highly problematic.

Furthermore, the construction of abortion under the rubric of rights has been problematic because it has enabled a competition between the foetus and the woman, or between the man (father) and the woman: a competition that the anti-abortion movement has taken advantage of. Anti-abortion groups have portrayed women's bodies as either absent or as a threat to the foetus. In order to do this, foetal images have been used to give the foetus a seemingly independent character (Braidotti, 1994; Petchesky, 1987; Rothman, 1986. For analysis in Chile, see Díaz, 2012 and Cabello,

2012). With regard to the placing of the foetus and woman in adversarial terms, Lisa Smyth identifies three assertions of the 'foetal rights' lobby: the foetus is morally equivalent to a person; the foetus is morally superior to the woman because its innocence is contrasted with the woman's guilt in the pregnancy; and finally, in terms of weight of the rights involved, the foetus's right to live is more morally valuable than the woman's claim to a right to choose (2002: 337).

Moreover, the articulation of rights claims for advocating reproductive freedom requires special attention to 'how to produce rights claims which minimise the risk of application or interpretation in unjust and unequal ways' (Smyth, 2002: 335). Petchesky recalls Linda Gordon's argument in *Our Bodies, Ourselves*:

Reproductive freedom for women is not simply a matter of developing more sophisticated techniques. While the ascent from 'purgations, potions, and poisons' to vacuum aspiration doubtless represents a gain for women, abortion and reproductive freedom generally (of which safe, legal, funded abortion is but one small part) remain political, not technological, agendas which feminists find necessary to mobilize over and over again, on different terrains and in different contexts (cited in Petchesky, 1980: 662).

The theory of reproductive rights has tried to move away from 'the right to choose', including what Petchesky calls an individual and a social dimension (1980). Accordingly, reproductive rights concerns the right of women to have control over their reproductive decisions, but also asserts that the responsibility of having children must be collectively shared, changing the sexual division of labour. However, to reconcile these two dimensions has proven difficult.

Globally the language of 'reproductive rights' has its origins in the women's movement in the Global North of the 1970s and 1980s (see, for instance, Petchesky, 2003). However, the current understanding of sexual and reproductive rights has been expanded and influenced by non-western feminist movements, including, for instance, the notion of sexual health. In the 1980s feminists and health experts coined the concept of 'sexual and reproductive health' in order to make visible those aspects of health associated with sexuality and reproduction, and in this way support the notion of sexual and reproductive rights (Casas, 2013).

Not only has the restriction on women's reproductive choices been questioned but also the control of reproduction by policies aiming at limiting women's fertility has been

scrutinised (De Barbieri, 2000; Corrêa and Reichmann, 1994). In this sense, the concept of ‘reproductive justice’ has become crucial, because it questions choice as universally available to all women and acknowledges the role of the intersection of social, cultural, racial, and economic conditions in determining health, sexual, and reproductive outcomes. The term was developed by black and indigenous women, stressing not only a woman’s right to not have children but also the right to have children and the right to safely parent them (Ross, 2006). It criticises, thus, the sole focus on abortion that characterises ‘pro-choice’ groups, calling instead for encompassing health and reproductive rights in order to advance gender, social, and economic equality (Madhok et al., 2014).

An important change of paradigm, therefore, has been to break the sexuality–reproduction union in order to incorporate the possibilities of making decisions regarding if, when, and how to have children (Corrêa and Reichmann, 1994). As I will show later, the normative framework of ‘reproductive rights’ has been mainly developed within the field of international human rights.

Another way for advocating for abortion rights has been to advocate the right to bodily integrity. In this sense, the work of Drucilla Cornell could serve as a way of reworking the rights of women to their own bodies from the perspective of ‘each person’s imaginary domain’ (1998: x). In particular, ‘the right to abortion should not be understood as the right to choose an abortion, but as the right to realize the legitimacy of the individual woman’s projections of her own bodily integrity, consistent with her imagination of herself at the time that she chooses to terminate her pregnancy’ (Cornell, 1995, cited in Smyth, 2002: 342). The question then arises as to whether this right to bodily integrity might not be forgotten or even eclipsed by a conception of rights that is insensitive to the conditions of what Cornell calls ‘free personhood’. These conditions include the space to recognise ourselves as beings with feelings and reasoning capacities, but also as sexed and embodied beings. In this sense, a narrow legal conceptualisation of womanhood (for instance, reduced to motherhood without a right to choose over her own body) deprives women of the necessary symbolic room to acquire personhood. Next, I will briefly explore some of these points in the case of human rights in Latin America.

## **ii) Human Rights: The Possibility of a Feminist Creative Reappropriation**

As I will argue, for feminists in Chile and other countries of Latin American too, human rights has been the most important argument in the defence of abortion, but a further understanding is needed. Of course, the concrete enactment of human rights has been intensely challenged and discussed within feminism (see, for example, Philips, 1993; Nash, 2002; Gideon, 2006), post-colonialism (see, for example, Baxi 2008; Santos, 1999 and 2007; Twining, 2012; Moyn, 2018) and Marxism (see, for example, Waldron, 1987; Harvey, 2009). At the core of these analyses and critiques is the tension between the universality of human rights principles and their application in particular cultural situations; their essentialism, the impact of globalisation, and the ways in which human rights can be compatible with and embrace feminist demands. Hilary Charlesworth describes the feminist critique regarding the limitation of international human rights because of the impossibility of addressing the complexity of power relations, and the difficulties in changing the status quo because of the formulation of these rights in individualistic terms (1994). Andrew Byrnes stresses the limitations of international mechanisms because they are subsidiary to national justice systems and because the interpretations of International Organisations are not always consistent (1994). However, and despite its complexities, human rights tends to monopolise the language of many social movements while articulating their demands, including feminism. Indeed, Santos emphasises his perplexity about the extent to which human rights has ‘become the language of progressive politics’, and he analyses the conditions under which human rights ‘can be placed at the service of progressive emancipatory projects’ (2007: 3). He wonders if human rights could fulfil the void left by the failure of the socialist projects, and concludes that this could be possible only if ‘a politics of human rights radically different from the hegemonic liberal one is adopted and only if such a politics is conceived as part of a broader constellation of struggles and discourses of resistance and emancipation rather than as the sole politics of resistance against oppression’ (2007: 3). Human rights has also been reworked by feminism (Nash, 2002), but to what extent is it possible to extend the concept to women and to non-western agendas?

In order to understand the contingency of human rights it is necessary to conduct ‘an investigation into the ways in which these claims to truth are achieved, legitimated, and presented as the authoritative guide for action’ (Evans, 2005: 1049). In other

words, it is important to consider how human rights has been constructed in specific historical contexts, and problematise the truth claims that are invoked as foundations of human rights. Indeed, the concept has evolved and been reinterpreted and re-elaborated by feminist movements (Kismödi et al., 2015). As mentioned, non-western industrialised countries have also expanded the notion to incorporate other aspects of reproduction and sexuality.

Indeed, in Chile and other countries of Latin America, feminists invoked the concept of human rights to demand the legalisation of abortion and the construction of reproductive rights as individual rights (see, for instance, Matamala Vivaldi, 2014). During the 1990s, the feminist movement worked with national delegations and UN officials in order to obtain the recognition of reproductive rights in the agreements reached in international treaties (see, for instance, Lamas 2008.). In this way the international community placed sexual and reproductive rights at the core of debates concerning quality of life, freedom of religion and individual responsibility.

The elimination of all forms of discrimination against women in different treaties has been an important basis for the expansion of international human rights to include the protection of reproductive rights. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has been particularly important in setting up a specific framework for women (Casas, 2013; Nash, 2002). The international normative framework on sexual and reproductive rights is based mainly on the Plan of Action of the International Conference on Population and Development (ICPD) held in Cairo in 1994, where abortion was framed as a health issue connected with maternal mortality, and the 1995 Beijing Platform for Action (BPfA) in which the mainstreaming of human rights and gender perspectives enabled an expansion of the way in which the violation of women's rights were understood, crystallising feminist demands. On a regional level, the Interamerican Convention on the Prevention, Punishment, and Eradication of Violence against Women ('Convention of Belém do Pará', 1994) protects a fundamental reproductive right: freedom from sexual violence. Particularly relevant for Latin America has been the Inter-American Court of Human Rights and the Inter-American Commission of Human Rights.

In Latin America, sexual and reproductive rights has been tackled by feminism from different perspectives: mostly, in terms of social justice, public health

and as a democratic aspiration (cf. Lamas, 2008). Feminist strategies about the promotion of free and safe abortions in particular are engaged with what is desired and what is possible, with the determination of minimal conditions and ideal conditions of flourishing. In this way, there are similar strategies but also there are differences because each context presents its own social and political process and specific opportunities to ensure sexual and reproductive rights. (See for instance, for Uruguay: Niki Johnson et al., 2015; Correa and Petcheny, 2016; for México: Lamas, 2015; for Argentina: Sutton and Borland, 2013; Bellucci, 2014; Vacarezza, 2012; for Brazil see Machado and Maciel, 2017; for different countries in Latin America see: Klugman and Budlender, 2000; Bergallo et al., 2018).

In the history of sexual and reproductive rights in Latin America the articulation of international and regional feminist meetings and conferences have been crucial not just by offering the temporal and spatial opportunities to reflect, commemorate, and coordinate activism in the region, but also to develop the conceptual and theoretical aspect of sexual and reproductive rights. For instance, the institution of the 25th of November as the International Day for the Elimination of Violence against Women was created in the First Feminist Meeting celebrated in Colombia in 1981. In a similar gesture, the 28th of September as the International Safe Abortion Day started in the V Feminist Meeting in Argentina in 1990. Another example is the II Foro Social Mundial en Porto Alegre (2002), in which the activists of the *Articulación Feminista MERCOSUR* launched their campaign ‘*Tu boca es fundamental contra los fundamentalismos*’ (Your mouth is fundamental against fundamentalisms) to denounce the ways in which the neoliberal agenda and the various religious fundamentalisms work in tandem to restrict women’s reproductive rights (Lamas, 2008).

The work on the broader social and economic framework of women’s sexual and reproductive choices (as well as whether these choices can be enacted or not) has been widely explored by feminist authors such as Sonia Correa (Corrêa and Petchesky, 1994; Corrêa et al., 2008; Corrêa and Reichmann, 1994) Marta Lamas (2001, 2003, 2008, 2010), Paola Bergallo (2010), etc.

Surely, a significant construction of reproductive rights has been related to health. Through this conceptualisation two aspects have been connected: the right to self-



determination and the exercise of health as a basic condition for the exercise of reproductive autonomy (Casas, 2013). Moreover, it is not just health-related rights that have been invoked to protect reproductive rights, but also the right to life, liberty and security; the right to be free from discrimination based on socioeconomic status or sex; the right to family planning; the right to privacy; the right to be free from torture or other cruel, inhuman, or degrading treatment; and also rights related to legal procedures, such as the right to legal representation; the right to due process; the right to confidentiality; and the right to be presumed innocent (Casas, 2013). Another important achievement for women was established in the BPfA, which calls on governments to consider reviewing laws containing criminal measures against women who have experienced illegal abortions.

Finally, decolonial movements have played an important role in the constitution of Latin American sexual and reproductive rights. This influence is articulated, first, around the crucial distinction and tension, born in the 1990s, between *institucionales* (institutional) and *autónomas* (autonomous), which forms the background on which current feminist movements (including the fight for abortion) have developed. Secondly, autonomous and communal feminism, in particular, has been decisive in shaping alternative and critical views on abortion, including the influential focus on the body, and always working in close relation with communities and activist groups (see, for instance, Gargallo, 2012; Espinosa et al. 2014; Paredes 2014 and 2017). Indeed, it offers nowadays one of the most interesting challenges in our understanding of sexual and reproductive rights, precisely in focusing on the body as a political territory, with a history and context.

In Chile, in particular, as it was mentioned in the introduction, there are studies from different perspectives. Lidia Casas, lawyer and academic, has a significant list of publications about the situation in Chile. She has provided an empirical analysis of the issues of sexual and reproductive rights, abortion and its legal consequences and possibilities, (see, for instance, Casas 1995, 1998, 2008, 2013; and Casas 2007; Casas and Vivaldi 2013, Casas and Vivaldi 2014, Casas and Vivaldi 2017, Casas et al. 2016); The physician and activist María Isabel Matamala Vivaldi has also written extensively, analysing the situation in Chile (Matamala Vivaldi 2001, 2010, 2011, 2014). The sociologist and feminist activist, Teresa Valdés (1990) started the research on sexual reproductive rights in the late 1980s and early 1990s (cf. Valdés, 1990,

2002). In the early 1990s, she identified the barriers to women's rights in Chile where women were forced to compel certain stereotypical roles within the family. The feminist scholar Irma Palma has developed studies describing the social context of abortions and also the challenges of studying the issue from the social sciences. (See, for instance, Palma 2010, 2012; Palma and Moreno 2014, Palma et al. 2018). These scholars, and others such as Jiles and Rojas (1992), Dides (2006), Dides et al. (2007) Dides et al. (2010), Hurtado et al. (2004), Maira et al. (2008), Maira et al. (2010) have not only provided evidence for the situation in Chile, but these texts have also been widely used for advocacy purposes and have enriched the understanding of sexual and reproductive rights. The legal scholars Alejandra Zúñiga (2011) and Yanira Zúñiga have been relevant analysing the conceptual frame of reproductive rights. Yanira Zúñiga in particular, has studied the way in which feminist theory developed the concept of situated autonomy, which is crucial to sexual and reproductive rights, as an alternative to the liberal paradigm (Zúñiga, 2013). Furthermore, recent publications have explored the abortion debate in Chile from several perspectives (See, for instance, *Articulación Feminista por la Libertad de Decidir*. 2014; Aguirrezabal and Bertelsen, 2015; Casas and Lawson, 2016; Casas and Maira, 2018).

Certainly, the use of human rights, values, and concepts has the potential to change legislation and policies, urging governments to fulfil their obligations toward individuals, which eventually can lead to social justice (Cottingham et al., 2010). In this sense, in order to challenge unequal power structures, human rights should be framed as a political project for social justice, and not as a 'general truth'. However, the recognition of reproductive rights as human rights does not guarantee real improvements in the everyday reality of women (Cornwall and Molyneux, 2006; Vaughan, 2010). General principles externally imposed must be translated into local and contextual complexities, where the access to real services and the implementation of policies could be problematic (Kismödi et al., 2015; Cornwall and Nyamu-Musembi, 2004). In some cases, there are problems with funding, and laws are not translated into efficient services. This has happened with the access to contraceptive methods, confidentiality, primary attention after sexual abuse, or sexual education: issues that are ideologically contested and in which prejudices from the providers have impeded or hindered the actual fulfilment of the rights (see, for instance, CEPAL - UNFPA, 2010). As I will show in the thesis, in Chile, indeed, even once the Abortion

Act was approved, the actual access to abortion was difficult, due to the attitudes of healthcare providers who pleaded conscientious objection, especially in some regions.

Moreover, human rights can be manipulated to the advantage of anti-abortionists too, as in the case of Latin American conservative groups and scholars (Dides, 2006; Lagos, 2001). While defending the principle of life as the cornerstone of human rights, conservatives have invoked the foetus as the symbol of the innocent being that the international community should protect. However, international committees recommended to Chile for years the liberalisation of its restrictive abortion laws, policies and practices (Maturana, 2014), and the law was finally liberalised in part due to this pressure. International courts have also ruled against this superior ‘right to life’ of the foetus. In this sense, feminists have won the ‘international battle’ over the use of human rights to protect reproductive rights, but the actual implementation of those recommendations is another step (Casas, 2013).

Accordingly, Chilean feminist activists and scholars have constantly invoked international human rights treaties and international recommendations in order to demand a change in Chilean legislation. Furthermore, and as part of globalisation, networks of different feminist groups in Latin America and the Caribbean have been created, such as the ‘*Articulación 28 de Septiembre*’ (September 28<sup>th</sup> Articulation) which is a regional campaign which created a day for the decriminalization of abortion ‘September 28: International Safe Abortion Day’, and monitor the state implementation of agreements (Maira et al., 2010).

In this way, in Chile even some of the most radical campaigns demanding abortion have incorporated the language of human rights. For instance, one of the recent campaigns that advocates abortion at the woman’s request is called ‘*Derecho a Decidir = Persona Libre*’ (‘Right to Choose = Free People’, *Foro Ciudadano*, 2015). This was created by the *Coordinadoras Feministas en Lucha*, in Valdivia, but also incorporated other cities. They were otherwise critic of the bill for being too limited, but they engaged with the human rights discourse nonetheless. It is not clear how this kind of engagement with rights discourse addresses the problematisation of ‘freedom’ and ‘right to choose’. Commenting on a similar tension David Harvey says that while human rights can be easily condemned, ‘the temptation in light of this critique is to eschew all appeal to universal rights and to the law as fatally flawed, as an untenable

imposition of abstract ethics, and even as a mask for the restoration of class power. While these propositions deserve to be taken seriously, the terrain of rights cannot be abandoned to neoliberal hegemony' (2009: 75). This problematic relation with rights discourse animates both the revolutionary and democratic calling of the Left as well as feminist activism. In both cases it seems that, despite the doubts that have been raised by those discussed in this section, in the end the rights discourse still plays a decisive (although not always univocal) strategic role in achieving sexual equality (Power, 2015; Nash, 2002). In this sense the efforts of feminism to defend human rights as a non-static political project are useful and necessary for expanding gender equality and social justice.

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### Chapter 3 Methods Foucault's *Dispositif*, Performativity, and Genealogy

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In this thesis I analyse the debate around abortion in Chile from several different points of entry in order to explore the abortion *dispositif*, or apparatus, throughout which subjects, and in particular women, are situated and constituted as such. In this way I intend to analyse the *dispositif* through the diverse discourses and practices that coalesce around it. In the thesis I will offer a brief history of the feminist struggle for abortion in Chile (Chapter Four); then I consider some specific events (Chapter Five) that 'erupted' in Chile, giving us the opportunity to see how a variety of discourses and actors articulate and make claims around abortion. Thereafter, I will analyse the debates that took place in the parliament during the passage of the Bill (Chapter Six). I regard the parliament as a special institution where different, even conflicting, discourses intersect, making it an especially important and interesting site for exploring the contours of the lines of power/knowledge (*pouvoir/savoir*) at stake. Taking a different point of entry, Chapter Seven explores recent visual representations of the debates around abortion in Chile as important parts of the various discourses, often explicitly deployed in order to influence and change the way people think and feel about abortion. Finally, I will look at what I consider to be the most significant contemporary challenges for feminism in relation to the issue of abortion (Chapter Eight): challenges that remain not least because the abortion *dispositif* is not a static apparatus but one in which there are changing discourses and interventions.

To be clear, I am not looking for the origins of contemporary discourses about abortion in Chile, but am seeking to find those moments or those institutions within which I can observe the different lines of power/knowledge attempting to influence how abortion is understood, governed, and experienced. This resonates with Deleuze's idea that

The lines which make up the apparatuses demonstrate continuous variations. There are no more universals – that is to say, there is nothing except lines of variation. The general terms are the co-ordinates which have no meaning other than to make possible the estimation of a continuous variation (1992: 166).

In this brief chapter on methods I address the Foucauldian concept of *dispositif* and explain why it is important for this research. Furthermore, I will explain why Judith Butler's performativity is a significant complement for this line of thought. I will also

make some remarks on how I position myself within this *dispositif*, and on the way in which these ideas fit the more general project of genealogy as a method. Finally, I will give more detail about how specific methods were employed in the thesis.

## I. *Dispositif* and Performativity

In the case of abortion there is an intersection of political, judicial, disciplinary, and sexual discourses constituting a *dispositif* or apparatus. As mentioned in Chapter Two, reproductive policies are a paradigmatic example of the intersection of both poles of biopower: disciplinary power (the government of individuals) and biopolitics (the State's government of populations).

When reflecting about the concept of *dispositif*, Foucault said:

What I'm trying to pick out with this term is, firstly, a thoroughly heterogeneous ensemble consisting of discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions – in short, the said as much as the unsaid. Such are the elements of the apparatus. The apparatus itself is the system of relations that can be established between these elements [...] whether discursive or non-discursive, there is a sort of interplay of shifts of position and modifications of function which can also vary very widely [...] I understand by the term 'apparatus' a sort of – shall we say – formation which has as its major function at a given historical moment that of responding to an urgent need (1980: 194-195).

The *dispositif* or apparatus can be understood as composed of lines that are lines of power/knowledge. Indeed, according to Deleuze's elaboration of the notion, a *dispositif* is a tangle, a multilinear ensemble:

It is composed of lines, each having a different nature. And the lines in the apparatus do not outline or surround systems which are each homogeneous in their own right, object, subject, language, and so on, but follow directions, trace balances which are always off balance, now drawing together and then distancing themselves from one another. Each line is broken and subject to *changes in direction*, bifurcating and forked, and subject to *drifting*. Visible objects, affirmations which can be formulated, forces exercised and subjects in position are like vectors and tensors. Thus the three major aspects which Foucault successively distinguishes, Knowledge, Power, and Subjectivity are by no means contours given once and for all, but series of variables which supplant one another. It is always in a crisis that Foucault discovers new dimensions, new lines (1992: 159).

Thus, a *dispositif* is a 'tangled ensemble' within which one is placed, so that it is always from within the *dispositif* that one must begin one's research to look at, to hear, and to see these different and changing lines of power/knowledge. There is no

origin that we want to trace, but rather one has to elect certain places – such as certain institutions – from which to consider how the issue of ‘abortion’ is constituted. It is important to emphasise that the *dispositif* is formed by lines of power/knowledge that are also ‘lines of lights’ that allow one, as a researcher, to see other lines or discourses because ‘they are machines which make one see and speak’ (Deleuze, 1992: 160). The *dispositif* enables and limits ways of seeing and understanding. However, there are ways of challenging its lines, because discourses and events can prompt changes, and those changes are reflected in how we act, see, talk, and think, in this case, about abortion. In this thesis I am looking at specific lines of power/knowledge or discourses and associated events that form the abortion *dispositif*. When reflecting about his work, Foucault said that:

The point of all these investigations concerning madness, disease, delinquency, sexuality, and what I am talking about now, is to show how the coupling of a set of practices and a regime of truth forms a *dispositif* of knowledge-power that effectively marks out in reality that which does not exist and legitimately submits it to the division [*partage*] between true and false (2008: 19).

Accordingly, in the thesis I am trying to interrogate the *dispositif*, to understand this ‘tangle’ of different lines which intersect creating new ways of seeing. This is why I am looking at these different aspects as selected points of entry: key debates, debates around changes in legislation, and visual representations. This *dispositif* constitutes abortion: it makes it possible to think about abortion and its context and produces key figures as truth claims are made around it.

As we will see, the case of abortion encompasses an array of heterogeneous elements, discursive and non-discursive, which, moreover, shift positions, values, and meanings. It is key, in tracing the shifting positions and new relations, to recognise the directions taken in these dynamic systems of relations, not least because the process of subjectification, the subject’s coming into being, occurs in the midst of this social apparatus, or *dispositif* (see, for example, Deleuze 1992: 161, cited in Bell, 2007: 15). Indeed, the concept of *dispositif* is like a diagram to explore how the subject is constructed and deconstructed. My research dwells on both points, as they are embodied in the context and activity of the different actors involved in the abortion debate.

If knowledges, power, and subjects only exist as pluralities and never achieve a fixed identity that transcends its multiple historical forms, we should talk not of knowledge but of forms of veridiction, not of power but of governmentality, and not of subjects but of a praxis of the self (see, for instance, Foucault, 2011: 8-9). As knowledge and power are intimately linked and co-determined, the human subject engages in games of truth, 'whether they be truth games that take the form of science or refer to a scientific model, or truth games such as those one might encounter in institutions or practices of control' (Foucault, 1984a: 281). In this way different subjects are constituted in different games of truth. For instance, in judicial practices truth is established by the authority of the Church or the State through the collection of testimonies and the assertion of facts; a disciplinary practice establishes truth through its different mechanisms of examining and vigilance.

In this sense, I believe that a particularly crucial aspect of the abortion *dispositif* that thus becomes manifest is that women's bodies gathered in disciplinary regimes are objectified in the sense of being subjected to a regime of truth: 'the operations of disciplinary power become the conditions of possibility for a scientific knowledge about the population there constituted' (Bell, 2007: 14). Becoming disciplined in this way makes possible a scientific knowledge of the human group subjected to the processes of monitoring, recording, and measuring the body and its actions. That is, disciplinary regimes not only monitor, record, and measure individuals but also, in the act of doing so, treat them as 'cases', and thereby open up the possibility of construing a knowledge of the group, its 'types' and a whole discourse of variation from a 'norm' which is itself constituted through the development of such knowledge.

Moreover, the rise of new forms of objectification (provided by psychiatry, psychology, pedagogy, criminology, etc.) carries new forms of subjectification. It is in this sense that 'the folding of power into the body is therefore, and simultaneously, an objectification and a subjectification' (Bell, 2007: 15). Furthermore, this knowledge normalises in the sense that individuals are not only compared against one another but, as disciplinary forces extend their reach, individuals begin to compare themselves with a normality that has been scientifically generated. In this sense there is a difference between the law and the norm: the law discriminates between what is allowed and what is forbidden, separating those who do not conform to it. The norm functions instead by comparing the adjustment to the ideal, because it seeks to



homogenise. As Beatrice Han has pointed out, subjects are individuated but without individuality (cited in Bell, 2007: 15), because their individuality is understood only in relation to a norm.

Alongside the concept of *dispositif*, the concept of performativity also plays a crucial methodological role. Performativity refers to ‘the embodiment of normative ideals via a process of mimesis whereby the body is rendered culturally intelligible’ (Bell, 2007: 100). Or, in the words of Butler:

The performance of gender retroactively produces the effect of some true and abiding feminine essence or disposition, so that one cannot use an expressive model for thinking about gender. Moreover, [...] gender is produced by ritualised repetition of conventions, and that this ritual is socially compelled in part by the force of a compulsory heterosexuality (1997: 144).

Subjects are constituted within a certain *dispositif*, and it is crucial to explore the way in which the performativity of normative power works, reinforcing and challenging these lines of power/knowledge, through repetition and displacement as part of the process. According to Bell, ‘via Butler’s work, the concept of performativity has become a tool of analysis by which to interrogate differentiated subject formation within practices that sustain lines of power and power-effects’ (2007: 21). The notion of performativity also allows us to see the contingency of gender and identity in general.

Furthermore, Sabsay highlights the citational character of performativity (the enforcement of repetition refers to the lack of a foundation and the absence of an origin), and how it signifies some key issues for gender theory:

Gender is not founded on a prior rule or ground: rather, it is established by repetition. Because it has no foundation, it is established again and again, and it is never established once and for all. Hence, the necessary openness of any assumed gender position that forms part of performativity (2016a: 56).

This iterability or citational character of performativity (underscored also by Derrida [for a discussion see Butler, 1997]) should be complemented by the insights of the Foucauldian *dispositif*: with its ‘inadvertent consequences’, ‘unexpected convergences of discourses’, and certain teleological aim of power that can be defeated or subverted (see, for instance, Sabsay, 2016a: 81n). Indeed, the *dispositif* offers the possibility of displacement:

For the ‘pessimistic’ account of the subject as a trained and disciplined body in Foucault’s sense, or as constituted under conditions of duress and made possible only through its attachment to power, in Butler’s sense, contains also the possibility of new entanglements of power, ones that do not escape power relations but that institute new arrangements of the lines of the *dispositif* (Bell, 2007: 25).

In this sense, and contrary to the idea that we are determined by the lines of power/knowledge, the analysis of the abortion *dispositif* allows us to see the possibility of actual resistance and change in power relations.

## **II. Reflecting on My Own Position Within This *Dispositif***

As I have mentioned, in this thesis I look into the *dispositif* not to find ‘the origins’ of the abortion situation but to see these tangles of power/knowledge and their ‘games of truth’, to consider how actors try to influence what emerges within this *dispositif* as truth. It is important also to acknowledge that

untangling these lines within a social apparatus is, in each case, like drawing up a map, doing cartography, surveying unknown landscapes, and this is what he [Foucault] calls ‘working on the ground’. One has to position oneself on these lines themselves, these lines which do not just make up the social apparatus but run through it and pull at it, from North to South, from East to West or diagonally (Deleuze, 1992: 159).

In this sense, I am already within this ‘tangle of lines’: I define myself as feminist, but at the same time I also want to see what feminists have ‘achieved’, what the challenges are, how certain subjects are understood, and so on.

My previous research on abortion and my experience as an activist inevitably inform my research and are, to a limited extent, enfolded within it, especially because interviewing women for an earlier research project made me think about the way in which subjectivities are intimately connected with different discursive representations of abortion, motherhood, the foetus, and so on. I heard in those interviews the way in which possibilities for subjects are constrained or, conversely, opened up by the *dispositif*. This previous knowledge informed my research.

Besides informing my thesis in this general sense, in some chapters I specifically draw upon some interviews that I carried out as part of this earlier and parallel research. Some interviews were conducted as part of two projects in which I participated at the Diego Portales University in Chile, funded by the same university. The first project

was the production of the gender chapter in the 2013 *Informe Anual sobre Derechos Humanos en Chile* (Annual Report on Human Rights in Chile), which focused on the criminalisation of abortion under any circumstances in Chile and its impact on women's lives (Casas and Vivaldi, 2013). We conducted 61 interviews with women who had had illegal abortions, their partners, friends, and relatives, to capture their experiences; and with healthcare providers who assisted them in the process.<sup>2</sup> We used thematic analysis (Riessman, 2008) to identify and group the main themes of the practice of abortion in a restrictive environment. The participants were recruited through an invitation on social networks and using snowball sampling. In order to cover different types of experiences and contexts, people from diverse backgrounds, ages and social classes were contacted. We also interviewed members operating the *Línea Aborto Libre* (Free Abortion Hotline) in order to explore the feminist networks that inform women about abortions.

The second project, conducted in 2015, was specifically about pregnancy and foetal anomalies incompatible with life (Casas and Vivaldi, 2017). This time we interviewed 25 people, including healthcare professionals, women who lived through such an experience, and one partner.<sup>3</sup> In this project we also used thematic analysis and we organised the information chronologically: from the moment the woman is informed that she is having a pregnancy with foetal anomalies until after the pregnancy finishes. We included women's shock upon receiving the diagnosis, their feelings of bereavement and loss, and the clinical practices used in an attempt to ease their suffering under the legal restrictions. Originally, we wanted to illustrate directly the experience of women, but it was extremely difficult to find women who wanted to be interviewed so finally the study captured primarily the experiences of health care providers. In both projects most of the interviews were conducted face to face and some of them via phone or skype. We chose qualitative in-depth interview as a

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<sup>2</sup> 41 women; 12 partners, friends, and relatives; and 8 healthcare providers.

<sup>3</sup> 22 healthcare providers: one psychiatrist, one psychologist, nine certified nurse-midwives, one neonatologist, nine obstetrician-gynecologists, and one sociologist in the cities of Santiago, Valparaíso, and Valdivia. Two women and one partner. It was very difficult to find women willing to talk about the subject.

method to provide insights into women's and health practitioners experiences (Rubin and Rubin, 1995). We also reflected in our own position as researchers. Gayatri Spivak in her famous article 'Can the subaltern speak?' (1988) highlights the risks when members of a privileged group, for instance scholars, make political claims on behalf of 'oppressed groups'. Indeed, scholars can patronise, or essentialise, the researched group and also reinforce the oppression of the group spoken for (Alcoff, 1995). In this sense power balance between the researcher and the researched was also reflected upon during the process of the interviews and also while analysing them. Sometimes or in some moments of the interview I was seen as an 'expert' by women; other times I felt that they really trusted me and saw the interview as a conversation where they could freely share their experience, in some cases for the first time. In this sense, some women told me that they experienced the interview as a "moment for themselves", even therapeutic (cf. Phoenix, 1995). In the case of healthcare professionals sometimes they expressed their prejudices or problems for being interviewed by someone who was not a doctor or sometimes, specially when they had strong views against abortion, they were skeptical about my intentions or my capacity of analysing their answers. In terms of ethics, both projects were approved by the Diego Portales University Ethics Committee. In order to protect confidentiality, the names were not recorded, and we made a commitment not to reveal identities. All participants were fully apprised of the contents, potential risks, and benefits; were assured anonymity and confidentiality; and gave their consent. Consent forms were marked rather than signed. In the first project no audio recordings were made and we just took written notes in order to prevent any risks of criminal investigation. In the second project we recorded the interviews and the audios were destroyed once transcribed and anonymised.

In my thesis I also draw upon some interviews that I conducted for two magazines about abortion that I edited; in 2014 the magazine *Sentidos Comunes* and in 2016 *Rufián* magazine. These interviews were with politicians, lawyers, and feminist activists.

Additionally, on my trips to Chile over the past four years I have participated in different feminist meetings and, from London, I remained part of Chilean feminist organisations such as *Mesa Acción Aborto* (Panel Abortion Action) and *Decido y soy Libre* (I Decide and I'm Free), which kept me continually updated about the situation.

I also had the opportunity to be in the audience of some parliamentary debates and even to collaborate in the writing of some of the presentations, as I will explain later. I carried out a systematic review of the news about abortion during these years, and analysed them according to the relevance and importance for the specific subjects that were treated. I also collected data from official sources such as governmental bodies, and secondary data from different archives.

Feminist methodology was crucial to understanding the importance and difficulties of attempting to forge links between feminism, activism, the academia and women's everyday lives. A key aspect of feminist research is based on the idea of 'situated knowledges' (Haraway, 1988), according to which how and what we 'see' and research is situated in embodied forms of experiences and specific socio-historical conditions. Additionally, situated knowledges

Seek not the knowledges ruled by phallogocentrism (nostalgia for the presence of the one true Word) and disembodied vision, but those ruled by partial sight and limited voice. We do not seek partiality for its own sake, but for the sake of the connections and unexpected openings situated knowledges make possible. The only way to find a larger vision is to be somewhere in particular. The science question in feminism is about objectivity as positioned rationality (Haraway, 1988: 590).

As such, I am clearly approaching my thesis from within the *dispositif* and aligned with feminist approaches. This has also given me a constant reflexivity in my own work and practices, including a monitoring and questioning – Who am I including and excluding; what assumptions am I making and why? How am I writing about others? – insofar as I follow Haraway, who writes that 'feminist embodiment, then, is not about fixed location in a reified body, female or otherwise, but about nodes in fields, inflections in orientations, and responsibility for difference in material-semiotic fields of meaning' (1988: 588).

### **III. Genealogy as a Method**

To study the *dispositif* is very challenging. Foucault's own approach was genealogical (in other words, we can say that genealogy was Foucault's way to trace the emergence of a given contemporary *dispositif*). Following Foucault, genealogy, as a historical method, reveals the radical contingency of present institutions, legislation, and prejudices; opening up a possibility of change. Genealogy represented a shift in

emphasis with respect to his previous work on archaeology, which therefore enabled him to draw attention to the symbiotic relationship between power and knowledge.

The genealogical analysis is a historical method that traces not exactly the origin of something but its descent (*Herkunft*). It proceeds by deconstructing and looking at the fragments that constitute the unities of reality. In this sense, genealogy investigates the heterogeneity of historical unities (ideas, facts, and processes).

Genealogy does not pretend to go back in time to restore an unbroken continuity that operates beyond the dispersion of forgotten things; its duty is not to demonstrate that the past actively exists in the present, that it continues secretly to animate the present, having imposed a predetermined form on all its vicissitudes. Genealogy does not resemble the evolution of a species and does not map the destiny of a people. On the contrary, to follow the complex course of descent is to maintain passing events in their proper dispersion; it is to identify the accidents, the minute deviations – or, conversely, the complete reversals – the errors, the false appraisals, and the faulty calculations that gave birth to those things that continue to exist and have value for us; it is to discover that truth or being does not lie at the root of what we know and what we are, but the exteriority of accidents (Foucault, 1971: 81).

Indeed, by shifting the site of truth from deep grounds and internal essences to the exteriority of accidents, genealogy tracks the fragmentary and heterogeneous constitution of the phenomenon itself. This approach helps us to better understand the regulations and control mechanisms exerted over the body. The cultural and political institutions and the wider discourses informing the present legislation on abortion have to be considered within the broader framework of economic, religious, and social factors. In this way, the current prohibition on abortion in Chile appears not only as the resultant decision of a group of politicians and members of the Church but also as embedded in a more complex net of power relations. So too, as we will see, the recent genealogy of its contemporary moment of transition reveals the entangled net of various different constructions of what abortion is.

Genealogy is also *Entstehung* – looking for the historical emergence of something, following its moment of arising, focusing on the force-relations generating the events: the emergence of events is a staging of clashing forces, an eruption of contradictions or outright battles, as I will show below.

Of special interest is the way in which genealogy is applied to the reading of women's bodies. As Foucault famously put it, the body appears as 'the inscribed surface of events (traced by language and dissolved by ideas), the locus of a dissociated self

(adopting the illusion of a substantial unity), and a volume in perpetual disintegration’ (Foucault, 1971: 83). The genealogical method enables us to read the relationship between body and history. The deconstruction of political institutions often regarded as sacred, and of metaphysical accounts that see unchanging truths behind our conception of the world, enables us to see much more clearly how the body has been moulded by different lines of power/knowledge, and their distinct rules of behaviour. In this sense, Foucault is carrying forward Nietzsche’s approach presented in *On the Genealogy of Morals* ([1887] 2010). If Nietzsche sketched several power relations (between the weak and the strong; society and the individual) as a way of explaining the emergence of our values and institutions (punishment, guilt, good, evil, etc.), Foucault set for himself the task of *checking in detail* how the body ‘is broken down by the rhythms of work, rest, and holidays; it is poisoned by food or values, through eating habits or moral laws; it constructs resistances’ (Foucault, 1971: 87). This point relates directly to an inquiry into abortion and its legislation: on how the health and liberty of the body is constituted in a particular time and place and how feminists have developed different strategies of and for resistance. In this way I pay special attention to feminist organisations and to different ways to cope with the prohibition. We need to consider as well the resistance of conservative groups against liberalisation, and the displacement and iteration of arguments across the political spectrum.

Furthermore, the key to the politics of genealogy, as both Wendy Brown and Vikki Bell suggest, is the commotion that the genealogical method provokes in our understanding of the histories that constrain our political possibilities. As mentioned, the realisation of the contingency of our political *dispositifs* makes available for us ‘a glimpse of the real possibilities that present reality performatively denies’ (Bell, 2007: 89). Thus, the task of genealogy is not that of directing action towards a predefined goal, nor is it sketching future possibilities, but rather it is engaged in a reflective activity inside the environment within which an ‘other possibility’ is created or not. Genealogy is provisional rather than true, but, revealing the present’s radical contingency, genealogy opens up possibilities.

In what follows I propose to explore aspects of the relations of power involved in the Chilean debate regarding abortion cast in a new light. A genealogical approach leads us to regard those relations not only in relation to the economic infrastructures and the different policies and legislation but also to ‘infra-governmental or para-governmental

ones; to discover them in the material play' (Foucault, 1988: 119). In other words, to go beyond the State apparatus and to look into other places and institutions such as academia, feminist organisations, hospitals and clinics, the Church, and the media.

#### **IV. Some General Observations and Details of the Chapters**

As mentioned, I understand a *dispositif* as constituted by lines of power/knowledge; a tangle or ensemble of these lines. How is one supposed to study these? It is a fair question. As I discussed above, Foucault's own approach was genealogical. Although I am interested in the main tenets of genealogy, and share its methodological assumptions, my thesis will also pay close attention to Foucault's governmentality and biopolitics, that is, to present power/knowledge relations as a site of a collective struggle in which notions of appropriate governance of pregnant bodies are produced and reproduced.

Regarding the chapters in particular, I will start in Chapter Four with a brief account of the history of the feminist movement regarding abortion in Chile. This chapter shows how abortion was understood and regulated during the twentieth and the beginning of the twenty-first century, paying special attention to the impact of Pinochet's dictatorship with the total ban. Additionally, it looks at the way which way feminists organised themselves in order to be able to exercise their sexual and reproductive choices.

In Chapter Five (*Abortion on the Public Scene: Three Eruptive Events*), I look at specific events that were crucial, for different reasons, to the discussion, understanding, and practices of abortion in Chile. The events chapter is genealogical and, to a certain extent, the concept of 'event' is the other side of the coin for genealogy. A focus on events helps identify the contingency and the heterogeneity of things taken for granted. However, while the genealogical method can be seen as disturbing historical constants or universal values, the event is more 'positive', in that it reveals multiple explanations. An event is, in the words of Foucault:

First [...], a breach of self-evidence [...] making visible a singularity in places where there is a temptation to invoke a historical constant, an immediate anthropological trait, or an obviousness which imposes itself universally on all [...]. Secondly [...], rediscovering the connections, encounters, supports, blockages, plays of force, strategies and so on which at a given moment establish what subsequently counts as



being self-evident, universal and necessary. In this sense one is indeed effecting a sort of multiplication or pluralization of causes (Foucault, 1991: 76).

The consideration of ‘events’ allows us to see the historical conditions of possibility that constitute us and our capacities for thought and action. In light of this, it could be said that the event highlights what it is we need to focus on. Furthermore, the event is more than a mere idea: it is an action that engages us cognitively and ethically. It is helpful to think about the event as a volcanic eruption that influences the lines of power/knowledge and even creates new ones. In other words, an event potentially leads to new lines of thinking that emerge from the ‘messiness’ whose tensions and contradictions cause its eruption, prompting changes and generating new ways of thinking. However, they are not necessarily the cause, for instance, of a parliamentary debate or responses of any institution. In this thesis I have chosen to consider certain key events. For instance, the case of Belén, a 11-year-old girl who was pregnant as a result of being systematically abused by her stepfather, and who, in 2013, did not have the option of having an abortion. Her situation generated an important reaction from feminism. In this particular case, this event influenced feminist organisations, meetings, and performances. An event, then, influences not only the way in which people talk, think, see, and understand (abortion), but also generates new connections, strategies, and practices.

In Chapter Six I analyse some of the parliamentary debates that took place in two committees of the *Cámara de Diputados* (Chamber of Deputies): *Comisión de Salud* (The Committee on Health Affairs) and the *Comisión de Constitución, Legislación, Justicia y Reglamento* (The Committee on Constitutional, Legal, Justice, and Regulations Affairs) (2015-16). I consider the debates from the perspective of Foucauldian governmentality and biopolitics, looking at the relations of power and the way in which these are intertwined with regimes of truth. This resonates with Foucault’s insight that the *dispositif* ‘consists in: strategies of relations of forces supporting, and supported by, types of knowledge’ (Foucault, 1980: 196). The parliament, as an institution, enabled me to see different lines of power/knowledge explicitly attempting to influence abortion. In this institution several discourses come together, revealing their congruence and conflict. Thus, I explore how concepts of the ‘unborn’ and the characterisation of the women were constructed and discussed during the debates. In order to access the full debates, I consulted the web pages of the Chambers of Deputies, where some of the presentations were uploaded, and also the

final reports of the two Committees of the Chambers mentioned above. Some other sessions were recorded and transcribed by scholars from the *Universidad de Chile* (University of Chile): Irma Palma, Claudia Moreno and Andrea Alvarez, from the *Programa de Aprendizaje en Sexualidad, Afectividad y Género* (PASA; Programme of Learning in Sexuality, Affectivity, and Gender), Psychology Department, to whom I am very thankful for having shared this information with me. I was also able to attend two sessions of the Committee of Constitutional, Legal, Justice, and Regulations Affairs during one of my visits to Chile, and even to contribute to the writing of two presentations.<sup>4</sup>

In Chapter Seven, I focus on the visual aspects of key campaigns, both against and in favour of abortion. Even if Foucault did not directly analyse visual representations, they certainly constitute another crucial aspect to explore. In this chapter I look at 28 images created by eight organisations and individuals. I found most of the pictures online, but also some images were sent by friends. I selected the campaigns according to their relevance, due to either the impact they had had in the media or the way in which they addressed novel and creative aspects of the debate. Through their productions and representations of abortion, and especially of the figures of the woman and the unborn, the images offered novel ways of approaching the way in which new modes of thinking are entering the debate.

Finally, in Chapter Eight I argue that there remain certain key challenges for contemporary feminism in its struggles around abortion in Chile. In any contemporary moment, things are of course always changing, as Deleuze argued:

the newness of an apparatus in relation to those which have gone before is what we call its actuality. The new is the current. The current is not what we are but rather what we are in the process of becoming – that is the Other, our becoming; other. In each apparatus [*dispositif*] it is necessary to distinguish what we are (what we are already no longer), and what we are in the process of becoming: the historical part and the current part (1992: 164).

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<sup>4</sup> Specifically, I collaborated with Lidia Casas, a legal scholar who specialises in gender and women's rights, and my father, Ennio Vivaldi, who, as vice-chancellor of the University of Chile, was invited to participate in the debate.

Considering such contingency, we can only conjecture as to the future, on the basis of our analysis of how the present has been constituted genealogically and biopolitically. But there are, I will argue, certain challenges that seem salient for feminists in Chile in the contemporary moment. I will provide an analysis of these.

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## Chapter 4

### A Brief History of the Feminist Struggle for Abortion

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The aim of this chapter is to historically explore the prohibition of abortion in Chile from a biopolitical perspective. I will historically contextualise some features of Chilean feminism during the twentieth century and the irruption of Pinochet's government in specific areas: political governmentality, religion and gender policies. Finally, I will outline some features of feminist interventions after the recovery of democracy.

#### **I. Being a Political Woman in Chile: Feminism and Social Struggle**

In this section I will outline some features of the progressive formation of feminist activism and the fight for reproductive rights in Chile. At the beginning of twentieth century, women started to organise themselves in clubs, groups, centres, unions, and meetings (Kirkwood, 1982: 13-25). Not all of them were necessarily 'feminist', but they all claimed recognition in different aspects: cultural, economic, social, political, and so on.

Furthermore, working-class women created their own organisations in which they began to analyse their position as women. Different publications with a feminist profile started to appear, for instance *La Alborada* (The Daybreak) (1905-1907) and, later on, *La Palanca: publicación feminista de propaganda emancipatoria* (The Lever: feminist publication of emancipatory promotion) (1908) (Hutchinson, 1992). Then, in 1913, Belén de Sárraga, Spanish anarchist, feminist, and anti-clerical activist, visited Chile and gave a series of talks on secularism and free thought. She denounced the role of the Church in the subordination of women (Maira et al., 2008: 19). The Chilean workers' feminist organisations incorporated these new ideas and formed well-organised women's centres expanding throughout the whole country (*Observatorio Género y Equidad*, 2009). Women declared themselves secular and free-thinking; they encouraged education, spoke of free love and rejected marriage. From 1915 onwards, women from the middle and upper classes created their own ladies' clubs and reading groups (Baldez, 2002: 13; Kirkwood, 1982: 17). In 1919 the Women's National Congress was founded, as a first project to obtain political and civil rights. In this period Chilean women also engaged in international feminist events and ideas (Kirkwood, 1982: 14), supported international women's

organisations, and were influenced by them, especially by the USA suffragette movement (Gaviola et al., 1986).

With regard to healthcare, in the first decades of the twentieth century, child mortality in Chile was among the highest in the world (Salazar, 1985). Poverty, social injustice, and the lack of healthcare programmes concerned with reproductive rights prompted women to abort in order to control their fertility, with highly risky consequences. In Santiago alone, it is estimated that there were 7,000 abortions in 1923 (Del Campo, 2008: 138).

In 1931 so-called ‘therapeutic’ abortion, only permitted if the woman’s or the foetus’s life or health was in danger, was legalised. It was deemed legal by Article 226 of the Public Health Code, which established that ‘only for therapeutic purposes, it will be permitted to terminate a pregnancy or sterilise a woman’.<sup>5</sup> The authorisation of three doctors was required.<sup>6</sup> The main impetus behind the regulation was to lower the high maternal mortality rate (see, for instance, Bascuñán, 2004; Del Campo, 2008). However, what constituted ‘therapeutic purposes’ was left ambiguous; from its legalisation in 1931 up until Pinochet’s period in power, the interpretation of Article 226 (later 119) changed throughout different governments. These shifts occurred due to diverse factors, such as the development of the public health system, women joining the workforce with unequal conditions, the suffragette movement, the urbanisation of the country, and other cultural transformations that prompted changes in public health policies (Matamala Vivaldi, 2014: 8). Del Campo states that it was simpler to get an abortion for certain women than for others. For instance, the medical discourse was more lenient towards single women, as it was often assumed they were abandoned by a man, and therefore would face inevitable social condemnation for having fatherless children (2008: 143).

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<sup>5</sup> The Public Health Code was approved by the Decree with Force Law number 226.

<sup>6</sup> In 1967 the Public Health Code was modified by Decree with Force Law number 725, which established in its Article 119 that the opinion of two doctors was required.

Despite the new regulation, the situation did not improve substantially, provoking a reaction from doctors. In 1935, the head of the San Borja Maternity Hospital, Víctor Manuel Gacitúa, wrote a report denouncing the catastrophic consequences that clandestine abortion had on women's lives (Eguiguren and Ferrer, 2014: 24). In 1936, at the *Convención de la Asociación Médica de Chile* (AMECH; Chile Medical Association Convention), doctors agreed to propose so-called 'scientific abortion' for social and economic reasons, as a solution to the high rates of maternal mortality (Del Campo, 2008). Del Campo draws attention to the fact that it was the first time in Chile that doctors addressed reproductive rights. In fact, according to the participants of the aforementioned convention, it was necessary to prioritise women's lives over that of the embryo because 'the existence of their offspring, who are already inhabiting this Earth, also depends on them' (Del Campo, 2008: 163). Even though gender roles were reinforced in this declaration, which omitted mention of the father and held women responsible for reproduction, it is interesting to note that the 'conflict' between the woman and the foetus was resolved in favour of the former (Matamala Vivaldi, 2014: 9). Today, this 'competition' between the foetus and the mother continues to be very significant in public debates, as I will analyse later in this thesis. As I will discuss below, despite the progress made, this proposal for 'scientific abortion' did not succeed, and therapeutic abortion continued to be the only kind of abortion accepted in Chile until 1989, when, as one of Pinochet's last acts in office, it was prohibited.

In the 1930s, women's movements started to articulate their demands regarding the regulation of reproductive rights, especially the possibility of having legal abortions. In 1935 a group of Chilean feminists founded the *Movimiento Pro-Emancipación de la Mujer Chilena* (MEMCH; Movement for the Emancipation of Chilean Women). This group was particularly interesting because it gathered together women from different social classes and ages. Academics, professionals, wage-earning and also working-class women were part of the movement (Figure 4.1). One of the founders, Elena Caffarena, declared that the MEMCH had 'achieved something that, until then, seemed incredible: to see women of all social classes acting together in perfect

harmony' (quoted in Baldez, 2002: 25). The MEMCH's statutes established that it was 'a female organisation that aimed to attain the comprehensive emancipation of women, specially economic, legal, biological, and political emancipation' (MEMCH, 1938, my translation).<sup>7</sup> The movement's 1935 declaration, called '*A las mujeres*' (To Women), started by stressing that for countless years women worked at home fulfilling their duties until 'industrial development took them away from the home and threw them into the battle for life' (Caffarena, 1935, my translation). It criticised this double role for women, in which they were expected to fulfil duties as housewives and mothers at home while holding down a paid job. The MEMCH emphasised that, as women were seriously disadvantaged in relation to men, it was crucial to create feminist groups that could defend their rights. The MEMCH was the first movement that clearly addressed fertility regulation as a women's issue (Jiles and Rojas, 1992: 104). According to Jiles and Rojas, different reasons could have influenced the incorporation of these issues into the feminist demands: the family planning movement in Europe and the United States, the economic crisis that impacted on the life quality of the population, and also awareness of the consequences suffered by women due to abortion and prostitution (Jiles and Rojas, 1992: 104). From the beginning, the MEMCH advocated for access to family planning and the legalisation of abortion. Regarding abortion, it claimed that 'with respect to our biological bodies, our actions will not stop until we call the attention of scientific and legal authorities to the distress caused to poor working women who are forced to get pregnant and to give birth repeatedly' (Caffarena, 1935). It clearly recognised that too often

the result of this dire situation was a clandestine abortion, with all the problems that came with it; or the death of the newborn because of misery, malnutrition or involuntary and forced abandonment [of the newborn]. The woman has a right to a conscious maternity, that is to say, to become a mother voluntarily, and only when she has the health and the economic resources to do so [...] All our aspirations to improve women's standard of living will never become a reality unless society releases women who lack economic resources and who do not have access to education from this barbaric price that she is condemned to pay today (Caffarena, 1935, my translation).

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<sup>7</sup> <http://www.memoriachilena.cl/archivos2/pdfs/MC0023661.pdf>



Figure 4.1 Poster for the first congress of MEMCH.  
Source: Memoria Chilena<sup>8</sup>

The MEMCH addressed its demands mainly to public health authorities and doctors. For instance, in 1935 it sent a letter to the Health Service Director demanding free contraception pills and treatment, which would enable women to ‘live as human beings’ (cited in Jiles and Rojas, 1992: 106, my translation). The recognition of reproductive rights was strongly associated with the condition of women as human beings. They also requested free abortion provided by the state for specific cases, such as large families, or those affected by illness or poverty. They participated in the aforementioned Medical Convention in Valparaíso in 1936, where they also asked for the regularisation of abortion and free contraceptives. The demand for free abortion, in this case, was also related to poverty and lack of resources. The MEMCH even declared that ‘society cannot ask women to have children if they do not give women the means to feed them’ (cited in Jiles and Rojas, 1992: 107, my translation). It added that as long as maternity constitutes a curse for women, it would support legal abortion. The MEMCH was against compulsory maternity, and fought for the rights of working-class women, pre- and post-natal care, access to nurseries, the right to breastfeed twice per day, and fair wages.

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<sup>8</sup> <http://www.memoriachilena.cl/602/w3-article-3611.html>



It is clear that abortion was an important concern for the feminist movement. At this point, however, it was understood mainly as a class problem: abortion should be permitted for those women who cannot afford to have children in 'good conditions'. The movement spoke in favour of abortion, but mostly focused on healthcare, poverty, and family planning, because the defence of abortion was mainly articulated in terms of working-class and poor women, who suffered the worst consequences of unwanted pregnancies, economically and in terms of their health (Kirkwood, 1990).

In 1946, the *Partido Feminista Chileno* (Chilean Feminist Party) was founded. In 1947 different groups created the *Federación Chilena de Instituciones Femeninas* (FECHIF; Chilean Federation of Female Institutions), which comprised many women's organisations: religious, political, feminist, and economic. Its main goal was to obtain the right to vote, which was gained in 1949. Since then, the women's movement began what Julieta Kirkwood has referred to as a 'period of silence' (1990). According to her, there were two main reasons for this retreat of women from politics. First, after suffrage was achieved there was apparently no reason strong enough to unite the movement on a bigger scale. Second, the first female member of Parliament, María de la Cruz, was expelled in the middle of a corruption case. She was also the president of the *Partido Feminista Chileno*. Kirkwood argues that this episode would have created a feeling among women that, as women, they were not prepared for politics and so should return to their homes, social clubs, or traditional political parties. Kirkwood also analysed the way the *Partido Feminista* was attacked by traditional political parties, creating internal divisions and a weakening of the movement (Kirkwood, 1982). From this moment, women who continued in politics participated in social projects but did not necessarily sustain a discourse centred on the emancipation of women.

In 1964, a subsidised 'family planning programme' was implemented under the government of Eduardo Frei, a Catholic President from the *Democracia Cristiana* (Christian Democrats) party. Created in order to reduce maternal mortality and unwanted pregnancies, the programme included the provision of contraceptives, including and intrauterine devices, and also the creation of the first national programme for sexual education (Brito et al., 2012: 149; McGuire, 2010; Jiles and Rojas, 1992). The plan was completely guaranteed by the State, in fact 'Chile became the first Latin American country, outside of Cuba, to inaugurate a publicly subsidised

family programme' (Casas and Shepard, 2007: 202). It was developed under the leadership of progressive medics and the *Asociación Chilena de Protección de la Familia* (APROFA; Chilean Association for the Protection of the Family), a branch of the International Planned Parenthood Federation (IPPF). It was also a response to complications from clandestine abortions. It is estimated that in 1964 there were around 70,000 hospitalisations due to abortion complications (Matamala Vivaldi, 2014: 10). In fact, the Public Health School of the *Universidad de Chile* conducted the first study in Chile about abortion, which was published in 1964: *El Problema del Aborto Provocado* (Armijo and Monreal, 1964). The authors collected data on abortion in Chile in order to understand its practice, and concluded that abortions were very dangerous for women's lives and health because most of them were carried out in unsafe conditions. They called for contraceptive methods provided by the State in order to counteract the problem. Moreover, the study influenced the creation of the family planning programme.

As with many public policies on reproductive issues, the aims and means of the family planning programme were contentious. The programme faced strong criticism from the Catholic Church and also from some left-wing sectors. The latter were suspicious of the intentions behind population control, because they linked it to the agenda of the USA (Matamala Vivaldi, 2014: 11). Following this idea of demographic control over the population, Brito et al. distinguish

two moments in the Chilean developmental discourse. In the mid-nineteenth and early twentieth centuries, the female body was seen as a tool for populating a country in the process of industrialization. Later on, in the second part of the twentieth century, overpopulation among the poor was seen as a threat to development, and restricting the reproductive potential of women was a political priority. In both cases, either to promote or to control reproduction, the female body was taken as a passive object of governance (2012: 147).

According to Brito et al., in general, the measures related more to medical intervention than to a woman's decision over her body (2012: 147-148). It could be said that family planning is a specific site in which the two poles of biopower intersect (the anatomo-politics of the individual body and the biopolitics of the population). Feminist studies have shown how demographic concerns do play a role in reproductive policies, as women are encouraged to have children or dissuaded from doing so, based on health, racial, ethnic, or class reasons (Yuval-Davis et al., 1989; Mottier and Gerodetti, 2007). This can be seen as a way of disciplining women by

means of the ‘meticulous control of the operations of the body’ (Foucault, 1977: 137). Through the use of *productive* techniques, women follow a series of instructions in order to organise their sexuality and be able to control their reproduction.

Despite the term ‘family planning’, within a couple, the person who is responsible for the success of birth control is the woman. She is the one who takes the pills or uses specific devices in order to prevent unwanted pregnancies: her body is the one that is mainly controlled by something external; her movements and timings are the target of family planning. However, it is interesting to note that the family planning programme implemented in Frei’s government gave the man the authority to make major decisions: for instance, for sterilisation procedures, the husband’s authorisation was required.<sup>9</sup>

Even though the programme did not embrace a gender or women’s-rights perspective, at least women did have some control over their fertility. The governmental family planning programme did not explicitly challenge the classic role of women as mothers or caregivers, but it did improve the practical conditions of many, because the possibility of having access to contraception enabled women to make decisions (Rojas, 1994). Brito et al.’s view, described above, on the other hand, excludes any explicit agency by women.

The results of the family planning programme were as expected: maternal deaths and hospitalisations decreased dramatically (see, for instance, Faúndes and Barzelatto, 2006; Jiles and Rojas, 1992; McGuire, 2010). During Allende’s government (1970-1973), Frei’s programmes were improved and made accessible for all women of reproductive age (Brito et al., 2012: 149). Healthcare policies were strengthened, promoting the distribution of contraceptives and professional attention throughout the entire pregnancy and post-pregnancy periods. Different politicians openly supported abortion on the woman’s request, and this was also reflected in the media (Matamala

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<sup>9</sup> The National Health Care Service required the written authorisation of the woman’s partner in order to proceed (Avendaño, 1975: 47-48). This shows the lack of autonomy of women over their own reproductive decisions and how, for the State and healthcare providers, women were not considered able to make certain decisions on their own.

Vivaldi, 2014: 12-13). Although public policies were still focused on ‘mothers’ and ‘families’, the idea of women being able to decide how, when, and whether to have children became a crucial point of discussion for the government. The therapeutic abortion regulation was interpreted more freely, allowing a factually different implementation of the law. In the Hospital Barros Luco, for example, a group of doctors interpreted the law broadly, permitting abortions until the twelfth week of pregnancy on the woman’s request (Pieper, 2009; Matamala Vivaldi, 2014; Paul, 2015).

During this period women participated in political parties, contributing to the different social change programmes that were happening in the country. However, the focus was not on any specific feminist demands.

## **II. Pinochet’s Coup: The Implementation of Neoliberalism**

After the coup d’état, in 1973, which abruptly ended Allende’s socialist project, a new regime was forcefully instituted. In order to do so, the State used extreme violence, and in the period 1973-1990 almost 3,000 people died and at least 400,000 were tortured (see, for instance, *Informe Rettig* and the *Informe Valech*).<sup>10</sup> Pinochet remained in power until 1990, when Patricio Aylwin of the Christian Democrats party was democratically elected. One of the last measures taken by Pinochet was the total prohibition of abortion, and until as recently as September 2017 this remained unchanged. In fact, since the beginning of the dictatorship, government policies explicitly promoted population growth (Jiles and Rojas 1992; Matamala Vivaldi, 2014).

In order to understand the abortion prohibition, we need to consider a more general account of Pinochet’s rule, especially the establishment of neoliberalism and the strong influence of Catholicism and ‘natural law’ among the supporters of the dictatorial regime.

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<sup>10</sup> Available at <http://bibliotecadigital.indh.cl/handle/123456789/170> and <http://bibliotecadigital.indh.cl/handle/123456789/455>

As we saw in the literature review, neoliberalism is understood as a political rationality in which the principles of the market serve as regulative principles in other areas of social conduct and power strategy (Brown, 2005; Gane, 2012).

The dictatorial period under the government of Pinochet (1973-1990) converted Chile into a ‘laboratory of neoliberalism’. This entailed the privatisation of public goods, deregulation and cuts to social spending, and the maximisation of production and consumption. In the words of David Harvey:

Working alongside the International Monetary Fund, they restructured the economy according to their theories. They reversed the nationalizations and privatized public assets, opened up natural resources (fisheries, timber, etc.) to private and unregulated exploitation (in many cases riding roughshod over the claims of indigenous inhabitants), privatized social security, and facilitated foreign direct investment and freer trade. The right of foreign companies to repatriate profits from their Chilean operations was guaranteed. Export-led growth was favoured over import substitution. The only sector reserved for the state was the key resource of copper (rather like oil in Iraq) (2005: 8).

This was also reflected in the Chilean Constitution (approved by Chilean voters in a controversial plebiscite in 1980), which strongly protects property rights and economic freedoms, and excludes social, political, and economic rights from its scope, giving only the thin protection of equality before the law. The main ideologues behind these economic transformations were the so-called ‘Chicago Boys’, named as such because they closely followed the ideas of Milton Friedman and other economists of the University of Chicago (Dezalay and Garth, 2002; Valdés, 1995). The concept of liberty is crucial for neoliberalism, and in its interpretation of this concept the labour market was ‘freed’ from regulatory or institutional restraints; the public healthcare, education, and pension systems were all privatised. Social rights, benefits and services guaranteed by the State were now the responsibility of the individual, whose freedom was the freedom to choose and acquire goods and services.

Since the beginning of Pinochet’s regime, the State’s efforts were directed towards a redesign of the economic model, and those changes were also reflected in other spheres. After the defeat of the socialist project, the parliament was closed, a collegial military junta was created, and all political parties were banned; consequently, public policies changed dramatically. The privatisation of public wealth, the protection of private property, and the (over)protection of individual rights were and still are part of the country’s main regulations. In order to maintain control, many rights, such as the

rights to freedom of speech, expression or association, were restricted or prohibited under the latent threat of arrest, disappearance, torture, and death. Pinochet's rule was successful in changing politics not only institutionally but also symbolically (Ríos, 2003a). The military government dismantled not just political parties but also all the communal organisations created during Allende's government, as the *Comités de Defensa*, *Comandos Populares*, and other groups with legal personality in order to eliminate every possibility of social organisation (Valdés et al., 1989: 32).

The last two decades have seen an increase in literature devoted to offering a much-needed clearer picture of the political implications of our economic system (see, for example, Moulian, 1997; Atria, 2013a; Undurraga, 2015). It is important to explore the specific changes implemented in these recent decades: I believe that the implementation of the neoliberal model has not been reversed under democratic governments; in fact, it has not even stopped progressing, and in some spheres it has even been encouraged, despite the fact that until 2010 the government in place has been a coalition aligned to the centre-left. In this sense, the student movement of 2011 represented a huge upheaval for the establishment: for the first time the neoliberal foundations of governmental policy were strongly criticised and challenged.

From the vast literature available, at least two problems appear to be inescapable: first, we need to realise that the economic model forcefully implemented in Chile has had wide-ranging consequences that have reached civil life, beyond the economic sphere. Second, we need to realise that the philosophy of *laissez-faire*, with its economic and individual liberties, most prominently associated with neoliberalism, conceals permanent forms of vigilance, activity, and intervention (Foucault, 2008: 132). In other words, besides the realisation that neoliberalism affects more than the economy, we need to uncover the forms of control concealed within the apparent liberties of current neoliberal democracies. In this sense, Foucault's lectures on governmentality are key to helping us understand that even though the economy is perceived as an autonomous realm of reality, with its own laws and regularities, the rationality of markets expands to other spheres of life.

### **III. The Influence of Catholicism in Pinochet's Regime: Natural Law**

The Chilean Constitution and the main regulations and policies implemented in the country during Pinochet's dictatorship were closely tied to religion, specifically to the influence of Catholic groups. Accordingly, the Chilean Constitution 'was preceded and shaped by a revived natural law discourse, rooted in a conservative version of Catholic doctrines' (Muñoz, 2014: 129). Natural law discourses, thus, provided a foundation for Chilean regulations and, in a way, for the coup itself.<sup>11</sup> The Constitution provided a strong spectre of 'negative freedoms': economic, private property, and so on. Despite the bloody measures adopted by Pinochet, the right to life was for the first time explicitly protected by the Constitution. The right to life is traditionally justified by scholars through the invocation of God or religious ideologies. Reviewing the works of professors of Catholic constitutional law who have written about the right to life, Figueroa observes that most of them 'tend to mention God, Christian ethics, or forthrightly Catholic morals' when they explore the constitutional concept of personhood and the foundations of the right to life' (cited in Muñoz, 2014: 133). We can see 'natural law' embedded in the Constitution in Article 5, which stipulates the following: 'The exercise of sovereignty recognises as a limitation the respect for the essential rights originating from human nature'.

The main political party that supported Pinochet's ideological programme was the *Unión Demócrata Independiente* (UDI; Independent Democratic Union), a politically authoritarian, socially conservative, and economically neoliberal party formed in 1983 by Jaime Guzmán. The UDI is still important today in terms of the conservation of the main bastions of the ideology behind Pinochet's rule. Jaime Guzmán was one of the main intellectuals behind the regime, and also one of the creators of the current political Constitution. In 1967, while he was studying at the *Universidad Católica de Chile*, he created the right-wing student movement called '*Gremialismo*' ('Guild') and he was a leader of the opposition to Allende.<sup>12</sup> He strongly believed in an individualistic reinterpretation of Catholicism, and in the subsidiary State as a form of

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<sup>11</sup> The webpage *Memoria Chilena*, of the National Library of Chile, has abundant material about the first regulations of Pinochet's government. Available at: <http://www.memoriachilena.cl/602/w3-article-92407.html>

<sup>12</sup> In the first democratic election in 1989 he became a senator and two years later he was assassinated.

protecting basic freedoms (Cristi, 2011). Finally, it is important to highlight that the Chilean Constitution was intelligently designed to prevent the possibility of changing the neoliberal political system.<sup>13</sup>

#### **IV. Women and Dictatorship: The Patriarch Within Patriarchy**

The military regime forcefully attempted to return to ‘conventional moral values’ (Ríos, 2003a). The sociologist Maria Elena Valenzuela claims that this regime can be understood as the archetypal expression of patriarchy, reinforcing the role of women as mothers and dependants, thus promoting inequality within the family (cited in Ríos, 2003a). In 1979 the National development plan, by the Oficina de Planificación Nacional (ODEPLAN, Office of National Development) exposed the regime’s plans to develop the nation based on a doctrine of authoritarianism, Christian values and nationalism. Its ideas of nationhood relied on essentialist ideas of women (ODEPLAN, 1979).

A clear example of this conception of women can be found in Pinochet’s speech for the anniversary of the National Women’s Office, in which he claimed ‘When a woman becomes a mother she does not look for anything else materially; she seeks and finds in her own child the goal of her life, her only treasure, and the target of all her dreams’ (cited in Valdés, 1995: 203, my translation). A pro-family bioeconomy was therefore implemented and traditional values were reinforced (Harvey, 2005 39). This reinforcement of traditional values was also happening through the work of other institutions, like the *Centro de Madres* (CEMA; Mothers’ Centre).

It is hardly necessary to underline the patriarchal and heteronormative overtones of this speech, but I would like to show how this type of discourse had consequences for the rearticulation of the women’s movement. As is widely known, the military regime was a period of strong social and political repression: people were disappeared,

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<sup>13</sup> Fernando Atria analysed the ‘tricks’ of the Chilean Constitution that, following the ideas of Jaime Guzmán, made a ‘protected democracy’ possible. The three main mechanisms or ‘locks’ of the Constitution are the voting system (binominal), the role and configuration of the Constitutional Tribunal, and the quorum required to change certain laws (Atria, 2013b).



tortured, and murdered as part of State policy. Social movements, strongly present during the *Unidad Popular* ('Popular Unity', the alliance of the Allende era) were suppressed during this terror campaign. However, at the end of the 1970s and the beginning of the 1980s, some groups started to re-emerge, among them women's groups. Interestingly, the government's position towards women in fact made their public political meetings possible, as it did not see them as a political risk to the regime. The government regarded the role of women as limited to the family and the private sphere, and it was traditional political parties, mostly associated with men, which were repressed (see, for example, Ríos, 2003a; Kirkwood, 1990).

In this context, women organised around their efforts to find their relatives, but also in relation to the care of children and other daily activities such as cooking (the *ollas comunes*, soup kitchens) and various workshops in poor settlements.<sup>14</sup> Moreover, some of these necessities were common to different social classes and therefore facilitated encounters between women of different socioeconomic groups. The *ollas comunes* also took place in universities, political parties, and other cultural centres. In these organisations women could identify with each other and share their private and particular experiences, thereby raising awareness of the different forms of oppression to which they were subjected (Gaviola et al., 1994). In these spaces they also talked about women's issues in general. The discussion tended to focus on the recovery of democracy, but also on a critique of patriarchy and the pervasive Chilean chauvinism (*machismo*). This critique was important within the Left, where women's interests were frequently disregarded in favour of 'social issues'. In 1977, the *Círculo de Estudios de La Mujer* (Women's Studies Circle) was founded: the first explicitly feminist organisation at the time. During the 1980s, diverse women's organisations appeared, for instance *Mujeres por la Vida* (women for life), founded in 1983, explicitly demanded the incorporation of women's claims into the political agenda (Baldez, 2001).

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<sup>14</sup> For instance, those organised by the *Centro de Estudios de la Mujer* (Centre of Women's studies), *Casa de la Mujer la Morada* (Women's house the dwelling) (Dam, 1995), or the *Jornada de las Mujeres* (Women's conference), organised in the *Centro Cultural Mapocho* (Cultural centre Mapocho) (Vivaldi, 2014).

While discussing democracy, women became more aware of the strong injustices that they faced simply for being women (Gaviola et al., 1994). As Julieta Kirkwood has shown, the struggle against the authoritarian regime also made evident other forms of authority that women lived under prior to the coup (Kirkwood, 1990).

The discourse about family planning and the decriminalisation of abortion entered the discussion in the 1980s. Chilean feminists started to talk about ‘reproductive rights’ and denounced the injustices committed under the patriarchal and neoliberal system regarding the lack of control over their bodies (Kirkwood, 1990). However, as the recovery of democracy was at the core of the movement, debates about women’s sexuality and bodies remained topics confined to feminist meetings and did not impact on the national debate (Matamala Vivaldi, 2014: 14).

Within feminism, the discourse on abortion changed in the period from the mid 1930s to the 1980s. From the 1930s until the granting of the right to vote in 1949,<sup>15</sup> feminists discussed abortion mainly with reference to poor women who could not afford to have more children. The maternal agenda was explicit: women deserve to be good mothers and, if they could not, they should have the right to abort. By contrast, the feminist movement in the 1980s clearly saw the abortion restriction as an issue linked to the State and to male control over reproduction.<sup>16</sup> Specifically, the prohibition was seen as a patriarchal weapon that a democratic country should defeat. As we will see, this democratic future imagined by feminists did not happen.

In 1989, on the 15th of September, abortion was prohibited in every circumstance by Statute number 18.826, changing the Public Health Code and establishing that ‘no

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<sup>15</sup> In Chile, women’s right to vote in municipal (local) elections was obtained in 1934, while the right to vote in parliamentary and presidential elections was obtained in 1949.

<sup>16</sup> For instance, in the *‘Manifiesto Feminista: Demandas Feministas a la Democracia’* (‘Feminist Manifesto: Feminist Demands to Democracy’) (1983) and the *‘Principios y Reivindicaciones que Configuran la Plataforma de la Mujer Chilena’* (‘Principles and Recognitions that configure the Platform of the Chilean Woman’) (1985), women included reproductive rights as a specific claim to democracy (Maira et al., 2008: 21). This time abortion was demanded for every woman on request, not just for therapeutic reasons. In ‘Women’s Request to Democracy’ (1988), they claimed ‘the possibility to freely choose to be a mother or not, and the guarantee for men and women to choose freely and responsibly the number of children and the age gap between them, and to have access to the information and education to exercise this right’ (cited in Maira et al., 2008: 22).

action will be performed in which the aim is to provoke an abortion'. Besides the Public Health Code, the legal framework of the abortion regulation was based on the Constitution, the Criminal Code<sup>17</sup> and the Civil Code.<sup>18</sup> The Chilean Constitution in its Article 19, number 1, establishes '[t]he right to life and to the physical and psychological integrity of the individual,' adding that '[t]he law protects the life of those about to be born'. This last paragraph, as I will show later, has been interpreted in contradictory ways: for some scholars it constituted a ban on abortion, while for others it was just a protection mandate.<sup>19</sup>

## V. Rights After Democracy was Recovered

The transition to democracy was based on agreements and moderation. The first democratically elected government established an institution responsible for women's affairs, the *Servicio Nacional de la Mujer* (SERNAM; National Service for Women); international and national agreements were ratified; and offices and programmes for women multiplied at all levels of public administration (municipalities, ministries, services), as well as in universities, trade unions and political parties.<sup>20</sup> Some significant regulations were approved, such as one that made it possible to get divorced. However, these changes did not challenge gender roles, especially regarding reproductive rights.

A crucial classification of feminist strategies during the 1990s, not just in Chile but in Latin America in general, has been that between *institucionales* (institutional) and *autónomas* (autonomous).<sup>21</sup> This can be useful in understanding feminism in Chile

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<sup>17</sup> Articles 342, 343, 344, and 345 include abortion carried out by a woman and a doctor.

<sup>18</sup> The Civil Code decrees in its Article 75 that '[t]he law protects the life of those about to be born', enabling the judge, 'on his own motion or at the request of anyone, to take all the measures that he deems necessary to protect the existence of the unborn, when he thinks that it is endangered in any way'.

<sup>19</sup> For the first interpretation, see Cea, 2012 and Vivanco, 2004. For the second, see, for instance, Bascañán, 2004; Figueroa, 2007; Gómez, 2005.

<sup>20</sup> For more detail about gender-related public policies and the transition period, see Richard, 2001; Ríos, 2003b; Blofield and Haas, 2005; Haas, 2006 and 2010).

<sup>21</sup> This classification has been crucial when analysing the characteristics of Latin American feminism in the last 30 years (see, for instance, D' Atri, 2004; Masson, 2007; Burton, 2017; Toro, 2007; Follegati,

during the transition to democracy. Strategically, ‘some feminists decided to prioritise State action, through formal politics or in cooperation with civil society; others took the opposite stance, considering it necessary to constitute themselves as an autonomous force’ (Forstenzer, 2012: 3, my translation). Additionally, there were more specific divisions, such as ‘*feminismo comunitario*’ (community feminism), ‘*feminismo popular*’ (popular feminism), ‘*feminismo profesionalizado*’ (professional feminism), ‘*feminismo militante*’ (activist feminism), and so on (Follegati, 2016: 113). In Chile, the hegemonic position during the post-dictatorship period, however, was to work in alliance with the *Concertación* political project<sup>22</sup> and the institutionalisation of feminism. Feminists worked mainly in governmental organisations, NGOs, or research centres in universities (Richard, 2001: 229). Those that questioned the bases of the neoliberal project, including heteronormativity, the political and economic system, and the recognition of indigenous rights, were not a priority (Forstenzer, 2012: 4). Verónica Schild considers that during the 1990s in Latin America we see the emergence of a *feminismo de lo posible* (feminism of the possible), which connected a liberal and pragmatic feminism with the more cautious democratic agenda that operated within the limits of a capitalist framework (Schild, 2016).

During this period, there were also different strategies regarding abortion and reproductive rights in particular. On the one hand, the strategy of ‘legal reform’ sought changes from the government and new regulations in law and public policies, i.e. the legalisation of abortion at least on certain grounds. Change was sought in rights more generally too, as in the year 2000 with the proposition for a *Ley Marco sobre Derechos Sexuales y Reproductivos* (Framework Law on Sexual and Reproductive Rights). On the other hand, feminist groups created their own spaces for discussion, debate and sensitisation about the common experience of abortion. In 1989, an important reproductive rights network was created in Chile, the *Foro Abierto de Salud*

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2016), including what Sonia Alvarez have called the *oenegización* (NGOisation) of feminism (Alvarez, 1998).

<sup>22</sup> The *Concertación de Partidos por la Democracia* (Pact of parties for democracy, *Concertación*) was a coalition of centre-left political parties in Chile, founded in 1988, which governed from 1990 to 2010. It was replaced in 2013 by the *Nueva Mayoría* (New Majority) coalition.

*y Derechos Sexuales y Reproductivos* (Open Forum on Health and Sexual and Reproductive Rights), or *Foro Abierto*, which was made up of 30 organisations from six Chilean regions. The *Foro Abierto*, in conjunction with the aforementioned APROFA (Chilean Association for the Protection of the Family) and local feminist organisations, would be most significant in continuing the fight for women's reproductive health and abortion rights, although political traction and legislative interest on the topic of abortion was extremely limited. Perhaps for this reason, abortion was put on the feminist 'back burner', seen as a topic that was too divisive and controversial to move forward on in any substantial way during the 1990s and early 2000s.

## **VI. In Summary**

This historical review of abortion in Chile enables us to recognise the prohibition of abortion as directly related to the irruption of Pinochet's coup, which, alongside (but intimately related to) the political violence, imposed this prohibition and the implementation of an economic model of deep social reach. Its ideological apparatus underpinned a legislation which supported the interests of conservative and religious groups. In this sense, not only did the policies that were implemented in this period have an effect on women's bodily integrity at the time, but some of them continued their impact during democracy (for example, the privatisation of the healthcare system and education). The protection of the patriarchal Catholic family and the division of gender roles were key during the dictatorship, placing motherhood at the centre of 'rebuilding the nation'. However, it is interesting to note that there are perhaps unexpected continuities in reproductive politics over the different regimes of the twentieth and twenty-first century in Chile. From Catholic governments and right-wing dictatorships to socialism and re-democratisation, to name just a few, there are similarities in the rationality behind the implementation of reproductive policies: women's interests were not a priority but other considerations drove their implementation, such as public health or demographic control.

As we can see, since the beginning of the twentieth century, feminists and women's organisations were actively supporting the right to abort. The justification behind this support, however, changed over the years, being first more related to poverty and deprivation and later to the concept of a right that all women should have. In any case,

feminist organisations were crucial in challenging conservative perspectives of gender roles, patriarchy, and social and cultural hierarchies.

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## Chapter 5

### Abortion on the Public Scene: Three Eruptive Events

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In view of the problematic context outlined in the previous chapter, I will now consider some key events that in recent years refocused attention on a political and social struggle that had been concealed by the complex socio-historical situation, in which Chilean neoliberalism and conservative religious groups dominated discourses around choice and sexuality in the civil life of the country. I will analyse three events which erupted on the public scene. The distribution of the morning-after pill, the use of misoprostol, and the case of Belén are events that articulate a very significant rekindling of the debate about abortion in Chile. Under the historical and critical framework described in the previous chapters, there is a pressing question that becomes clear: what are the lines of power/knowledge that are opened up by these events? More specifically, how do feminist movements articulate their resistance, negotiations and complexities, and mobilise politically?

These events emerge from within the interacting relations of the *dispositif*, bringing certain power/knowledge relations into focus. In this way, the events are indicative of ongoing dynamics and struggles at specific historical moments that provide a way to understand what is at stake in wider relations. Each of them, in its own way, brought the issue of abortion into the public sphere, generating a public debate and exposing the different discourses and actors in relation to its specific contingencies. I will explore these events in chronological order. First, I will analyse the ‘battle’ around emergency contraception (or the ‘morning-after pill’), in which women, for the first time since the return of democracy, took to the streets and reproductive rights became part of public debate, challenging the role of the Church (mainly the Catholic Church) and the judicial system. The legal discussion about the use of the emergency contraception in 2000 but the main dispute, which caused a massive feminist reaction, was in 2008. Second, I will discuss the case of misoprostol, a drug that induces abortions and has been used in Chile for the past 15 years, and about which information started to be spread by feminist organisations in 2009, completely changing the circumstances surrounding abortion. Third, I will consider the case of Belén, an 11-year-old girl who became pregnant in 2013 and had the child (some

might say was forced to have the child), despite its being the product of systematic sexual abuse.

## **I. The Legal Battle for Prohibition of the Distribution of the Emergency Contraceptive Pill: a Threat to Women's Decisions and Social Equality**

Closely related to the debate on the prohibition of abortion, the lawfulness of emergency contraception (EC) was widely debated between the years 2000 and 2010, being the 2008 the moment in which due to a specific decision of the Constitutional Tribunal, feminists reacted strongly. This year, thus, is the moment in which this event emerged as such. On the one hand, conservative political and social actors, including influential religious leaders and members of both major political coalitions, challenged the use and distribution of the EC, in what can be called a 'conservative crusade'. On the other hand, the government (including policymakers and health authorities), NGOs, civil society organisations, and academic groups pushed for guaranteeing free EC access in public health services. As a legal case, the conservative groups used all available judicial procedures, influencing the political and legislative agenda. Their main argument was that the EC pill's effects were abortive, and thus contrary to the absolute ban on abortion as stipulated by Chilean legislation. Progressive groups reacted to what was seen as an attack on women's reproductive rights and also on social equality. Accordingly, an important response was organised: for the first time since the return of democracy, the excessive restriction on women's reproductive decisions was widely and publically criticised. This event is also an example of the diverse interests of State bodies: the government, the courts, administrative institutes, councils, and the Constitutional Tribunal represented different positions where power relations were evident. Furthermore, the process of introducing emergency contraception in Chile involved public health, legislation, politics, the market, religion, group interests, and women's rights (Schiappacasse and Díaz, 2006). For conservatives, emergency contraception was just another word for abortion. For progressive groups, it was an enhancement of women's autonomy.

### **i) The Judicial Struggle**

The problem with the EC legislation began when in 2000 the *Instituto de Salud Pública* (ISP; Chilean Institute of Public Health) established that it would consider the approval of a levonorgestrel-based EC pill. The Catholic Church immediately reacted,



attacking the initiative because the EC pill was considered to be abortive (Emol, 2001a).<sup>23</sup> However, the components of the EC pill itself were not new to the Chilean market, as the contraceptive pill usually sold in pharmacies also contains levonorgestrel (the main component of the EC pill), but in a different dosage (Dides, 2006). As a response, the ISP released a report maintaining that EC did not cause abortions, but this report was not considered ‘valid’ by its detractors.

From the beginning, there was a conservative mobilisation against EC that tried to sabotage its wide and free provision to all women. Conservative forces against the EC pill used ‘*recursos de protección*’ (constitutional rights injunction), ‘*nulidades de derecho público*’ (public law annulment), ‘*recursos de inaplicabilidad por inconstitucionalidad*’ (concrete constitutional review), and even threatened consumer law lawsuits. Later debate took place mainly in the Constitutional Court and in Parliament. The strategy of the movement against the EC pill was designed and executed by a group of leaders involved with conservative religious groups from academic centres, political parties, the Church, and NGOs that called themselves pro-life.<sup>24</sup> This shows the underlying strong bonds between the movement against the EC pill and Catholic groups, especially Opus Dei and all their political alliances. On the other hand, the official support for the EC pill’s distribution policy came mainly from the Presidency’s administrative and executive regulations, as well as from feminist groups and NGOs. At a later stage, the Presidency was also the driving force of the legislative process that finally permitted a statute guaranteeing the supply of the pill.

On 13 February 2001, the ISP announced that it would consider approving the commercialisation of the drug Postinal (which contains levonorgestrel) releasing in March a report holding that the drug was not abortive. In response, various

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<sup>23</sup> A compilation of the Catholic Church’s pronouncements and interventions on the issue can be found in <http://www.iglesia.cl/especiales/porlavida/>

<sup>24</sup> For instance, the *Frente por la Vida y la Acción Solidaria* (Front for Life and Solidarity Action), the *Centro Internacional para el Estudio de la Vida Humana* (International Centre for the Study of Human Life) and the *Movimiento Mundial de Madres* (Global Movement of Mothers)

organisations filed a constitutional rights injunction against it.<sup>25</sup> It is significant that a group of 15-year-old students from a religious upper-class school, *Colegio Cumbres*, prayed a Hail Mary outside the court ‘as a way to give strength to the attorneys opposing the pill, who were the first ones to intervene in the hearing’ (Dides, 2006). The prayer dedicated to the Virgin Mary is not casual: since the Hispanic colonisation, *Maria* has been the symbol of purity and devotion, an ideal for women to follow (Montecino, 1991). As a performance, praying is a collective claim and also a supernatural weapon to prevent earthly decisions against what is most sacred to the Catholic God: the gift of life. In a way, those upper-class girls are also *docile bodies* who are taught how to obey and behave according to religious values. The question is then: What are the disciplinary devices through which such girls end up in this situation? There certainly is a religious and ‘cognitive’ indoctrination, but there are also many social indoctrinations that are more difficult to detect: encompassing beauty standards (gender, race, class), etiquette, and so on. Following Butler’s concept of performativity (1990; 1993; 1997) the Catholic identity is not only constructed but also needs to be constantly repeated.

The court dismissed the injunction for lack of standing, but, on the 1<sup>st</sup> of June 2001, the plaintiff filed an appeal to the Supreme Court, which on the 30<sup>th</sup> of August declared that those about to be born, whatever the stage of prenatal development (the constitutional norm does not make distinctions), do have a right to life.<sup>26</sup> As a consequence, the Supreme Court prohibited the distribution of the Postinal (which was the EC pill in debate). In this decision, the Supreme Court followed the conservative argument relying on ‘scientific’ data, according to which from the moment of conception the embryo is genetically complete. It thus concluded that the EC pill could lead to the murder of a human being and should therefore be prohibited. Indeed, the conservatives based their case on a selection of ‘scientific truths’. In one of the techniques of what Vaggione calls ‘reactive politicisation’, patriarchal religious

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<sup>25</sup> Court of Appeals of Santiago, Case N° 850-2001, Philippi Izquierdo con Instituto de Salud Pública, Decision of 28th May 2001, §1.

<sup>26</sup> Supreme Court, Case N° 2186-2001, Philippi Izquierdo con Instituto de Salud Pública, Decision of 30th August 2001.

sectors articulate their world view around secular discourses rather than religious ones (2005). Following Vaggione, ‘instead of centring on the notion of morality and God, they are turning to scientific data and legal discourses in a sort of strategic secularism’ (2005: 240). The notion of the ‘natural family’ and the life of the unborn are defended from an articulation of two different rational discourses: one making use of scientific data and the other making use of legal jargon. Arguably, this is one facet of a much more complex and pervasive phenomenon that nowadays is still being discussed under the name of secularism, especially with respect to the survival or even flourishing of religion in contemporary democracies.

Let us look a little more closely at the strategies involved and then see how they are articulated as a form of governmentality.

One of the major successes of the conservative strategy was from the beginning to present the issue exclusively as a right-to-life matter: there was no mention of women’s rights as such or public health interests. In this way, the debate was centred around ‘mothers’; there was not even mention of a collision between the fundamental rights of the woman and those of the embryo/foetus (in terms, for instance, of autonomy, reproduction, privacy, and so on). In sum, it was established that the right of the embryo/foetus has priority.

Indeed, an important argument used by the defence for the distribution of the EC pill was that it was not abortive (see, for instance, Emol, 2001b).<sup>27</sup> However, this argument was strongly criticised by some of the defenders of EC, especially feminists, because this *contrario sensu* would imply that, if the EC pill were abortive, it would be contrary to the Constitution.<sup>28</sup> This way of setting the discussion somehow plays against the interests of women’s autonomy because it can be interpreted as acknowledgment of the unconstitutionality of abortion. Moreover, it seems to

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<sup>27</sup> For an analysis of the general arguments see Bordalí and Zúñiga (2009).

<sup>28</sup> Article 19 N°1 of the Constitution establishes ‘*la ley protege la vida del que está por nacer*’ (the law protects the life of the unborn). It has been interpreted by some scholars as a total prohibition of abortion (See Cea, 2012 and Vivanco, 2004), and by others just as a mandate of protection (Bascañán, 2004; Figueroa, 2007; Gómez, 2005). As Bascañán (2004) has pointed out, the fact that the foetus is protected does not mean that abortion is not constitutional.

concede, outside the constitutional debate, to the terms of those arguing against EC. It might be a good strategy in order to defend the EC pill, but it is a bad strategy for a defence of reproductive rights. In this sense, it could be said that the official defence of the EC pill mainly followed the terms of the debate framed by its detractors.

After this defeat for the distribution of the EC pill, in response to the Supreme Court decision, the ISP made an interesting administrative move, authorising another company to sell the pill, this time with a different name (but also based on levonorgestrel). The Supreme Court had only prohibited the distribution of Postinal, but nothing was said about other equivalent EC pills. This strategy is what Fernando Muñoz calls ‘legal resistance’, that is, to persist ‘in a certain policy commitment in the face of judicial opposition by means of devising new legal strategies to pursue them’ (2014: 137).

In the face of this move, the conservatives counterattacked: they used constitutional and administrative law through Courts of First Instance, Courts of Appeals, and the Supreme Court to revert the administrative decision of the ISP. Finally, in 2005, the Supreme Court, in an opposite conclusion to that of 2001, decided that ‘it has not been substantiated in this procedure the abortifacient quality of the drug in question, nor that its use can provoke, with certainty, a threat to the life of the unborn’.<sup>29</sup> Accordingly, the ISP authorisation was valid. Here again, the main argument was about the possibility or not of the EC pill causing an abortion, and the Supreme Court this time decided to authorise the pill.

But conservatives did not concede defeat. In response to the Supreme Court authorisation, the conservatives and Catholics changed their strategy in two ways. First, in 2006, Ages, a youth centre that also participated in the two previous lawsuits – presented a civil liability lawsuit against the main pharmaceutical company importing the pill, Grünenthal. As a result, Grünenthal and another importer, TACE, took the pill off the market. Later, a consumer association related to the same group

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<sup>29</sup> Supreme Court, Case N° 1039-2005, Centro Juvenil Ages con Instituto de Salud Pública, Decision of 28th November 2005, §22.

sent letters to different pharmacies asking them to stop selling the pill, mainly invoking the argument that it was illegal because of the right to life of the foetus (Casas, 2008). Three pharmaceutical companies that control 95% of the market – Fasa, Cruz Verde, and Salco Brand – which are owned by conservative and powerful families, refused to sell the EC pill because of ‘moral issues’ (Casas, 2008). One of them invoked conscientious objection, on the basis that the pill could have abortive effects (Casas, 2008). However, the normal contraceptive pill (i.e. not EC pill), which contains levonorgestrel, was still sold and its use was not discussed. Interestingly, this strategy suggests again something that might be seen as an ideological inconsistency, but also a way in which conservatives were trying to manipulate the public. Also, there is a question about the role of manipulation as power strategy and, correspondingly, what kinds of resistance it elicits.

As a result of the cut-off of supply, it became problematic to obtain the EC pill. In 2006, the government implemented different tactics in order to counteract the supply cut. As Fernando Muñoz points out:

One of them was to fine the drugstores that had no emergency contraception in their inventory. Another one was instructing the public health system, composed of state and municipal hospitals, to provide women with the pill. In addition, the Ministry of Health issued an administrative order, Exempt Resolution N° 584,<sup>30</sup> enacting a code of standards and practices in reproductive matters for the health sector: the National Norms on the Regulation of Fertility<sup>31</sup> (2014: 144).

For conservatives, the Exempt Resolution was especially problematic because it authorised the health sector to distribute the EC pill. They therefore started a new counterattack against the Resolution, trying to shift the forum of the debate back to the Constitutional Tribunal. The Tribunal was a better platform for them, because most of its members were closer to the ‘natural law’ doctrine, inclined to support their arguments against EC. In September 2006, thirty-one members of Parliament, from the right-wing parties UDI and RN (*Unión Demócrata Independiente and Renovación*

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<sup>30</sup> *Ministerio de Salud, Aprueba Normas Nacionales sobre Regulación de la Fertilidad, Resolución Exenta N° 584, 1st September 2006.*

<sup>31</sup> *Ministerio de salud, Aprueba Texto que Establece las Normas Nacionales sobre Regulacion de la fertilidad, decreto n° 48, 26 January 2007.*

*Nacional*), submitted a petition to the Tribunal to declare the Exempt Resolution unconstitutional. They gave two reasons: first, because it exceeded the faculties of the Ministry of Health; second, because it violated the right to life of the foetus. The answer of the Tribunal was mostly concerned with the first point: there was a formal illegality, because the Ministry of Health could not regulate those issues. The Presidency again reacted to this ‘legal resistance’, and enacted the same National Norms on the Regulation of Fertility via another regulation with a higher authority, a Supreme Decree. The National Norms gave new legal support to the governmental policies on the matter, namely the distribution of the EC pill by the public health system. However, the congressional conservative group filed a new petition before the Constitutional Tribunal to review the constitutionality of the presidential Supreme Decree. The President declared that her constitutional duty was to guarantee the availability of the EC pill to everyone, despite the personal or private moral beliefs of some congressmen.<sup>32</sup> This case exemplifies the extent to which different bodies of the State can have opposite positions and visions about public policies and reproduction and, at the end of the day, of what is ‘better’ for the people.

In 2008, the Constitutional Tribunal, in 276 pages of one of the longest-documented decisions on history, declared the distribution of the EC pill by the public health system to be unconstitutional, arguing that this form of contraception can affect the constitutionally protected right to life of the foetus. The opponents of the EC pill also expected the prohibition of other mechanisms that can cause similar effects, such as intrauterine devices. However, as the petition was directed only against the Supreme Decree that ordered the public health system to distribute the pill, other mechanisms were not banned. The Tribunal concluded that there was ‘lack of certainty about one of the possible consequences of emergency contraception, i.e. whether it prevents the implantation of a human being [sic].’<sup>33</sup> In the face of divergent scientific opinion, the

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<sup>32</sup> Michelle Bachelet, ‘Formula Observaciones a Requerimiento’, response filed before the Constitutional Tribunal on 10th April 2007.

<sup>33</sup> Constitutional Tribunal, Case N° 740, Requerimiento de Inconstitucionalidad del Decreto Supremo N° 48 del Ministerio de Salud, Decision of 18th April 2008, §36.

decision was made in favour of a position that they considered to be in keeping with the Constitution.<sup>34</sup>

Again, the Constitutional Tribunal gave no consideration to other interests involved in this prohibition, such as women's reproductive rights and autonomy (i.e. a collision of rights), or the fact that women might be defined beyond being 'a mother'. The Constitutional Tribunal defended the right of the foetus while completely ignoring women as subjects of rights. It also ignored the arguments presented by the defenders of the EC pill regarding the importance of a public health system guaranteeing access to mechanisms to prevent pregnancies. Interestingly, while the decision of the Tribunal banned the possibility for the State to freely distribute the EC pill, it did not stop the sale of the pill in privately owned pharmacies. People who could not afford or access private medication, again, were the most affected by this kind of restriction (Dides, 2006: 72).

## **ii) A Massive Reaction: *El Pildorazo* (The Big Pill)**

After this last prohibition, women and feminist groups reacted strongly. As a response to the Constitutional Tribunal's decision, feminists created the *Movimiento de Defensa de la Anticoncepción* (Movement for the Defence of Contraception), which was made up of several organisations and research centres.<sup>35</sup> The movement also sought to alert the rest of the population to the conservative offensive. The first massive public protest was quickly organised: called *El Pildorazo* (The Big Pill), it comprised between 10,000 and 35,000 people (*La Tercera*, 2008; Sotomayor, 2011). For the first time since the return of democracy, women took to the streets in order to claim their

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<sup>34</sup> For a critical legal analysis of the Constitutional Tribunal decision, see Marshall et al., 2008; Jiménez and Marshall, 2010.

<sup>35</sup> <http://movimientoanticoncepcion.blogspot.co.uk> *Foro Red de Salud y Derechos Sexuales y Reproductivos* (Forum Network of Health and Sexual and Reproductive Rights), *Colectiva Mujeres Públicas* (Public Women Collective), *Red Chilena contra la Violencia Doméstica y Sexua* (Chilean Network against Domestic and Sexual Violence), *Red de Salud de Mujeres Latinoamericanas y del Caribe* (Network for the Latin American and Caribbean Women's Health, RSMLAC), *Católicas por el Derecho a Decidir* (Catholics for the Right to Choose), *Conspirando* (Conspiring), *Fundación Instituto de la Mujer* (Foundation Institute of Woman), *Educación Popular en Salud* (Popular Education in Health, EPES).

right over their own bodies. Moreover, this was the first time a Tribunal decision had generated massive protests (Muñoz, 2014).

Civil society and political elites that supported the EC pill demonstrated their disconformity by collecting signatures, organising web campaigns, and publicly defending its use (*El Mostrador*, 2008). Members of Parliament and the government strongly criticised the Tribunal's decision. President Bachelet, who was attending a meeting in London, expressed her view that the decision inflicted 'a deep wound in the construction of a more just and more equal society', which 'affects the poorest women of our country' (Marino, 2008). The decision was indeed seen as a judicial defence of privilege and conservative interests.

Another concrete action developed by feminist groups in order to counteract the effects of the prohibition was to disseminate an easy method by which to obtain the same effect as with the EC pill. It involves using normal contraceptive pills; for instance, taking a certain quantity of pills twice, leaving 12 hours between the first and second dose.

The Catholic Church was considered to be the main institution preventing women's ability to exercise their reproductive rights. As a way to challenge its power and hegemony, a feminist group called *Mujeres Públicas* (Public Women) called on women to renounce the Catholic religion, organising an apostasy and publishing online the specific steps required to proceed.<sup>36</sup> The idea was that women who were baptised without their consent (a recurring issue, as people are usually baptised as babies) could now disaffiliate from this patriarchal and oppressive institution. This was a vindication of the 'secular state', but especially a critique of the intervention and control of the Church over women's bodies and sexuality. This was addressed to the Catholic Church as a way of publicly recognising its role and importance as a promoter of certain values that are detrimental to women's physical and psychological integrity. However, there were also voices warning about a hidden inconsistency on

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<sup>36</sup> [http://colectivamujerespublicas.blogspot.co.uk/2008/04/apostasa-masiva-lo-largo-de-todo-chile\\_7155.html](http://colectivamujerespublicas.blogspot.co.uk/2008/04/apostasa-masiva-lo-largo-de-todo-chile_7155.html)



part of feminists that continually bring the Church into the debate. Feminists have repeatedly argued about the importance of keeping the Church outside the main debates regarding reproduction, because to address the Church in this way can be seen as an acknowledgement of its authority.

After this event, different feminist organisations were formed, such as the *Articulación por la Libertad de Decidir* (Articulation for Freedom to Choose, Matamala Vivaldi, 2014). In this way the event provided an opportunity to develop further strategies with broader scope. Additionally, the feminist movement could bring to the discussion the importance of reproductive rights. In 2010, just months before the end of the presidential period, Bachelet signed Law N°. 20.418, entitled ‘Norms About Information, Orientation, and Services regarding Regulation of Fertility’, which guarantees the provision of EC in public health centres to any woman over 14 years of age requesting it. The law sought, on the one hand, to grant a new generic basis for sexual and reproductive policies founded on people’s autonomy and, on the other, to guarantee public access to contraception and sexual education. In part, this law was made possible by the social pressure. However, the impact of this law was limited in its implications for the status of abortion. Considering the public support and mobilisation generated for the EC pill, it is arguable that the government lost an opportunity to achieve greater changes in concordance with Bachelet’s statements.

## **II. Medical Abortions: Feminism and the Care of the Self**

In this section I will consider how misoprostol and the *Línea Aborto Libre* (Free Abortion Hotline), created in 2009, reanimated the feminist debate about the regulation of abortion in Chile and, I believe, was groundbreaking for feminist activism regarding abortion. In contrast to the other two events (the EC pill and the case of Belén), this case was not discussed so widely in the public media.<sup>37</sup> I will

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<sup>37</sup> Not, at least, when the hotline started to operate. Later on, the clandestine use of misoprostol and the role of feminist organisations have been discussed mainly because of their workshops or other public interventions, such as the incorporation of the information in the diary that is distributed by the

argue that its social and political significance or interest resides in part in the biopolitical implications inherent in the use of a prohibited drug in a power struggle over the control of women's bodies and their reproductive rights, but even more as an instance of feminist political agency. Besides the fact that misoprostol promotes both women's autonomy and vulnerability, this case exemplifies how certain feminist circles developed novel ways of communication and social awareness that may be interpreted as resistance, in a Foucauldian sense. I will proceed by describing the main social traits involved in the abortive use of misoprostol in Chile, and then turn to the role of the Free Abortion Hotline in that context. Since 2009 these organisations have expanded not just in numbers but also in their scope. Finally, I will give a Foucauldian interpretation of the social function of the hotline

### **i) Autonomy and Vulnerability: The Use of Misoprostol**

Misoprostol was originally used for gastric ulcers, but it can also be used to end pregnancies because it causes contractions in the uterus, thus interrupting gestation. In 2003<sup>38</sup> the World Health Organization (WHO) issued specific instructions in order to guarantee a safe abortion using misoprostol. In the past 20 years the use of the misoprostol pill to end pregnancies has increased significantly, lowering the risks associated with other methods, such as rubber probes, scissors, wires, or other riskier methods (Chong et al., 2004).

Misoprostol is a scientific dispositive playing a role in this social struggle in which many variables intersect. There have been research projects in different countries about its use as a clandestine abortive method and special issues dedicated to the subject, which offer a selection of cases in different countries.<sup>39</sup>

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*Federación de estudiantes de la Universidad de Chile* (Student Association University of Chile, FECH) (CHV, 2018b).

<sup>38</sup> With subsequent editions.

<sup>39</sup> See, for instance, Ganatra et al., 2015; Berer and Hoggards, 2017; Sheldon, 2016; Palma et al., 2018; Tebbets et al., 2018. Recently there have been also many research projects about the role of feminist organisations in helping women to access safe abortions (see, for instance, Drovetta, 2015; Casas and Vivaldi, 2013; Carrión, 2016).

In light of the above, it is important to emphasise that abortion has long been a significant cause of maternal mortality, and in many countries where some form of abortion is now lawful, legislators were motivated to lift the abortion ban by the prospect of protecting women's lives. Meanwhile, Chile has one of the lowest rates of maternal mortality in Latin America: 26 per 100,000 live births, comparable to the US rate of 24 per 100,000 (Molina-Cartes et al., 2013). There are probably many reasons for the decline of maternal mortality over the years: among the most significant factors we can count government-subsidised birth control, post-abortion care, and also access to safer but illegal abortion procedures like the use of misoprostol.<sup>40</sup> In Chile, as elsewhere, the banning of abortion does not do away with its practice; it simply drives it underground. As one might expect, there is no certainty about the numbers of clandestine abortions per year (estimated to be between 65,000 and 160,000) (Casas and Vivaldi, 2013). The safety of clandestine abortions varies depending on cost, social contacts, and personal networks.

Furthermore, the case of misoprostol involves the exposure of women to black markets, as it is one of the ways in which clandestine abortions take place. In Chile, the commercialisation of misoprostol was restricted for the first time in 2001, and nowadays it is not possible to buy it in pharmacies. However, the pills are clandestinely sold on the Internet, and can be bought in other countries. While there are some international NGOs which send misoprostol to Chile via mail,<sup>41</sup> for the majority of women seeking the drug in Chile, the abortion prohibition generates a black market in misoprostol, in which women are on their own to find out how and where to buy it.

Additionally, as most abortions remain hidden and the rate of death due to abortion complications is low (Molina-Cartes et al., 2013), some have argued that the prohibition of abortion does not have a real impact on mortality or morbidity, and that

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<sup>40</sup> Studies in Latin America have shown the increase in safe medical abortion using misoprostol (see, for instance, Lafaurie et al., 2005; Zamberlin et al., 2012; Faúndes et al., 1996; Palma et al., 2018).

<sup>41</sup> See, for instance, Etcheberry and Vivaldi, 2016; Women help women, 2016; Palma et al., 2018.

consequently there is no need to liberalise the current legislation – thus contributing to the perpetuation of present hardships for women (Koch et al., 2012).<sup>42</sup>

The social situation generated by the use of misoprostol is ambivalent, and touches on key issues of agency and resistance against medical/legal power. The use of misoprostol promotes women's control over their own reproduction: the fact that a doctor is not needed to perform an abortion is not new, but it is of great significance. Certainly, women have managed to get hold of different methods to have abortions for a long time and in a variety of ways; misoprostol, however, is safer and easier to manage than many of them (Jiles and Rojas, 1992). The doctor or midwife (and hence the State) is no longer needed, and women can perform the abortion in their own homes and in the company they choose. This independency, of course, is not devoid of difficulties. In the private realm, the woman is responsible for her own abortion, and the problem is the way in which this situation tends to put the entire burden on women's shoulders. Moreover, the Chilean State is liberated from the responsibility of providing a certain standard of healthcare. Of course, what exactly this standard amounts to is a contentious issue, not just in Chile. Take, for instance, the work of Myra Ferree et al., who compared the feminist positions in the USA and Germany (2002). In the case of the USA, as abortion is founded on the right to privacy and choice, feminists such as MacKinnon (1989) have asked for more State intervention in the provision of women's welfare, including in the areas of the politics of fertility control, methods of contraception, and medical support. In contrast, in Germany the foetus is constitutionally protected and, although counselling is needed, the State must provide the infrastructure of care that is required for the woman's welfare. In the case of Germany, the need for counselling has been criticised for being too paternalistic and patronising to women. In the case of Chile, the politics and policies regarding

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<sup>42</sup> However, and following the Guttmacher Institute, 'a body of research, largely published in peer-reviewed journals, makes clear that the decline in maternal morbidity and mortality from unsafe abortion in Chile in the past decades coincides with greater access to and use of contraceptives, as well as the use of less dangerous clandestine abortion methods... [in particular] the use of misoprostol as an abortifacient, which is associated with a lower risk of severe health consequences than the use of illegal surgical procedures, and is considered an important explanatory factor in the decline in abortion-related deaths in the past two decades' (Guttmacher advisory, 2012).

sexual education, contraceptive methods, and medical confidentiality have been in permanent dispute (see, for instance, Shepard, 2000; Araujo, 2005). Paradoxically, those who are opposing abortion liberalisation have also been contrary to any policy regarding the control of reproduction, including sexual education (Palma et al., 2013). Increased practical independence comes with increased practical vulnerability; the reality of rights and responsibilities depends on some sort of institutional intervention (protection).

This pattern of vulnerabilisation by means of the retreat of the involvement of the State in public welfare is in line with a trend of late neoliberal rationality which makes individuals ‘responsible for themselves’, involving, as stated above, a paradoxical process of liberty accompanied by increasing vulnerability. In the words of Wendy Brown, neoliberalism ‘figures individuals as rational, calculating creatures whose moral autonomy is measured by their capacity for “self-care” – the ability to provide for their own needs and service their own ambitions’ (Brown, 2005: 42). In extreme cases, this vulnerability can lead to criminal charges. For instance, the Office of the Public Prosecutor reported as many as 310 cases of abortion that were investigated and tried between January 2011 and September 2012 (Casas and Vivaldi, 2013). Most cases are denounced in public hospitals, thus targeting those women who cannot afford private healthcare, so that the most vulnerable among the vulnerable become the most exposed to criminal prosecution if they have any complications. In Chile, it is not rare to read in the media about healthcare practitioners denouncing women who show signs of misoprostol use or who confess to using it to induce an abortion.<sup>43</sup>

In sum, the use of misoprostol as an abortive method has the paradoxical social result of promoting both autonomy and vulnerability in women. This fits well with a certain critical reading of late neoliberalism, in which matters of social, public, or national relevance (motherhood itself and the medical and legal procedures related to it) are

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<sup>43</sup> President Bachelet explicitly pointed out one of these cases in her May 21st State of the Nation address in 2014. In that case the medical staff denounced a 17-year-old girl while she was in the hospital in a serious condition (Cortés, 2014). Recently a similar case was widely reported (see Franklin, 2015).

left to the ‘criteria’ of the market, including clandestine practices and black markets. In general terms, the use of misoprostol for clandestine abortions represents an instance of medical devices in which the ‘meaning’ or ‘truth’ is being transposed to other fields of practical application: from gastric ulcers to unregulated but safe abortions (or, at least, much safer than the alternatives). These reinterpretations seem to follow individual or collective patterns of agency that collide in different ways (more or less foreseeably) with social structures. Women have to deal with the unintended consequences of prohibition, which involve not only clandestine activity (or activity at the margins of the law), common to other cases of prohibition of drugs, but especially the problems associated with gender profiling and the commodification of bodies and reproduction (for example, who decides the cost and reach of medical procedures, how it is decided, and what procedures should be guaranteed by the State, etc.) Next, I will consider the case of the Free Abortion Hotline, highlighting the ramification of political resistance associated with this event.

## **ii) Information, Solidarity, and Resistance: The Free Abortion Hotline**

Since 2009, the Chilean abortion hotline *Línea Aborto Libre* (Free Abortion Hotline, from now on referred to as ‘the hotline’<sup>44</sup>), created by *the Colectivo de lesbianas y feministas por el derecho a la información* (Collective of Lesbians and Feminists for the Right to Information),<sup>45</sup> has provided legal advice and information on misoprostol-based abortion. An important reference is the case of Chicago’s clandestine abortion services under the name of JANE (1968-1973), which also resembles the case of Open Door and Dublin Well Woman in Ireland (see later in this Chapter). For the abortion hotline in Chile, as well as in other countries in Latin America, the NGO Women on Waves trained the first volunteers to prepare them to receive calls.<sup>46</sup> There were two

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<sup>44</sup> [www.infoabortochile.org](http://www.infoabortochile.org).

<sup>45</sup> The Collective appeared when the *Feministas de Bío-Bío* (Feminists of Bío-Bío), in the South of Chile, launched the project *Aborto: Derecho a la información y libertad de decidir* (Abortion: Right to Information and Free Choice). Then, different feminist groups from other Chilean cities joined this group, and eventually they changed the name to *Red de Feministas y Lesbianas por el Derecho a la Información* (Feminists’ and Lesbians’ Network for the Right to Choose).

<sup>46</sup> The other countries were Argentina, Ecuador, Perú, Venezuela and Uruguay, with variations according to the legal regulations of each country.

different feminist organisations operating the hotline, daily from 8am to 11pm, one in Santiago and the other in Concepción, with volunteers taking an estimate of around 20,000 calls from May 2009 to May 2013.<sup>47</sup>

In regard to the information provided by the hotline, a strict protocol designed to keep the hotline within the confines of the law was implemented: legally they cannot give any information about how to get or where to buy the pill. The information they provide is given only to persons of legal age and is based on World Health Organization guidelines. In December 2012, the Collective published a handbook entitled '*Línea Aborto Chile: El Manual ¿Cómo las mujeres pueden hacerse un aborto con pastillas?*'<sup>48</sup> ('Free Abortion Hotline: the handbook. How can women have an abortion with pills?'), and also conducted workshops in different cities of Chile.<sup>49</sup> The volunteers are well aware that the information given by the Collective is far from being a definitive solution for those women looking for help in the process of getting an abortion.<sup>50</sup> The hotline has declared many times that they are usually asked about how to get the pill, but all they can do is spread information guiding women about such things as how much pain it is normal to feel, how to avoid being discovered in the event that they need to go to the hospital or clinic, and so on. Moreover, many callers express concerns about the quality of the product and about the possibility of being victims of a scam. A further problem has to do with the access to the hotline itself, because its existence is mainly communicated online, as the volunteers themselves reported. Individuals with limited access to online services are therefore less likely to access this information. For this reason, the Collective came up with other ways to spread the information, such as workshops in universities and unions; stickers; painting the hotline number on walls in the cities; flyers distributed in strategic points, etc. As we can see, there are many legal obstacles to safe access to

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<sup>47</sup> Information obtained from [www.infoabortochile.org](http://www.infoabortochile.org).

<sup>48</sup> <http://infoabortochile.org/wp-content/uploads/2013/05/manual.pdf>

<sup>49</sup> From May 2012 to May 2013 they held 32 such events for 820 women and men in the cities of Santiago, Valparaíso, Antofagasta, Iquique, Concepción, and Temuco. See [www.infoabortochile.org](http://www.infoabortochile.org).

<sup>50</sup> Since 2016 feminist activists have created new groups that provide more direct help to women who are seeking abortions, such as *Con las Amigas y en la Casa* (with [female] friends and at home) or *Miso Pa Todas* (Miso[prostol] for Everyone). I will analyse this in further chapters, but in this section I will analyse as an event the organisation of these groups (Hotline and the Collective) and its impact.

abortion for women in Chile. For instance, problems with the distribution of and access to information; the distribution of and access to the drugs; and the question of the quality of these drugs. These aspects, despite being fundamental to women's well-being, are surrounded by conflict, which is ultimately detrimental to the safety of women.

I would like to further analyse the strategies of the Collective under two clusters of concepts: on the one hand, the idea of a shared experience and awareness, of interdependency and solidarity; on the other hand, the idea of political agency in the margins of politics and the State, which, furthermore, can be interpreted in terms of resistance.

Regarding the first point, there are at least two feminist strategies presented explicitly by the Collective: the first is to raise awareness and political consciousness about abortion as a common place in which the body is the locus of oppression but also as a shared experience. Second, to support self-induced abortion by transmitting the misoprostol method as 'practical knowledge'. Outside the law, academia, or direct medical powers, there is information and knowledge being shared that can be interpreted as a promotion of women's agency and autonomy (in the sense sketched above in relation to misoprostol in general), but also as a means of taking care of each other in a logic that recalls the difference between a logic of care and a logic of instrumental rationality, as we see in recent work in feminist economy (Pérez-Orozco, 2014). Moreover, the Collective is a solidarity network designed to counteract the effects of the ban and provide abortion support; also, the opposition to neoliberal individuality is crucial: it is a network of women for whom the end is to support each other in the issue of abortion, organising themselves around novel ways of care and knowledge. In particular, the Collective's idea is to 'socially decriminalise abortion' (Catalan, 2013: 236), showing, for instance, that it should not be something traumatic and that many women perform abortions during their lifetime or know someone close in that have. This traumatic element may be tackled in two ways. On the one hand, as one of the members of the Collective declared in an interview, even though the number of people they can help might be quite small, the volunteers trust the value of their 'symbolic gesture' (Catalan, 2013: 236). Although these words can be an expression of modesty, the 'symbolic' point is significant if we also consider the fact, highlighted by the same volunteer, that they are lesbians providing the service and that



in Chile abortion is seen as a symbol of oppression. As the volunteer Viviana Díaz reflects,

We are feminists and lesbians. If we work with abortion it is because currently in Chile abortion is the tip of the iceberg of all the violence of the system. In abortion we can clearly see classism, because only rich women have access to safe abortion; misogyny, because of all the violence needless to enumerate; and the prohibition of abortion also is a direct legacy of the dictatorship. Its purpose was mostly moral: to establish that the female body has an owner (Sentidos Comunes, 2014, my translation).

In this sense they are not challenging the content of medical or legal knowledge but the way in which the knowledge is used practically on the self, in an intimate relation between care of the body and care of the soul. In other words, the effects of power are resisted by creating new strategic practices of the self.

In addition, the goal of ‘socially decriminalising abortion’ is pursued in public events, as exemplified by the poster calling for the 2015 8<sup>th</sup> of March demonstration: ‘*Sin doctor ni policía nuestro aborto es alegría*’ (‘Without the police or doctors, our abortion is joy’).<sup>51</sup> The message encapsulates important ideas of the Collective. First, if the abortion is practised following the appropriate instructions, it is a safe procedure: doctors are not needed and also there is no trace of the pill in the body, so the police cannot detect it. Second, the message stresses ‘our’ abortion, to highlight the idea that abortion is a shared experience that many women go through, and that it is, in some way or another, sooner or later, a matter very close to home for all women. And finally, it states that abortion may go hand in hand with joy, challenging the narrative that associates abortion with trauma and loss. Thus this perspective even raises the possibility that abortion – or access to abortion – is a source of positive emotion. I will come back to this question in Chapter Eight.

Regarding the second point, and in relation to the State, the Collective has no political connections and does not lobby for legislative reform, rejecting any dialogue with the government. It does not consider the State as a valid interlocutor. Indeed, it has

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<sup>51</sup> <http://infoabortochile.org/?p=631>

publicly declared that it does not support Bachelet's bill to liberalise abortion on three particular grounds (if the woman's life is at risk, in cases of rape and in cases of foetal anomalies incompatible with life).<sup>52</sup> It has declared that the State is patriarchal and oppressive and that it prefers to rely on this type of independent network to provide effective support. There is evidently a profound mistrust of the State apparatus per se, and also about the possibility of accomplishing change through the implementation of laws or State policies. The Collective is aware that decriminalisation is important, because women still face the risk of being criminally prosecuted; however, it has chosen 'to put its energy into cultural work in order to disarm the taboo of abortion and guilt' (Catalan, 2013: 236, my translation).

It is important to note that Collective volunteers have faced three criminal inquiries instigated by pro-life religious groups.<sup>53</sup> The first two inquiries were stayed and the third was shelved after police questioned two volunteers. However, as the Collective only provides publicly available information, its work is completely above legal reproach. As mentioned earlier, this case resembles that of Open Door and Dublin Well Woman, two Irish non-profit organisations that were restricted by the Irish High Court and Supreme Court from providing pregnant women with information on abortion facilities outside Ireland. In 1992, the European Court of Human Rights found that such restrictions constituted unjustified interference with the right to impart or receive information, contrary to Article 10 of the Convention on the Protection of Human Rights and Fundamental Freedoms.<sup>54</sup> The key point, one that the Chilean hotline has also argued in its own case, is that the information can be legally disseminated even though abortion is prohibited.

Interestingly, those selling misoprostol online have not been prosecuted and religious groups do not seem to be concerned with them, even though they are not difficult to trace (Catalan, 2013). This fact in itself gives reason to believe that, in the minds of

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<sup>52</sup> *Mensaje Presidencial* N° 1230-362.

<sup>53</sup> Information obtained through personal conversation with one of the members of the Collective. See also Catalan, 2013.

<sup>54</sup> *Open Door and Dublin Well Woman v. Ireland*. European Court of Human Rights; 1992. Pars. 66–77.

the accusers, women spreading knowledge and ‘normalising’ abortion are seen as more dangerous and/or easier to attack than those who profit from it in the black market. It could also be a reflection of the paradox of a society based on the concept of ‘free market’, in which monetary profit is more accepted than communitarian networks of self-determination.

Now, besides the paradoxical promotion of women’s autonomy and vulnerability, this case has been significant for feminism in developing new ways of communication and social awareness that can be further analysed in terms of resistance in a Foucauldian sense. Indeed, we have seen that the autonomy that the use of misoprostol promotes has to be considered side by side with the vulnerability attached to self-medicating, black markets, and criminal prosecution. How, then, is the hotline a form of resistance?

We have to be careful in not too easily categorising something as ‘resistance’ or ‘complicity’, reducing the Foucauldian analysis of freedom to a mere dichotomy between active/passive; voluntary/involuntary. The idea is to ‘see how people adopt rationalities and logics, how they negotiate them in specific domains of life’ (Bell, 2015: 58). Indeed, this kind of feminist movement is an example of resistance in the local questioning of its discursive categories, and thus negotiating the freedom of women in new ways (see, for instance, Bell, 1993: 56). Here is resistance in the Foucauldian sense whereby there is a series of exercises that shape the way of living of women commonly facing a relation to the ‘powers’ of the Church, the law and the State. The work of the Collective (and other similar projects) makes possible and enacts a reshaping of feminist agency. The hotline offers a much-needed channel of communication for women living the vulnerability of having to clandestinely take care of their own reproductive rights. At the same time, the Collective ‘has to be resigned to the understanding that it contains all the contradictions and power/knowledge links that other ways of speaking contain’ (Bell, 1993: 176). They are not just a means to a predetermined end but a relation both affective (humane) and rational (articulating) that moulds the present of those involved. A key aspect involves the fact that political strategies might operate in a productive and normalising way through its struggles; through its efforts to gain control, to regulate, to mask, or to sanction what is acceptable and useful (see, for instance, Foucault, 1978: 105-6; Bell, 1993: 19). Finally, Foucault’s conceptualisation elucidates a real possibility of resistance,

disobedience, and opposition under current circumstances. This real possibility does not reside in an unconditional or natural capacity or right, but in agency itself: ‘Liberty is a *practice*. [...] The liberty of men is never assured by the institutions and laws that are intended to guarantee them. [...] Not because they are ambiguous, but simply because “liberty” is what must be exercised’ (1982: 245).

### **III. Belén: Imaginary Domain and Performance**

Belén (a fictional name) became pregnant in 2013 at the age of 11 as a result of systematic sexual abuse by her stepfather. The case appeared in the national and international media. The amount of attention that the case attracted made it an important landmark in the reanimation of the debate on abortion as well as the articulation of the feminist movement. Since the case became public, the 5<sup>th</sup> of July 2013, feminist groups organised protests and even a day for free abortion in Chile was created: the 25<sup>th</sup> of July. This day has been commemorated from 2013. After this protest the coverage of the story shifted towards the feminist reaction. Finally, after a month, the coverage of the case disappeared and there was not public information about what happened with Belén and her child.

In this section I will describe the case and the media reception, and I will analyse Belén’s case through the lenses of Foucault’s disciplinary power, whereby a whole system of normalisation and control are engaged. I will then examine the feminist reaction.

One of the characteristics of the case of Belén was that people could witness in great detail (or at least repeatedly) through the media what happened in the life of the 11-year-old girl. Everybody had something to say about her: politicians, religious authorities, doctors, feminists, journalists, and so on. There were multiple discourses and viewpoints constructing Belén’s sexuality and femininity. Her body was the object of public scrutiny. However, the examination to which she was subject was polarised between two opposing descriptions/judgments: she was either an example of the ideal woman who ‘decided’ to have her child despite the circumstances, or she was a child who was violently forced by the State and the Church to have a child she was bearing as a result of incest and rape.

Even though one of the main tasks of feminism has been to break the silence regarding sexual abuse – especially in cases when the abuse has taken place inside the family, where women can easily be threatened, silenced or blamed – it is also committed to unveiling and challenging the mythologised ways in which incest is discussed. In her book *Interrogating Incest*, Vikki Bell analyses the personages that are created in cases of incest (1993: 79-91). Following Bell, the myths surrounding incest are ‘a complex and contradictory overlapping of several different sorts of knowledge, with different origins and different targets’ (1993: 80). The kinds of myths that are more problematic for feminism are those ‘drawn into a medico-psychological domain’ (1993: 81). Bell applies Foucault strategies of deployment of sexuality to the feminist study of incest, in which the discursive personifications of ‘the perverse male’, ‘the colluding mother’, ‘the seductive daughter’, etc. are put into question. In this context, a certain line of feminist critique tries to expose the way in which abusive men are the normal result of patriarchal societies. The division between ‘normal’ and ‘deviant’ men undermines the possibilities for an actual critique of ‘normal’ sexualities, in which specific power relations perpetuate spaces of abuse within the family circle. The mother of an abused child, in non-feminist discourses, is usually confronted with an ideal norm of motherhood, according to which she should be at all times available and caring for her children, as something expected of a biologically normal behaviour. Furthermore, the mother can be categorised according to medical and psychological discourses, and therefore be blamed for either not responding to her child’s needs or not being able to detect what was happening. Moreover, children are ambiguously presented as either innocent victims or sexually provocative. Having this in mind, I will present a brief selection of the more relevant aspects of the case.

### **i) The Case of Belén Under Public Scrutiny**

Belén was 14 weeks’ pregnant when the case was broadcasted on *Televisión Nacional de Chile*, on the 5<sup>th</sup> of July 2013 (Guerrero, 2013). After the child complained of a stomach ache, Belén’s grandmother took her to a hospital in Puerto Montt (a city in the south of Chile), and there they were informed about the pregnancy. Her stepfather, 32 years old, was arrested and he later declared that indeed he had been abusing the girl for 2 years (Cooperativa, 2013). The mother said that it was unfair to accuse her partner, because Belén agreed to have sexual intercourse with him: ‘She is not exactly a child, she had sexual intercourse before with a boyfriend’ (Miranda, P., 2013). The

mother also stated that she was a good mother, who tried to be close to her daughter all the time. The authorities strongly reacted against the mother: the director of the *Servicio Nacional de Menores* (SENAME; National Service For Children) declared that it was outrageous to hear the mother saying that the relationship was consensual, and that she could face criminal prosecution as a consequence of her statements (Emol, 2013b). The media also extensively examined the reasons behind Belén's mother supporting her partner, and psychologists were interviewed to assess the possible causes that may have prompted her to react in that way (Revista Carrusel, 2013).

Belén was interviewed in her grandmother's house. She compared her foetus to a doll: 'She will be like a doll that I will have in my arms, I'm going to love her a lot, no matter what, even if she is from that man who hurt me, I'm going to love her anyway' (The Clinic, 2013). She also said that she was scared because her stepfather threatened her to kill her mother and brother if she talked to anybody. When Belén was asked about her mother declarations, she replied: 'Everything she said is false, she is always willing to do anything for her husband instead of supporting her own daughter, she will always be on his side' (The Clinic, 2013). I will further analyse the implications of Belén's interview, but for now I want to look into the confessional character of her declarations. The 'survivor' accounts in discourses of medicine or psychology tend to be ignored or reinterpreted as 'subjugated knowledge', forms of knowledge that are seen as inferior and thus are not taken into account. These, however, should constitute the starting point of a study of incest and abuse (Bell, 1993: 89). Certainly, the main reason behind talking about incest is not always liberatory (Bell, 1993: 101-104). As Foucault points out, confession, especially when it involves the presence of a psychoanalyst or a priest, or a similar figure, is not an end in itself; it has intrinsic transformative power. There is a crucial power play in confessing something and somehow being 'absolved' by the recognition of a 'truth' with a normalising value.

Regarding the possibility of terminating the pregnancy, the grandmother was interviewed as well. She declared: 'Belén loves her baby, if someone wants to take her [the baby], they will destroy her soul' (The Clinic, 2013). Also, in order to prevent her from having an abortion, another argument was claimed: as Belén was a child, she was not sufficiently mature to make the decision about having an abortion. Anti-abortionists suggested putting the baby up for adoption but not forcing Belén 'to kill

an innocent' (Villavicencio and Zúñiga, 2013), demonstrating that the right-to-life argument was considered by pro-life groups to even be applicable to minors pregnant as a result of sexual abuse.

As mentioned earlier, there is a discursive ambiguity about children's sexuality: they are portrayed either as innocent victims or as provocative actors. However, this child/woman– victim/seducer ambiguity is very selective. In order to advance an anti-abortion stance, minors are usually portrayed as innocent girls incapable of making decisions that could affect them for life, as an abortion would do, but the same consideration is not taken into account when they are forced to have the baby, as if being a mother were not a life-changing decision, especially in a country where welfare is far from being guaranteed.

Incredibly, Sebastián Piñera, the Chilean President at the time, declared:

I asked the Ministry of Health to personally take care of Belén's health [...] Belén surprised us all with her words, showing thoughtfulness and maturity because she wants to have and take care of her baby, despite the pain caused by the man who raped her (El Mostrador, 2013).

According to the President, Belén was being mature for wanting to have a 'doll'. This might not seem so surprising in Chile if one recalls the thoughts of Jaime Guzmán, one of the leading 'thinkers' behind the Constitution we owe to the Pinochet dictatorship, mentioned in the previous chapter, who said some 30 years ago:

A mother should have a child even if it is deformed, even if it was unplanned, even if it is the product of rape and even if taking the pregnancy to term leads to her death (Comisión Ortúzar, 1974, my translation).

There is continuity in the discourse concerning the duty of women to bear children. The way in which patriarchal societies identify 'woman' and 'mother' as synonyms, to the degree that the natural norm and fate for a woman is to be a mother, has been widely and variedly analysed by feminism. The origins of this ideal in Chile are diverse, but refer mainly to the Spanish colonisation and the religious ideologies they imported, as well as the more pervasive idea of providing good citizens for the country. Sonia Montecino examines the extraordinary importance that our culture gives to a mother being self-sacrificing (1991). There is an ideal norm of motherhood, with which Belén is associated. Also, Marcela Lagarde describes the different

processes in Latin America that have constructed specific archetypes in order to keep women captive, 'the mother' being the most important. These archetypes are disciplinary techniques that associate certain characteristics with a social role in order to embellish the latter. Thus, mothers are associated with the virtues of beauty, purity, generosity, and also with the fertility of nature and 'Mother Earth'. There are also more specific theories, loosely based on scientific explanations, about the proper way in which women should fulfil their 'natural role', such as the attachment theory, the 'maternal instinct', the ways in which childbirth should be delivered, etc. In the end, the efficacy of guilt provided by this framework guarantees that women will 'follow instructions' (Lagarde, 1993).

The public debate around Belén's case has had great impact in various spheres. The public discussion about the legalisation of abortion immediately brought other similar cases to light, and the physical capacity to have children was widely discussed, especially by healthcare practitioners and human rights organisations. As the presidential election was in that same year, the candidates were compelled to give their opinions regarding the legalisation of abortion. For the first time, abortion was a subject in the presidential debate, and all the candidates, except Evelyn Matthei from the conservative Independent Democratic Union (UDI) party, agreed that abortion should be legalised (Acuña, 2013; Garrido, 2013).

Other cases of abuse and teenage mothers that came to public attention include the one of María, a 13-year-old girl whose mother gave an interview, just a few days after Belén's case surfaced, describing the abuses suffered by María since she was 7 years old. Her biological father raped her and at the end of 2012 she had a child. The child was only 9 months old and had spent 6 of those months in a special institution due to malnutrition. The father spent 3 months in jail, but was then released on parole. María and her mother declared that they participated in an institution that gives support to victims of sexual abuse (Publimetro, 2013). Other teenage mothers were also interviewed: 'As in Belén's case, they were child-mothers and today they tell their dramatic stories' was one of the headlines (Miranda, M., 2013, my translation; cf. EFE, 2013).

Meanwhile, the President's declarations were strongly criticised in the international media, and Amnesty International also emphasised its concern for Belén, urging Chile



to respect the international treaties and provide her with a legal, safe, and accessible abortion service (La Tercera, 2013; BBC, 2013). Various international organisations expressed their concern about the abortion ban.<sup>55</sup> However, pro-life groups, conservative politicians, and religious authorities insist on the ‘defence of life since conception’ because ‘therapeutic abortion is not a therapy at all’ (Morgado, 2013). In this sense, the first part of the President’s cited interview is also interesting. He personally asked the Ministry of Health to take care of Belén. This shows a strategy of sympathy that is common among neoliberal conservatives: charity and compassion as a way to avoid any commitment to social redistribution and equality.

The risk to Belén’s life was also an issue. A young girl’s pregnancy is considered by medical evidence to be a high-risk pregnancy (Navas, 2013). However, the UDI Deputy Issa Kort, declared that ‘if a child of 11 years old got pregnant, it is because her body is ready. I understand that as soon as a woman has her first period, she is ready to be a mother’ (SoyChile, 2013). According to Kort, the biological process is apparently the only factor to consider. In his discourse, the readiness to be a mother is completely dissociated from the factual conditions and decisions that a woman is able or not to make. Belén’s decision is taken to a medical domain; the only thing considered. The self-sacrifice required from Belén here is evident. The matter of the danger to her life was particularly controversial. According to the Minister of Health, Jaime Mañalich, if her life was eventually at risk, they would rush the birth to the 22<sup>nd</sup>-24<sup>th</sup> week of pregnancy in order to save both mother and child, because it is after this period that the uterus could have problems of space. The President of the Medical College, Enrique Paris, claimed that the Ethics Department has a clear position: abortion should be legal if the woman’s life or health is at risk, and in the case of foetal anomalies incompatible with life. The life of an 11-year-old pregnant girl is obviously at risk, he concluded (24horas, 2013; Muñoz et.al. 2013).

In sum, the case of Belén puts in play many of the traditional actors in the Chilean gender struggle. We have on the one hand the various versions of chauvinism,

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<sup>55</sup> For instance, the United Nations Universal Periodic Review (UPR), before the Human Rights Council, has also recommended in 2009 and 2014 that the legislation be changed.

paternalism, and patriarchal manifestations typical of a society based on religious prejudices. We need to give significant attention to the normalising discourses and examinatory procedures embodied by medical professionals, politicians, and the media; and also the way and degree in which the norms (victim/seducer, maturity, sanity, the 'soul', and morality) that those discourses and procedures personify have been internalised by the public (think, for instance, of the case of the mother and grandmother of Belén). Belén was examined and easily classified: she was a working-class girl, who lived in a small town and had a broken home. For many women, maternity is their only destiny. Those who approved of Belén's 'decision' to have the baby knew that, in any case, she would have become a mother sooner or later and that she was going to continue to be poor, but now a poor mother. To many, it is just a fact of life.

As was previously mentioned, breaking the silence in cases of abuse has been an important task for feminism, but the way in which this is done and how such voice is further interpreted and used can make a world of difference. As Wendy Brown has suggested, there is an interesting link between the contemporary tendency to extract every detail (sexual, familial, therapeutic, financial, etc.) of the life of public figures, and the supposedly countercultural or emancipatory practice of bringing into the public sphere previously undisclosed private experiences. It is, according to her:

A modality of regulation and depoliticization specific to our age [...]. The effect is both to abet the steady commercialization and homogenization of intimate attachments, experiences, and emotions already achieved by the market and to usurp public space with often trivial matters, rendering the political personal in a fashion that leaves injurious social, political, and economic powers unremarked and untouched. In short, while intended as a practice of freedom (premised on the modernist conceit that the truth makes us free), these productions of truth may have the capacity not only to chain us to our injurious histories as well as the stations of our small lives, but to instigate the further regulation of those lives while depoliticizing their conditions (2005:85).

Certainly, one of the most complex problems associated with the case of Belén refers to the character and use of her own testimony and private experiences. The link described by Brown seems to perfectly fit the case of Belén, as a sorrowful public figure, in the sense of being both the object of contemporary avid curiosity about the hidden conflicts of private lives and also the content of a discourse that repletes the public sphere up to the point of stupefying the discussion. Nonetheless, the discussion persisted in a fruitful way, as I will consider next.

## ii) A Critique of the Imposition of Maternity: ‘Yo Aborto el 25 de Julio’ (‘I Abort on the 25th of July’)

Belén’s case, that was broadcasted for the first time the 5<sup>th</sup> of July of 2013, triggered massive protests and demonstrations denouncing the imposition of maternity in the case of rape being the most important organised the 25<sup>th</sup> of July the same year. Girls who became pregnant as a result of rape were not allowed to have an abortion, therefore they could not make a real decision. Different feminist and social movements participated: queer, lesbian, and women’s groups, but also the feminist group *Católicas por el derecho a decidir* (Catholics for the Right to Choose) and individuals without any defined affiliation. The different positions supporting abortion became visible. According to various surveys, a majority of people in Chile supported the regulation of abortion on the three grounds described.<sup>56</sup> Those who wanted to liberalise the regulation constantly invoked this cipher as an example of the disconnection between Parliament and what ‘the people want’ (Maturana, 2011). So, along with risk to the woman’s life or severe abnormalities of the foetus, rape is considered a severe case that merits an exception to the prohibition. For this reason, the support for Belén’s chance of aborting was not surprising, but the number of people who participated in the demonstration, and the support in social networks and the public debate was rather new. However, the position defending abortion on those three specific grounds is evidently different from demanding the right to abortion on women’s request.

Going back to Belén, it could be said that, for feminists, in various ways it was a paradigmatic case of the oppression generated by the absolute restriction of reproductive rights.

For feminist groups, Belén’s case exemplified the extent to which a woman’s body is still owned by the agenda of the State, the Church and some specific economic groups.

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<sup>56</sup> According to the Flacso survey, in 2010, 64% agreed with the legalisation of abortion in the case of risk to the woman’s life or the life of the foetus, and 67% in the case of rape; compared with just 15% for abortion on the woman’s request (Dides et al. 2010: 4). See also the 2014 *Universidad Diego Portales* survey, <http://encuesta.udp.cl> To a detailed analysis see Infante and Hurtado, 2015.

First, from an intersectional point of view, Belén was the incarnation of the most vulnerable body of Chilean society: a child, female, poor, who lived in a rural small town. She was the major victim of the Chilean legislation. Many other women at least have the possibility of choosing to have a clandestine abortion or not. The level of safety and quality of the procedure, as was seen in the previous section, varies depending on social contacts, money, and other factors. But Belén did not have the option to take the risk of a clandestine abortion. Her agency was completely limited.

The transversal and historical feminist plight against the social constrictions of sex and gender, in which certain roles are imposed on particular individuals because of their biology, was also profoundly challenged. Belén's interview was a symbol of how embedded the idea of motherhood is on female's bodies – a symbol of how 'women internalize the feminine ideal so profoundly that they lack the critical distance necessary to contest it and are even fearful of the consequences of "non compliance", and ideals of femininity are so powerful that to reject their supporting practices is to reject one's own identity' (Deveaux, 1994). The President and politicians who welcomed Belén's decision also reinforced the idea of motherhood as a duty and a call; as the only destiny.

A group of different feminist organisations released a joint public statement, '*Cuerpos cautivos. Violadas y Embarazadas. ¡Aborto libre, seguro y legal para todas las Belén!*' (Captive bodies. Raped and pregnant. Free, safe and legal abortion for all the Beléns!), which was signed by various national and international organisations:

Rape becomes particularly serious when affects minors (which are largely little girls attacked by males of the closest family circle), because of their difficulty to repel and denounce the attack. In some social quarters, incest can even be considered as part of the "normal" relations established between father/stepfather and its progeny, while the mother usually remains silent and compliant. [...] Chile is still one of the few countries in the world that do not allow abortion in any circumstance, thus condemning women to imposed maternities or to clandestine and high-risk abortions. [...] In the so called return to democracy, successive governments have shown a vigorous refusal to include therapeutic abortion back in their agenda and they have been unable or unwilling to support the legislative projects that despenalise abortion, an attitude that it is in open contravention to agreements subscribed by Chile in the Beijing Conference, which in the par. 106 letter k of its Action Platform calls to revise the punitives laws against women that abort. Moreover, these governments have refused direct recommendations from the Human Rights Committee of the UN and the CEDAW. The weight of the ecclesiastic lobby, in this respect, have been determinant for perpetuate a situation that subordinates women and fails to acknowledge their rights (Articulación Feminista por la Libertad de Decidir, 2013).

In this way, in the statement, they denounced incest and abuse as something normal in some sectors of society. Additionally, they blamed the Chilean State for not being able to change Pinochet's legislation and being dominated by the Catholic Church. They demanded that the State guarantee human rights to women in Chile and comply with international commitments. The rhetoric of 'human rights' is, as mentioned in Chapter Two, the strongest argument used by feminist organisations against the religious lobby (Villavicencio and Zúñiga, 2013).

Feminist groups also organised a demonstration called '*Yo Aborto el 25 de Julio*' ('I Abort on the 25<sup>th</sup> of July').<sup>57</sup> According to the media, 25,000 people attended (Articulación Feminista por la Libertad de Decidir, 2013).<sup>58</sup> It ended with an episode extensively covered by the media: some women burst into the Cathedral of Santiago while Bishop Ezzatti was celebrating Mass. One of the women involved declared that it was a 'performance', a '*toma*' (occupation), carried out because 'the Catholic Church has intervened women's bodies during decades' (Freixas, 2018b, my translation). Furthermore, the Catholic Church is not just a patriarchal institution but also an institution imposed by the Hispanic conquest and colonisation (Iglesias, 2008). Some of the women who got into the cathedral broke and moved some pews and confessionals and painted very provocative phrases on the walls: '*Dios también aborta*' (God also aborts), '*Me cago en tu iglesia católica*' (I shit on your Catholic church), '*María quería abortar*' (Mary wanted an abortion), and so on.

Despite the predictably sensationalist coverage of the media (see, for instance, Emol, 2013a), which completely avoided analysing the motives behind the protest, there were other interesting issues. For instance, internal fractures and debates within the feminist movement were unveiled. For example, there were those who argued against the demonstration as an unnecessary use of violence, and also against the intolerance toward a specific cultural identity, the Catholic (Dides, 2013). There were also voices (as in the case of the apostasy described above) criticising the fact that by invading the

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<sup>57</sup> *Declaración Pública: 'Yo aborto el 25 de Julio'* (2013).

<sup>58</sup> See *Marcha Mujeres*, 2013; *Emol*, 2013.

cathedral those demonstrators were giving the Catholic Church the opportunity, and somehow the right, to intervene in the debate. In any case, there is a significant diversity of voices within the movement.

#### **IV. Conclusions**

From the analysis of these three events we can see how different aspects of the debate were challenged, at the same time raising new crucial issues. Each one in its own way caused profound changes in the way in which abortion was conceived and even experienced, prompting also the articulation of feminist organisations and new discourses.

Regarding the distribution of the EC pill, if we focus not so much on what the arguments and strategies are about (what is affirmed or denied by them, and directed by what criteria or standards) but rather on what are the assumptions behind the intelligibility of the debate, we note that the debate might not be really (or completely) about life begins at certain point in time of development, or whether the pill is abortive or not. The debate is also the expression and the vehicle of ways of life that try to 'accommodate' with each other. Certainly this accommodation is enacted differently in each case. In one view, the conservatives seem more committed to modifying the conduct of the defenders of EC than the defenders are committed to modifying the way of being of conservatives. In their debate about what facts we should look at and what values we should use to interpret their meaning, both positions are engaged in the definition of their present political and social situation. Both positions are moulding their common space by negotiating their position with respect to the law. In turn, the EC pill might be defined in terms of its chemical elements and the causal reaction that those chemicals produce in contact with certain parts of our body, but it is something indefinable in terms of its use and meaning.

Furthermore, this case attests to the complex way in which the market, religious fanaticism and different bodies of the State interact. By means of the Tribunal Court's decision, what was banned was the free distribution of the emergency contraceptive, not the possibility of selling it in the market. Feminists highlighted the consequences of this decision: the wealthy were not going to be affected by the measure; only those

relying on the public health system, and especially those women lacking the contacts or the access to specific information.

In addition to this point related to social justice and class discrimination, the absence in the legal discourse of women's concerns as such, of their status as agents and subjects, independently of their capacity to bear children (or not), is highly significant. This absence is correlative with the emphasis on a pseudo-scientific conception of womanhood, family, and so on. The whole debate regarding the pill was centred on scientifically determining the moment of conception; moreover, the debate was framed according to religious concepts and priorities, namely the criterion was whether the EC pill was abortive or not. In this sense, an inadvertent complicity between those defending and attacking the pill contrasts with feminist interests. As we saw, feminist interests did not focus on the pill being abortive or not but on the social inequalities involved, and also on a broader issue regarding women's agency: feminist groups emphasised the need to frame the discussion not in terms of Christian-patriarchal power but in terms of how as a society we are to rethink women's reproductive autonomy. This in itself is a form of resistance.

In the second event analysed, I believe that the Free Abortion Hotline was definitely a turning point regarding abortion activism: instead of focusing on legal changes it works collectively to help women to have information regarding safe abortions. It made the process visible and also changed the position of women as victims regarding medical technologies. However, one may wonder if the hotline is a mode of resistance if there is not effective support in finding misoprostol, preventing scams, or supporting and guiding women during the abortive process itself? Undoubtedly, the 'symbolic gesture' of the Collective represents a form of resistance in the sense of reshaping power strategies. This reshaping is reactive in the sense of being inseparable from power and subjugation. But it is active in the sense of producing a change in the conditions of possibility of action. In that space, solidarity grows as the shared experience of abortion is revealed: women realise that there are other women in the same situation; they can empathise and collaborate around a common plight. On a darker note, these alternative strategies might have as a consequence the normalisation of the agency of women, in the terms of the market, in such a way that in future it could force women to pursue their autonomy in an even more exposed and vulnerable position, as I will analyse in Chapter Eight.

Finally, the case of Belén is an event in the present history of abortion in Chile for different reasons. In itself a personal tragedy, it highlights key issues of sociological significance, for instance having provoked the demonstration “I abort the 25<sup>th</sup> of July” every year since 2013. The approach of the press and the extended coverage, along with the moral judgements and discussions across the board, is particularly fertile ground for thinking about problems of social discipline, control, identity, examination, classification; in sum, the biopolitics of the body. It seems particularly significant how the lively response of feminist groups is necessarily coupled with difficult internal debates. What distinguishes a legitimate form of demonstration from an illegitimate one? What counts as ‘violence’? Is the value of the Cathedral of Santiago, as a national monument, comparable to the value of the feminist invasion as a living performance? Interestingly, in this analysis none of these questions had a straightforward answer.

These events show us the lines that define the ways of understanding the urgency for women to access safe abortions, and also the shape this access was to take. In the ‘Pildorazo’, for the first time in decades, women organized themselves in a way that was going to be able to find a space in the political and legal debate. The organization of the Abortion Hotline challenged women’s dependency on a medical and legal system that, in many crucial aspects, was not going to change any time soon. Finally, the case of Belén exemplifies how the feminist organizations grew stronger again so as to react against the social injustice manifested in the way they were being denied the exercise of their freedom in sexual and reproductive decisions. In common, they changed the historical and political understanding of abortion in Chile by breaking with old ways of thinking that showed themselves too general, biased, unreflective or superficial, and also by rediscovering new ways of thinking (about the body, about sexual and reproductive rights, etc.) that were both provoked by that inadequacy and that challenge us not to rest on easy answers but to embrace the ‘plurality of causes’ involved in the abortion debate, in which so many lines of power/knowledge intersect (political, cultural, private, bodily, theoretical, cultural, economic, etc.).



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**Chapter 6**  
**The Parliamentary Debates: The Legal Context, the Figure of ‘the Unborn’, and**  
**the Characterisation of Women**  
**(2015-2016)**

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**I. Context: The Bill and the Characters**

As has been mentioned, on the 31st of January 2015 President Bachelet introduced the *Proyecto de ley que regula la despenalización de la interrupción voluntaria del embarazo en tres causales* (Bill that regulates the decriminalisation of voluntary pregnancy termination on three grounds).<sup>59</sup> The bill did not allow abortion upon women’s request; its purpose was to legalise and regulate abortion in the context of the three following scenarios: if the woman’s life is at risk, in the case of foetal anomalies incompatible with life, and in cases of rape. Additionally, other factors such as confidentiality and conscientious objection were originally included. Regarding confidentiality, according to the Criminal Procedure Code, healthcare providers are required to report apparent abortions. The bill, as was presented by the government, would have established that healthcare providers must uphold medical confidentiality. So, if a woman arrived at the hospital because of abortion complications, regardless of the reason of the abortion, the doctor could not report her to the police.<sup>60</sup> In relation to conscientious objection, the bill would have established that only individuals, and specifically the doctor, have a right to freedom of conscience.<sup>61</sup> Each of the specific details of the bill – such as the gestational limits during which a woman can terminate her pregnancy; the necessity, or not, of reporting to the police in the case of rape; the procedure to corroborate the specific grounds for termination, among others – was extensively debated. I will briefly explain the procedure of the bill and describe the next steps that were followed in order for it to be approved.

Firstly, after being introduced by the government, the bill was discussed and approved in general terms by the *Comisión de Salud* (Committee on Health Affairs, from here

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<sup>59</sup> Official bill bulletin N° 9895-11.

<sup>60</sup> This was later eliminated from the bill.

<sup>61</sup> Not the medical team or a whole institution.

onwards CS) of the Chamber of Deputies.<sup>62</sup> When a bill is discussed, the members of the corresponding committee decide firstly if they consider it important to invite experts or members of civil societies to the sessions, and how many sessions they will use to discuss the bill (which can change if more debate is needed). In this case, the CS discussed the bill in detail from the 31st of March until the 4th of August 2015, in 20 sessions. Persons from civil society and experts in general, who were suggested by members of the CS and other politicians, attended the sessions to give their opinion about different aspects of the bill.<sup>63</sup> Additionally, the ministers who promoted the bill also presented in the CS at least once.<sup>64</sup> These sessions were public, but people needed to book in order to attend them.<sup>65</sup>

Secondly, the government proposed amendments to the original bill. They introduced a number of regulatory details (*indicaciones*), which were discussed and finally approved by the CS on the 4th of August 2015.

Consequently, the *Comisión de Constitución, Legislación, Justicia y Reglamento* ([CCLJR]; Committee of Constitutional, Legal, Justice and Regulations Affairs) of the Chamber of Deputies also invited experts to discuss technical issues.<sup>66</sup> These sessions started on the 7th of October 2015 and finished on the 1st of March 2016, when the regulatory details were finally approved.

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<sup>62</sup> The Committee on Health Affairs is one of the 24 Permanent Committees established in the Regulations of the Chamber of Deputies. The Committees discuss the bills or special issues required by the Chamber. The Committees are constituted of 13 members, who proportionally represent their political party or coalition. The CS was composed of five women and eight men. Of these, three were from the right-wing party *Unión Demócrata Independiente* (UDI; Independent Democratic Union), two from the centre-right party *Renovación Nacional* (RN; National Renovation), two from the centrist party *Democracia Cristiana* (DC; Christian Democracy), one from the centre-left party *Partido Radical Social Demócrata* (PRSD; Social Democrat Radical Party), two from the centre-left party *Partido por la Democracia* (PPD; Party for Democracy), two from the *Partido Socialista* (PS; Socialist Party), and one from the *Partido Comunista* (PC; Communist Party). [https://www.camara.cl/trabajamos/comision\\_portada.aspx?prmID=411](https://www.camara.cl/trabajamos/comision_portada.aspx?prmID=411)

<sup>63</sup> 76 people presented in the CS: 47 against the bill and 29 in favour.

<sup>64</sup> The Minister of General Secretary of the Presidency, Ximena Rincón; the Minister of the *Servicio Nacional de la Mujer* (SERNAM; National Women's Service), Claudia Pascual; the Minister of Health, Carmen Castillo; and the Minister of Justice, José Antonio Gómez.

<sup>65</sup> Nevertheless, some sessions needed more security because of threats from some fundamentalist and religious groups, so the audience was restricted to invitations.

<sup>66</sup> 28 people presented in the CCLJR: five ministers, one secretary of the presidency, one doctor and one representative of the Church. The rest were mostly scholars.

Subsequently, the Chamber of Deputies as a whole discussed and voted on the bill in two days, approving it on the 17th of March 2016.<sup>67</sup> This last debate, which I will not further analyse in this chapter,<sup>68</sup> had a huge impact in the Chilean media, especially due to the opinions presented by those voting against abortion: one deputy said that if abortion is allowed, the national institution for disabled children in Chile (*Teletón*) will be closed down, because all disabled children were going to be aborted; another said that at least Pinochet's regime killed 'grown up' people and not foetuses.<sup>69</sup>

The next step was the bill's discussion and approval by the Senate. Additionally, members of parliament took the bill to the Tribunal Constitucional (Constitutional Tribunal) to question its legitimacy (*El Mostrador* Braga, 2017). Unlike its counterparts elsewhere, this entity can judicially review the bill on constitutional grounds during the discussion in the legislature or once it is approved. If the Constitutional Tribunal considers that a bill does not concur with the Constitution, it cannot be enacted. As the Tribunal had taken a very conservative stance in previous decisions concerning reproductive rights, the outcome was uncertain. However, on the 21st of August 2018, the Tribunal ruled in favour of the bill (T13, 2017).<sup>70</sup>

In this chapter I will analyse the debates in the CS and CCLJR, because, in my opinion, they best represent the discussion: they were the first two debates that discussed the bill, and those in which the subjects were discussed with more detail and time; and, according to my analysis, the debates that came after started to repeat the arguments. I accessed the actual debates through different means; some of the sessions and presentations were uploaded to the webpage of the Chamber of Deputies,<sup>71</sup> there

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<sup>67</sup> The debate in the Chamber of Deputies will not be further analysed in this chapter. However, I would like to mention that the Chamber maintained some elements of the original bill, while others were changed. In general terms the three grounds were approved.

<sup>68</sup> I am not analysing this debate because no new arguments were presented; the deputies just recapitulated what was said in the committees.

<sup>69</sup> Different examples of the most remarkable phrases of the House of Deputies were collected in this newspaper article (*La Tercera*, 2016).

<sup>70</sup> As I will analyse in Chapter Eight, it also changed the regulation regarding conscientious objection, extending it to institutions.

<sup>71</sup> See *Cámara de Diputados de Chile*, committees: [https://www.camara.cl/trabajamos/comisiones\\_tipo.aspx?prmT=P](https://www.camara.cl/trabajamos/comisiones_tipo.aspx?prmT=P)

was also a final report in both committees<sup>72</sup> with a summary of the main opinions and results. The sessions in the CS were recorded and transcribed by scholars from the *Universidad de Chile*: Irma Palma, Claudia Moreno and Andrea Alvarez, from the *Programa de Aprendizaje en Sexualidad, Afectividad y Género (PASA)*, Psychology Department, who have generously shared the information with me. I was also able to attend some of the sessions. In this section I will specify and quote the date, the committee, and the person who gave her/his opinion or presentation. The translations are mine.

I will consider how in the debate, both in the CS and CCLJR, certain relevant subjects and information or fields of knowledge were presented, discussed, constructed, and understood. I have divided the analysis into four sections. In this first section I consider the circumstances of the debate. In the second section I look into the legal framework of the new legislation. In the third section I discuss the characterisation of the unborn: on the one hand, the characterisation offered by those opposing the legislation, and on the other, the one offered by those defending and promoting it. In the final section I consider the characterisation of women.

## **II. The Legal Framework of the New Regulation: The Constitution and International Treaties**

There are different regulations regarding the statute of the unborn and abortion in the Chilean legislation: the Constitution, International Treaties,<sup>73</sup> the Civil Code,<sup>74</sup> the

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<sup>72</sup> Informe de la Comisión de Salud, 2015; Informe de la Comisión de Constitución, Legislación, Justicia y Reglamento, 2016.

<sup>73</sup> Which are incorporated into the Chilean legislation according to Article 5, subparagraph 2 of the Chilean Constitution.

<sup>74</sup> The Civil Code, in four articles, regulates the human embryo's statute: Article 55 defines 'person': 'Son personas todos los individuos de la especie humana, cualquiera que sea su edad, sexo, extirpe o condición' ('Persons are all the individuals of the human race, of any age, sex, lineage, or condition'). Article 74 defines the beginning of the legal existence of a natural person: 'La existencia legal de toda persona principia al nacer, esto es, al separarse completamente de la madre' ('The legal existence of a person begins when she/he is born, thus, when she/he is completely separated from her/his mother'). Article 75 establishes that the life of the unborn is an object of protection, and Article 77 declares that the rights of the unborn are suspended until born.

Health Code, the Criminal Procedure Code and the Criminal Code.<sup>75</sup> These regulations were points of central concern in the debate, especially in relation to how specific rights should be interpreted. The central question, which I will focus on in this section, is whether abortion could be legal considering the current Constitution, in relation to its Article 19 N°1, subparagraph 2, ‘*la ley protege la vida del que está por nacer*’ (‘the law protects the life of the unborn’). Needless to say, this provision has been variously interpreted in the context of abortion. On the one hand, the ‘pro-life’, or anti-abortion, adherents claim that according to this article, the unborn has the same right to life as the woman or any other citizen, and so the prohibition of abortion holds. In this sense, ‘protection’ means that abortion should not be permitted under any circumstance.<sup>76</sup> To interrupt a pregnancy, in any circumstances, would be unconstitutional and thus constitutional reform would be needed in order to legalise abortion. In the debate, this interpretation was defended by different legal scholars, for instance, Angela Vivanco, from the *Universidad Católica*, who stated:

Firstly, it is important to note that the Constitution guarantees the right to life to every person. The right to life has the biological precedent of being alive and therefore the Constitution is just ensuring what we already possess. Additionally, it is guaranteed to every person without any discrimination or differentiation [...] Each time the Constitution refers to people, it means the individual of the human species and, unlike other disciplines, it makes no distinction (Angela Vivanco, CS, 30th June 2015).

According to this view, as the right to life of the foetus is absolute and is protected by the Constitution, it cannot be weighted against other rights at stake.

On the other hand, those against the prohibition and in favour of women’s right to choose have used as a central argument the point that the word ‘protection’ in the Constitution does not mean that the interruption of pregnancy cannot be permitted. Various pro-liberalisation scholars, such as Constanza Salgado, Lidia Casas, Camila Maturana, Verónica Undurraga, Juan Pablo Mañalich, and others, defended the idea

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<sup>75</sup> The Criminal Code regulated abortion as a crime in Articles 342 to 345.

<sup>76</sup> The apparent exception is when the pregnancy is interrupted because the woman’s life is at risk. In this case the abortion is not the desired result, so, in practice, it is not punished. It is apparent because in this case there is not a proper abortion, so it is not in fact an exception to the prohibition.

that the current Constitution does allow a liberalisation of the law. According to their interpretation, Article 19 N°1 does not apply to the protection of a life in formation, so that under the current regulation the bill was not unconstitutional. They recognised that according to the Constitution the unborn deserves protection; however, this protection is not absolute. Furthermore, they pointed out that the Chilean Constitution was enacted in 1980 and that therapeutic abortion was permitted until 1989. So, they argued, abortion was not held to be unconstitutional during that period. Indeed, in the context of the discussion of the Constitution, this subject was specifically debated and it was accepted, because the members of the committee considered that under some circumstances abortion could be permitted (Comisión Ortúzar, 1974).

In her presentation to the CCA, the legal scholar Verónica Undurraga explained the doctrine that attributes to pre-natal life the status of a constitutional and legally protected right (CCA, 6th January 2016). However, her point went against the doctrine that attributes to pre-natal life a subjective right to life, namely, a right to life equivalent to that of the already-born. In other words, according to her, the Chilean Constitution does not guarantee a ‘right to life’ to the unborn.

Additionally, those defending abortion have argued that rights are never absolute, contrary to what pro-lifers maintain in regard to the right to life of the foetus. Undurraga pointed out that the legislature is obliged to adopt a protection regime for pre-natal life that is effective and at the same time respectful of the rights of pregnant women (the principle of proportionality). There are two ways in which the legislature might violate the Constitution: ‘deficient prohibition’ and ‘excess prohibition’. In the first case, the legislature fails its duty to protect certain rights; in the prohibition for excess, which is relevant in this case, the legislature protects too much, in such a way that other rights are violated.

The second way in which the legislature can violate the Constitution is by adopting measures to protect pre-natal life which result in the violation of constitutional principles such as human dignity or the constitutional rights of other rights holders, specifically, in the case of the interruption of pregnancy, the rights of the pregnant woman and eventually those of family members and of the attending doctor (Verónica Undurraga, CCLJR, 6th January 2016).

Lidia Casas, legal scholar from the *Universidad Diego Portales*, also defended the idea of a legal system that has to be interpreted as a whole:

The constitutional debate [...] should focus on the complexity of the rights at stake. Recognising that the life of the unborn has an important value for society, and even conceding that the unborn has a right to life of the same value as the woman's right to life [...] does not resolve the conflict with women's rights to life, health, integrity, dignity, and autonomy. In any political or legal deliberation, the rights and values at stake should be weighted (Lidia Casas, CCLJR, 24th November 2015).

Legal scholars who have defended the compatibility of the current Constitution with a liberalisation of the abortion regulation have also signalled the example of other countries such as Germany, in which the Constitution has a similar article to the Chilean one and, nevertheless, permits abortion on women's request.

Constanza Salgado, legal scholar from the *Universidad Adolfo Ibáñez*, stressed that in 1975 the German Constitutional Tribunal established that the right to life of the unborn is more important than women's rights and specifically women's autonomy. However, there are special circumstances in which it is not possible to force a woman to continue a pregnancy, and in those special circumstances, she said, the Tribunal argued that the State cannot demand 'heroic behaviour' from women (Constanza Salgado, CS, 30th June 2015). I will later show that this argument concerning heroic or supererogatory behaviour has been also used in the Chilean debate. It is interesting to note how the experience of Germany is quoted to demonstrate that a similar argument used by those who oppose abortion regulation in Chile (claiming that the foetus has rights equal to or of more value than the woman) can have a different regulatory consequence. Salgado also quoted the example of the Spanish Constitutional Tribunal and, in Latin America, the Colombian Supreme Court, which went further because it did not just establish that abortion was compatible with the Constitution but held that the prohibition of abortion was contrary to the Constitution.

Juan Pablo Mañalich, legal scholar from the *Universidad de Chile*, also commented about a second decision, of the same tribunal in Germany, that authorised the legislature to establish a regime of abortion on women's request up to a certain time limit. Mañalich compared the legislation of Germany and the Chilean bill. The possibility to abort on women's request was established in a country whose legal system 'is not that of a country that we consider, according to me, extravagant or radically secular. It was done by the German Constitutional Tribunal, with the result that in Germany today, the country where I studied for my PhD, the regime is on women's request and not the sole grounds as is debated here today' (Juan Pablo

Mañalich, CS, 14th July 2015). The comparison of Chile with other countries is a constant resource of those supporting the bill, in order to show that places ‘admired’ by Chile, such as European countries, have concluded that abortion should be legal. Referring to international regulation is not just a legal strategy to quote comparative law, but also a way to place Chile as part of ‘Western civilisation’ or as a ‘civilised country’ (concepts that appeared frequently in the debate by exponents from both positions). One important argument has been that Chile is one of the few countries in the world that still punishes abortion under any circumstance; furthermore, the international community has on different occasions advised Chile to change the regulation in order to permit abortion at least on certain grounds (Maturana, 2014: 82).

Indeed, Salgado stressed that since Chile is one of the few countries in the world in which abortion is not permitted, then, if we continue to follow the anti-abortion arguments, this would imply that all the other countries are not obeying the law:

It would be ridiculous – or rather strange – that Chile should be the only country in the world, among three other Caribbean countries, that obey the Constitution [...] and [to imply] that all other civilised countries in the world are totally, let’s say, ignorant regarding the right to life of the unborn [...] is giving an exaggerated superiority to the rights of women (Constanza Salgado, CS, 30th June 2016).

International human rights treaties, such as the Committee on the Elimination of Discrimination against Women (CEDAW), do not explicitly recognise the right to abort. However, they all recognise different rights that have been interpreted by international organisations, throughout General Recommendations or Observations and Concluding Observations addressed to particular States, at least, as a duty for the States to legalise abortion on certain grounds.<sup>77</sup> Otherwise several women’s rights would be violated. These rights include the right to life; sexual and reproductive rights; the right to health; and the right to be free from cruel, inhuman or degrading treatment; among others.

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<sup>77</sup> See, for example, Gauché, 2016; WHO, 2015; Copelon et al., 2005; Meza-Lopehandía, 2016.



Lidia Casas quoted in her presentation a recent interpretation of Article 4.1 of the American Convention on Human Rights. The article establishes that every person has the right to have their life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of their life. This is the only international convention that establishes an article protecting the life of the unborn, so it has been widely quoted as an argument supporting the total prohibition of abortion. However, as Casas discussed in her presentation, recent decisions made by the Inter-American Court of Human Rights have interpreted this protection in a different way, highlighting also other rights such as the rights to autonomy, integrity, and health.<sup>78</sup>

For instance, the case of Artavia Murillo in Costa Rica<sup>79</sup> was mentioned by different speakers. It was introduced as a relevant example because it changed the paradigm of the right to life and the juridical status of the embryo. The case is not directly related to abortion but to the restrictions on *in vitro* fertilisation (IVF) in Costa Rica. The Supreme Court had banned IVF on the 15th of March 2000<sup>80</sup> because, according to the Court, the technique caused the loss of too many embryos. Many couples complained that they could not gain access to IVF in Costa Rica and therefore had been forced to travel to other countries in order to have biological children. The case was presented to the Inter-American Court, which ruled that Costa Rica's ban on IVF violated the right to privacy, the right to personal integrity, the right to liberty, the right to form a family, and the right to be free from discrimination. The Court ordered Costa Rica to legalise IVF within six months.

The relevance of this case for the abortion debate is that, while ruling out IVF, the Court interpreted the right to life guaranteed by the American Convention on Human Rights. According to the Court, 'the historic and systematic interpretation of

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<sup>78</sup> The case of Costa Rica versus Artavia Murillo (2012), measures in favour of Beatriz against El Salvador (2013), and the case of Paraguay and the Manimby girl (2015).

<sup>79</sup> Inter-American Court of Human Rights, Artavia Murillo and others ('*in vitro* fertilisation') vs. Costa Rica, (Merits, reparations, and costs), 28<sup>th</sup> November, 2012.

<sup>80</sup> Corte Suprema de Justicia, *Acción constitucional* 2000-02306, sentencia de fecha 15 de marzo de 2000.

precedents that exist in the inter-American system confirms that it is not admissible to grant the status of person to the embryo' (Paragraph 223). 'The principle of gradual and incremental – rather than absolute – protection of pre-natal life, with the conclusion that the embryo cannot be understood as a person' was also established (Paragraph 256). The Court quoted the Case of *Vo. versus France*, in which the European Court of Human Rights indicated that

At best, it may be regarded as common ground between States that the embryo/foetus belongs to the human race. The potentiality of that being and its capacity to become a person – enjoying protection under the civil law, moreover, in many States, such as France, in the context of inheritance and gifts, and also in the United Kingdom [...] – require protection in the name of human dignity, without making it a 'person' with the 'right to life'.<sup>81</sup>

As a consequence, the life of the unborn deserves protection but, in any decision, there are other rights that should be considered. Different lawyers – Salgado, Maturana, and Casas, among others – highlighted during their presentations that the relevance of this decision is that, according to this interpretation, and in a similar tone to other international human rights treaties, life is not protected from conception; rather, its protection is gradual, and thus abortion can be permitted in Chile.

However, anti-abortionists have used international regulation and international recommendations differently. They have argued that there is no such thing as the 'right to abort' in international law, which, as we saw previously, strictly speaking is true. Also, they have emphasised that the interpretations of international treaties are not part of the Chilean legal system and that Chile should just obey the legislation according to its principles. Alvaro Paul, legal scholar from the *Universidad Católica*, said that

The only thing favourable to abortion in the international arena – not in the international law – are the recommendations of some committees, rapporteurs and other Organisms [...] These recommendations, however, are not binding (Alvaro Paul, CCA, 9th December 2015).

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<sup>81</sup> European Court of Human Rights, Case of *Vo. vs. France* (No. 53924/00), GC, Judgment of 8th July 2004, paragraphs 75, 82, 84, and 85.

### **III. The Characterisation of the Unborn**

In the previous section I described some of the ways in which the word ‘protection’ in the Constitution has been used and interpreted, and also how we can relate those uses to international regulation. In concise terms, the unborn is protected by the Chilean Constitution; however, protection does not mean, by itself, unrestricted protection in every circumstance nor over the protection of the mother. Now I will focus on how the embryo or foetus is understood and portrayed on both sides of the debate in the Committees. In order to bypass some irrelevant ambiguities regarding the different stages of development, I will try to refer to the unborn whenever is possible. Through a discursive analysis of this part of the debate, we can better understand the knowledge and practices that underlie those competing interpretations of the law. The debate remained quite abstract, and the narrative was usually moralistic and speculative. I will first consider a selection of testimonies from those against abortion, and second a selection of testimonies from those defending the bill. In general terms the debate centred on personhood and related concepts.

#### **i) The Unborn According to Anti-abortionists**

It is hardly necessary to repeat the point that the conviction about the status of the unborn that each side sustains has been decisive in terms of which position they adopt regarding the possibility of allowing or not allowing the interruption of pregnancy.<sup>82</sup> The construction of abortion by the so-called pro-life groups, or anti-abortionists, typically assumes that the human morula, embryo, or foetus has a right to life from conception and, as a consequence, to end its life is equivalent to committing murder. A similar, but not identical, example of this argument claims that the typical human foetus is a person and, since every person has a right to life, the typical human foetus has a right to life; thus, abortion is morally objectionable.

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<sup>82</sup> However, and as I showed in the last section, recognising an equal or superior status of the unborn in regard to women has not always been interpreted as the prevailment of the life and rights of the unborn in all circumstances.

### *a. Persons from Conception*

In the debates about abortion in the 1980s it was already taken for granted that there was no metaphysical mystery regarding the human nature of the human being from conception to old age. The consensus in medicine and biology was that ‘the life of any individual organism reproducing by sexual reproduction begins at conception (fertilization)’ (Boonin, 2003: 21). There were two considerations that complicate this ‘known fact’. First, there was the argument of gradation: the idea that the formation of a human being is a gradual process, and so any clear-cut delimitation of the kind ‘from exactly this point onwards is a human being’ is more or less arbitrary.<sup>83</sup> Second, the ‘human being’ of the medical and scientific fact is in general meant to designate an individual living member of the species *Homo sapiens*, which is not analytically equivalent to ‘an individual with a right to life’. It does not mean that it is not true that an embryo or foetus has a right to life, but only that it is not true by definition, and so if we are to make the two entities equivalent we need some kind of justification. We need to explain, for instance, by virtue of which property do these individuals have a right to life? Just for being members of the species *Homo sapiens*? This idea that belonging to the human species is a sufficient condition to have a right to life is in general based on the characteristics that make humans ‘superior’ to other living beings, or at least makes them morally relevant beings (rationality, language, etc.). As one might expect, the differences of the parties involved in the Chilean debate are not motivated by the question about the humanity of foetuses, but about the question as to what kind of rights are the parties involved (the unborn, women, society) entitled? The mere fact of being a member of the species is not sufficient justification for a right to life, because it seems problematic to deny the right to life to an individual who shares with humans all characteristics of humanity but possesses a non-human genetic code (say an alien, or a cyborg, or a different intelligent animal), or cases of genetically human individuals who are lacking some central human characteristics.

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<sup>83</sup> In this context, conception would be the only place where there is a fundamental discontinuity in your developmental history, and ‘it is the only place to draw a line between there being a right to life and there not being such a right that is not arbitrary’ (Boonin, 2003: 36). It can be argued, however, that the moment of conception itself is a gradual process (of about 20 hours in duration).

A Professor of Constitutional and Administrative Law from the *Universidad de los Andes*,<sup>84</sup> José Ignacio Martínez, was one of the most vocal defenders of the prohibition invited to present his view in the CCLJR. For him, abortion is simply ‘the total elimination of a human being’ (CCLJR, 14th October 2015). In a way that may be considered characteristic of most of those against abortion, Martínez argued using the scientific terms of a discourse according to which the development of human beings is an uninterrupted continuum; he then appealed for both national and international laws to be interpreted as conferring fundamental rights to the unborn. To make his case, he quoted a textbook of medical embryology, according to which development begins with fecundation, the process by which the masculine gamete, or spermatozoon and the feminine gamete, or ovum, fuse and generate a zygote (see, for instance, Sadler and Langman 2006: 11). He then quoted (among other legal texts) a Constitutional Tribunal’s decision, which established that ‘the embryo or the unborn is a person from conception’.<sup>85</sup> Interestingly, Martínez also quoted Norberto Bobbio, who in an interview for *Il Corriere della Sera* in 1981 spoke against the legalisation of abortion in Italy (Bobbio, 1981). Also in a fashion typical of those against abortion, Bobbio takes for granted the personhood of the unborn and goes on to argue that we have a clash of rights between the unborn, the woman (over her body), and society (the right to population control), yet the rights of the unborn are fundamental rights while those of the woman and society are derived. The right to be born is at the same level of the right to not be killed. Thus, Martínez claims that the unborn, from the moment of conception, holds the right to life and, more specifically, the right to be born, which cannot be compromised. Although Martínez does not dwell much on Bobbio’s testimony, it is interesting that the value of the reference seems to depend on the fact that Bobbio is an agnostic and a socialist. This latter fact seems to confer value to the testimony because of the unclear (although certainly existent) presence of Christian and Catholic values in the moral debate. This is hardly a surprise considering the large

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<sup>84</sup> The *Universidad de los Andes* is a non-profit private institution of higher education established in 1989 by members of the Opus Dei, a Catholic movement founded in 1928 by the Spaniard José María Escrivá de Balaguer, and it is the most important Opus Dei university in Chile. It is also the university in Chile that receives the most private donations (see, for example, Monckeberg, 2003).

<sup>85</sup> Decision case number 740, recital 54.

proportion of Christians in pro-life groups. As we will see, there were testimonies in the Chilean debate that represented explicitly religious values in arguing against abortion, but it is also a tendency characteristic of the ‘pro-life’ position to argue from a confessedly religiously-neutral point of view, based (although vaguely) on universal human rights theory.

Another remarkable participant of the debate was Ricardo Rodríguez. He runs the evangelical movement *Juventud con una Misión* (Youth with a Mission), a non-profit organisation that, according to Rodríguez, receives around 3,000 young people every year and is focused on ‘orienting young people on their own value as persons from their conception’ (CS, 13th July 2015). Indeed, according to Rodríguez, in his work with young people he has been able to see how the identity of every girl or boy is shaped in the womb, from conception. They can feel, in particular, being rejected. In his view, then, the unborn is a person in legal, moral, and political terms:

We say ‘from conception’ because identity is a very important value in their development. We can tell that, since they were very small, even in the womb of their mothers, they can already perceive rejection. We work with psychologists, counsellors, and psychiatrists to help these young people in their process of mental and emotional healing. With these psychologists and counsellors we do what we call anamnesis, which is the history of the patient from its conception, and we can see then that most of the wounds and traumas come from this moment, the moment of conception. This means that if there are traumas and wounds there is then a communication from the moment of conception between mother and son (Ricardo Rodríguez, CS, 13th July 2015).

I have kept the strange wording of Rodríguez to get a glimpse of this way of thinking. Here we can observe that there really is no scientific or legal argument (indeed, no argument as such), but a testimony of a practice. It is interesting to note that there is some form of theoretical or practical knowledge on which the therapy is practised, the ‘anamnesis’, probably named (we can only guess) from some relationship (poetic or esoteric) to the Pythagorean and Platonic sects of antiquity. We do know, however, about the kind of knowledge that emerges from that practice: the full personhood of the foetus and also the responsibility of the woman in the constitution of her son or daughter from the moment of conception.

Furthermore, Rodríguez talked about his reasons for opposing the legislation in the following terms:

What is the child to be born? Is he a thing, a little animal [...], does he belong to the plant or mineral kingdom, or is he a human being? I think everybody agrees that the child to be born is a human being, and we have to say that no human being has the right to take the life of another. [...] As a matter of fact, Mister President, a child is not a little animal, but rather a human being; and I want to declare this: no human being has the right to take the life of another human being (Ricardo Rodríguez, CS, 13th July 2015).

We can see two characteristic ways of conceiving the personhood of the unborn. First, we have a straightforward rejection of abortion, which has religious beliefs close to the surface, and which more or less takes the personhood of the unborn for granted, as something obvious. Secondly, we have a more nuanced and educated argumentation that uses scientific and legal knowledge to make its points.

### ***b. The Weakest of the Weak***

As well as being considered a person, and in contrast to those already born, who enjoy more legal and social protections, the unborn is portrayed by those against the liberalisation of abortion as a superlatively innocent and defenceless being. Indeed, this portrayal is repeatedly quoted as a key reason to justify a condemnation of abortion. As mentioned earlier, the consequences of viewing the unborn as entitled to the same rights as a person who is already born are several. The embryo or foetus is seen as a part of the human species and thus as a being who deserves protection. Now, the point that is made by anti-abortion advocates is that this protection should be equal to or even higher than that for any other human being, because the unborn cannot defend themselves. There are voices in the debate that seem to claim that the superlative fragility and weakness of the foetus significantly contributes to its dignity. Some not only considered the unborn as the most innocent human being, but they also took the logical step of comparing it to other ‘vulnerable groups’, and so conceived of abortion as an act of discrimination or even an act of war.

In one of the sessions, MP Marisol Turre (UDI) said that those (like Mañalich and Zúñiga, see below) who argue against the personhood of the unborn somehow look down (*ningunear*) on all those who really think that the foetus is a developing individual of the human species. She asked:

Why is no one capable of defending her/him [the foetus]? I really think that in this sense the debate has been impoverished, as if we were talking about machines and not human beings. Then, when does the law connect with human nature?’ (Marisol Turre, CS, 31st March 2015).

This comparison with machines seems to be designed once again to emphasise the human dignity of the unborn. Is it not ‘natural’, Turrez seems to ask, to think of the foetus, if not as a person, as a fellow individual of our species? This is similar to the way Ricardo Rodríguez commented on how he conceived the higher dignity of the human species, noted above (‘A child is not an animal, it is a human being’). In contrast, and in view of the relentless defence of the weak, one might ask why this discourse does not extend to the respect for and protection of all forms of life, animal and environmental; of all that cannot protect itself.

Fernando Londoño, legal scholar from the *Universidad Diego Portales*, said that those legislations which permit abortion display a ‘false progress’ because, even though the advancement of our ability to control nature and our material circumstances (for instance, medically and technologically) may seem like progress, it is never a real progress if it overlooks what we owe to each other. It is one thing to control nature and a different thing to contain each other. The unborn, in his view, enjoys full personhood and rights, and so by legalising abortion the State authorises and justifies the removal of an innocent member of the human species. For him, a society in which abortions are allowed is a society that is not a ‘fully inclusive’ society. That is, the said society is one that values certain ‘properties’ or ‘developmental stages’ of being, before the being itself; it is the prevalence of ‘having’ over ‘being’.

Those who defend the life of the unborn do not attack women (who are already weak and ‘affected’ in this unequal distribution of natural duties), but defend the voiceless, the weakest of the weak, the one ‘hardly seen’, the one that does not count. Those who defend the life of the unborn advocate for a more inclusive model of society, one in which – however painful the alternative may be – nobody is redundant (Fernando Londoño, CCLJR, 6th January 2016).

This view of the unborn as the most vulnerable human being obfuscates the vulnerability and rights of women. For instance, Ignacio Sánchez, the vice-chancellor of the *Universidad Católica*, who also presented in the CS, wrote a letter to *El Mercurio* (one of the two most important and influential newspapers in Chile) commenting on allowing abortion in cases of rape: ‘Allowing abortion threatens the only innocent being in that despicable act: the child in gestation’ (Sánchez, 2016).

Others, however, have taken the pre-eminence of the dignity of the unborn to a height that casts dark shadows over the female womb, even calling for a kind of geopolitical intervention of the body. As the foetus is fragile and completely dependent on the



woman, the wombs of women open to the idea of aborting were depicted as ‘the most dangerous place in the world’ and abortion as a ‘genocide’. Indeed, Francisco Subercaseaux, spokesman of *Informaborto*,<sup>86</sup> felt it necessary to use the strongest associations of violence and murder to describe what a decriminalisation of abortion might entail.

Today, to be in the womb is more dangerous than to be in any country at war. The place that par excellence should be a place of love, acceptance, and respect is today the most dangerous place on the planet. In this way, the first cause of death in the world for decades, year by year, has been induced abortion [...] With a group of professional friends we wanted to connect in order to show the reality of abortion and to report the largest genocide in the history of humanity (Francisco Subercaseaux, CS, 8th June 2015).

Indeed, this strategy can be considered part of how *Informaaborto* approaches the issue. *Informaaborto* is non-profit organisation that has campaigned in Chile, showing very graphic pictures (one might say, as casualties of war); as I will show in Chapter Seven, it has displayed aborted fetuses in order to, it claims, inform the citizenship and defend human rights. In reference to this latter goal, Subercaseaux in a TV interview declared that the decriminalisation of abortion was equivalent to reinstating the death penalty (Subercaseaux, 2015).

In a similar position we find the presentation of Professor José Ignacio Martínez, who teaches constitutional law at the *Universidad de los Andes*, as previously mentioned. According to him too, the foetus is not just innocent and fragile but is also the ‘weakest of society’, so to protect him/her is to protect the human being that needs it the most. But, taking the issue a step forward, he compared the foetus with a black person or a working-class person, ‘in other words, the most disadvantaged’ or ‘the weakest in society’. Accordingly, to liberalise abortion is a form of arbitrary discrimination against disadvantaged persons.

Actually the analogy with social and racial struggles comes from a quote from the Spanish writer Miguel Delibes, who in a newspaper column of 2007 discussed the

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<sup>86</sup> <http://www.informaborto.org/>

liberalisation of abortion in the cultural context of what he called *progresismo* (progressivism), that kind of pragmatic conglomerate of centre-left and centre-right ideas loosely related to the Enlightenment and the civil struggles associated with some strands of feminism, sexual diversity, ecologism, secularism, etc. He asks then how to reconcile the defence of the weak (traditionally associated with the progressivist) with the endorsement of abortion (nowadays associated with the progressivist). The progressivist defended the worker against the employer; the child against the adult; the black against the white. With the problem of abortion, says Delibes, progressivism vacillated.

The embryo was life, but not person, while the presumed mother was a person, someone with a capacity to make decisions. Nobody thought that the life of the foetus was more unprotected than that of the worker or that of the black person, maybe because the embryo was lacking voice and vote, and was therefore politically irrelevant. Then they began to give up the principles that seemed unchangeable: the protection of the weak and non-violence. [...] The weakness of the foetus didn't matter if its elimination was painless, scientific, and sterilised (2007, my translation).

### *c. Culture, Science, and Medicine*

As the passage quoted above suggests, in the perception of the unborn as a particularly vulnerable person there is also a notion of the kind of culture that abortion promotes and of which is a manifestation. Indeed, some of the speakers appealed to the Chilean Catholic culture or world view, somehow independently of the specific religious affiliations that a person professes. Ricardo Rodríguez, quoted above, said:

Everyone must act according to their world view, that's exactly what I'm asking [...]; if there is a political party in which principles such as God are not present and Christianity has nothing to do with it, they can vote that way. But if there are people, individuals, families, or parties that have included Christian principles, then they should vote in accordance with those principles. In addition, we are talking about 86% of the population who identifies themselves as Christians. The problem we have is that many of these people have [...] a dichotomy in their lives whereby religion is something practised on Sunday and the rest of the days one just lives differently. The call I'm making is just about consistency, which means that people whose principles entail that life is of the utmost importance should act accordingly. What is consistent is good (Ricardo Rodríguez, CS, 13th July 2015).

Indeed, the subject of what exactly is 'civilised' and how one is supposed to understand that cultural qualification in the case of abortion was another point of difference. Sergio Valenzuela, gynaecologist and director of the Centre for Bioethics

at the *Universidad de Chile*, commented on the fact that medicine was created to save people, not to kill them (CCLJR, 18th January 2016). Ángela Vivanco, a legal scholar from the *Universidad Católica*, also stresses the idea that ‘all Western societies move or should move on the basis of the idea that vulnerability should be a call to strengthen rights and not to lose them’ (CS, 30th July 2015). The reference to Western civilization then appears as a repeating trope. As Julio Isamit from the conservative group *Fundación Chile Siempre* (Foundation Always Chile) mentions, this is not a surprise: ‘the idea of free people, equals in dignity and rights, is typical of the core tradition of ethics and constitutes one of the fundamental pillars of Western civilization’ (CS, 13th July 2015). Again, the point seems to depend on a core value that remains unspoken. There is nothing controversial in claiming that the principle of equality is embedded at the heart of our political and ethical conceptions. The point is, by virtue of what discursive reasoning those against abortion are able to transfer full rights to the foetus. There seems to be something missing, because the area is indeed a grey one: the unborn indeed is and is not similar to us; similar to those protecting him/her with full rights and those disposed to weakening that protection in view of the mother. I will consider next the view of the unborn of those endorsing the legislation.

## **ii) The Unborn According to Pro-liberalisation**

In general terms, the arguments in favour of liberalisation do not deny the value of the foetus, but that value (argued in different ways) does not lead them to criminalisation of abortion. Even though the rhetoric of ‘pro-choice’ positions has, historically, sometimes manifested a complete denial of the value of the foetus, to the extent of reducing it to a mere cluster of cells, in the Chilean legislation and in the arguments of the defenders of abortion the foetus is protected at least minimally and indirectly, in terms of the interests of the woman.<sup>87</sup> Given that minimal recognition, the most significant pro-liberalisation presentations were those arguing in terms of future personhood and irrelevant personhood, overlapping consensus, and performativity.

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<sup>87</sup> According to the legislation, nobody can intentionally harm or attack the foetus in any way without the woman’s consent.

### ***a. Future Personhood***

According to Carlos Peña, a legal scholar and vice-chancellor of the *Universidad Diego Portales*, the fact that the embryo is a potential human being does not imply that we should treat it as an actual human being, because life is a continuum (CCLJR, 18th January 2016). To elucidate his position, he made the argument of the analogy with the seed and the tree (also discussed in Boonin, 2003). While the tree seed is potentially a tree, it is clearly not a tree in the sense of manifesting the characteristics and functions that we attribute to trees. If X has the potential for being something else or reaching a different stage in the future, that does not mean that we need to treat X as if it has reached that stage already. Peña argues that we do not treat adult human beings as if they were dead, even though we are all potential dead human beings. In a similar way, the fact that the unborn will be a full-grown human with full rights does not mean that we have to treat it as being already born and grown.

### ***b. Irrelevant Personhood***

Another line of reasoning was that the status of the foetus is irrelevant for the regulation of abortion. In other words, the moral or medical answers about the status of the foetus should have no bearing on the legislation. Marcela Ferrer, from the Committee of Bioethics at the Faculty of Social Sciences of the *Universidad de Chile*, said in her presentation to the CS:

International law recognises as human beings those that are already born [...] I can say of all of us who are here today that we are not here because we were a fertilised egg, but because we were born in a specific family, we were educated in specific schools, we had certain friends; in other words, human beings are constituted as such in society (Marcela Ferrer, CS, 30th June 2015).

Besides the fact that international law is on the side of the pro-liberalisation position regarding the status of the foetus, Ferrer seems to argue that the thinking behind international law is that personhood is socially constituted and, consequently, that the status of the unborn is beside the point.

Making a related argument, Alejandra Zúñiga, legal scholar from the *Universidad de Valparaíso* and the *Universidad Diego Portales*, explained that abortion should be permitted not because the embryo is not relevant but because there are other aspects to be considered, namely, the rights and the dignity of girls and women.

No. The reason is not, and I have to insist on this, that the life of the embryo is neglected or considered not worthy of protection. The reason is simply the recognition of the dignity of girls and pregnant women. The recognition that they are people and, in the same way that you cannot be forced to sacrifice yourself to save another, you cannot force them to sacrifice themselves to save the life of the embryo (Alejandra Zúñiga, CS, 14th July 2015).

In this way, she argued that, regardless of the status of the embryo, abortion should be allowed in order to protect women's rights. A different answer to the question of the status of the unborn, in order to argue that abortion should be allowed, was that there is a difference between the foetus as a member of the human species and someone who possesses the status of a 'person'. In this case the value of the embryo is directly considered, and found to have less weight than the value of an actual person. Juan Pablo Mañalich, for instance, defended the unrestricted permissibility of abortion practised by, or with the consent of, the pregnant female, arguing that an embryo or foetus of the *Homo sapiens* species does not have –because it cannot have – the normative status of a person (Mañalich, 2014). This reasoning is conducive to abortion on the woman's request and not just on the three grounds. In this way, as I will show later, Mañalich was one of the few academics who directly defended abortion on women's request.

### ***c. Overlapping Consensus***

Following the legal scholar Carlos Peña, quoted above, the bill is practical, not theoretical. So the question should not be a 'moral' one but rather a question of whether allowing abortion is legally correct or not.

Democratic societies face the following dilemma: they must accept that each person has either religious or other kinds of beliefs, about the limits of the existence or the meaning of human life, and lives according to those; but at the same time, they must have common rules to guide the coexistence [...] This challenge is successfully faced when an area is reached in which all participants, without renouncing their final convictions, can converge. In other words, when society reaches what is called an overlapping consensus (Carlos Peña, CCLJR, 18th January 2016).

Here, Peña invokes Rawls's influential idea of the overlapping consensus, according to which a liberal state can reach stability when citizens support the same basic laws, even if they do so for different reasons and from different perspectives. Furthermore, Peña pointed that the core of this bill is not about the origin of the human life or even about the value of human life, but rather about the social imposition on women of

certain obligations that call for ‘heroic behaviour’. Peña continues with the idea that the bill does not contemplate a general permission to abort but the right to do so on three specific grounds. Indeed, Peña underlined that this right protects those women facing a ‘tragic decision’ (as it is usually referred to in the literature, the three scenarios being: to choose between whether to live or to continue the pregnancy; to continue a pregnancy knowing that the foetus will die at any minute; or to carry a foetus which is a product of sexual violence), ‘a decision among alternatives so dramatic that no impartial spectator could resolve it correctly’ (CCLJR, 18th January 2016). I will analyse this ‘heroic behaviour’ in the next section, when talking about how women are portrayed in the debate, but for now I would like to show how the question of the status of the foetus is irrelevant in this argument because, according to Peña, the decision is so tragic that, what is at the core of the issue, is not the life of the foetus but the abuse that the State would commit if it forces a woman to live that experience.

#### ***d. Performativity***

Another response to the question of how the embryo or foetus should be treated was suggested by a legal scholar of the *Universidad Diego Portales*, Javier Couso, whose proposal was centred around the concept of ‘performativity’.

Many times in the heat of a passionate debate one can come up with arguments elaborated for the opportunity, but they can be deeply contradictory with what historical, cultural, and even personal practices in fact reveal about what in reality is believed (Javier Couso, CCLJR, 14th October 2015).

According to Couso, the theoretical argument that establishes that embryos, fetuses, and persons are equal in dignity and rights, developed by those against the liberalisation of abortion, can be tested by looking at the actual practices by which we determine their status.

For instance – and as opposed to those individuals that are actually born – the unborn are not given a first name or surname. There are no masses celebrated in honour of the dead or similar ceremonies performed when a foetus dies because of a miscarriage. There are no cemeteries for burials or cremations of fetuses or embryos. Usually, there are no celebrations of the moment when the unborn was conceived or to mourn when they died because of the natural end of a pregnancy. Finally, even the Catholic Church does not consider the unborn worthy to receive some of the various sacraments that are considered for those that are actually born, such as baptism or the anointing of the sick. These examples show that, beyond the

arguments about the status of ‘person’ that the unborn supposedly hold in the debate about the decriminalisation of abortion, both the occidental tradition and the Judeo-Christian tradition (predominant in Chile), or also some other personal practices of those defending the criminalisation of abortion, show that they do not consider the unborn worthy of a treatment even remotely similar to a person who is already born. To sum up, the performativity is inconsistent with the rhetoric used (Javier Couso, CCLJR, 14th October 2015).

Additionally, Couso noted that another argument against abortion has been that it could lead to a ‘genocide of millions’. He talked about performativity again, and wondered if the anti-abortion groups really think that European countries are just tolerating a genocide.

How do they celebrate the economy, science, technology, culture, and in general the civilisation of states that are supposedly committing genocide? ... How is it that they have never seriously accused these countries of genocide? Could you imagine that a person who maintains consistency with her own values would agree to undertake happy tourist trips to countries in which the genocide of millions of innocent people [foetuses and embryos] occurs, as happens in Italy, France, England or the United States? (Javier Couso, CCLJR, 14th October 2015).

#### **IV. The Characterisation of Women**

The prohibition on abortion in Chile, and the debate on the matter throughout the last century, is an indication of the problematic status of womanhood. In this sense, this is a further chapter in the problematisation of women: the constitution of women as a problem involves diverse moments within legal and religious codes, with respect to the organisation of the behaviour in the household, hygiene, reproduction, population control, matrimony, etc. (see, for instance, Rodríguez Magda, 1999: 150).

In this section I turn to the ways in which women were depicted in the debate. In particular, I focus on pregnant women and women who have had abortions.

Marcela Ferrer, from the Committee of Bioethics at the Faculty of Social Sciences of the *Universidad de Chile*, who was mentioned above, said that

it is impossible to think about abortion without considering women’s life condition, gender inequalities, and the tremendous social inequalities in this country, which are also expressed in the conditions in which abortions are performed (Marcela Ferrer, CS, 30th June 2015).

María de los Ángeles Coddou, from the *Asociación de Abogadas de Chile* (*Association of female lawyers*), also highlighted the social inequalities that the

prohibition of abortion entailed. In her presentation she analysed the actual criminalisation of abortion, concluding:

100% of those women [women who are incarcerated] are working-class women. Does this mean that only working-class women abort in Chile? In other words, it is a crime that discriminates and that also violates basic rights guaranteed by the Constitution, such as equality before the law (María de los Ángeles Coddou, CS, 13th July 2015).

Several speakers talked about the way in which the prohibition of abortion affected women who abort despite the prohibition, and are thus forced to risk their lives in the process. This line of justification of abortion has been called by Sutton and Borland the ‘pragmatic’ frame, according to which ‘women are, in actuality, making decisions about their lives and bodies despite efforts to the contrary. The frame’s underlying moral force lies in pointing to the hypocrisy of a law that is not widely enforced but still has negative consequences for women’ (2013 228). In this sense, Mañalich, for instance, said:

The best way, as has been understood by the most serious Constitutional Tribunals around the world, of contributing effectively to decreasing the rates of abortion and, in that direction, to safeguarding and promoting the life of the unborn, is through social benefits and not through the threat of a criminal sanction (Juan Pablo Mañalich, CS, 14th July 2015).

In the debate, these references to ‘women in actuality’ entailed a shift from the more-or-less abstract discussion (legal, scientific, religious) to addressing the injustices that women experience, framing the issue as a matter of social justice.

However, some anti-abortion speakers attacked this idea that abortion was a ‘real problem’ for women. For instance, Soledad Alvear, former Minister for Women and former MP, has been one of the most important politicians attacking the project. She is from the *Democracia Cristiana* (DC; Christian Democracy), a political party that, as the name signals, has Catholic roots.<sup>88</sup> In her presentation she defined herself as a

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<sup>88</sup> Even though the *Democracia Cristiana* supported the coup in 1973, it then shifted its position, and the first democratic president after Pinochet was from this political party (Patricio Aylwin). Since then, a sometimes-inexplicable alliance in order to uphold power has been maintained between centre-left



Christian and a Humanist, and explained that in her own experience as an MP, abortion was not a real problem because none of the woman that she met refer to it as a real concern. She said, as I will analyse later, that it was a problem created by liberals and feminists (Soledad Alvear, CCLJR, 16th January 2016).

Aside from the differences in terms of the importance attributed by both positions to the experience of abortion itself, both pro- and anti-liberalisation advocates developed different characterisations of ‘women’. However, as I will analyse in the next part of this section, there were two main characters that prevailed: pro-liberalisation supporters portrayed women as ‘subjects of rights’ who should be treated equally to any other citizen, and anti-abortionist speakers portrayed them as ‘defenceless victims’ under a State that has a duty to protect them.

### **i) Women as Subjects of Rights**

Traditionally, the pro-liberalisation argument has characterised women as subjects of rights and has argued that, if they cannot abort even on the three grounds proposed in this bill, they are not recognised as such and the idea democracy is thereby attacked.

In order to understand why women are not treated as equals if abortion is totally forbidden, many speakers quoted Judith Jarvis Thomson’s famous thought experiment in ‘A Defense of Abortion’ (1971). For instance, the legal scholar Alejandra Zúñiga invites the audience to

Imagine that one morning you wake up in the bed of a hospital connected somehow to an unconscious man who lies in the next bed. You are told that the man is a famous violinist who has a kidney disease and that his only way to survive is for his circulatory system to be connected to another person with the same blood type, and you are the only person with the suitable blood. Therefore, an association of music lovers kidnapped you and carried out the operation. As you are in a reputable hospital, you could ask the doctor to disconnect you, in which case the violinist would inevitable die. On the other hand, if you remain connected for only nine months, the violinist would recover and then you could be disconnected without any danger. This case of J. J. Thomson allows us to consider why, if we were immersed in this unexpected situation, we would not be morally obliged to allow the violinist

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parties and the DC. But specifically in this kind of ‘value-based’ issue, where the differences are more apparent, the DC usually aligns with right-wing parties.

to use our body, our kidneys for nine months (Alejandra Zúñiga, CS, 14th July 2016).

The example was used in the debate as a parallel with the case of unwanted pregnancies, specially in the case of rape, in order to explain that the recognition of the general and absolute right of the foetus to life does not necessarily translate into the obligation of the woman to keep it alive, in the same way that in the case of the violinist, the kidnapped individual does not have an obligation to keep the musician alive, in spite of the rights of the violinist.

Here, the notion of a ‘supererogatory act’ that I mentioned earlier was crucial. According to several speakers, a woman who is forced to continue a pregnancy on any of these three grounds is expected to act as a hero. However, the speakers argued, nobody should be forced to act as a hero. To continue a pregnancy on one of these grounds is a ‘supererogatory act’: a conduct that might be good or desirable but cannot be mandatory. There is an important difference between acts that are ‘morally good’ and ‘morally mandatory’, and the first cannot be demanded by the State. Peña, for instance, argues that there is no legal duty to protect our neighbours, or to be a hero: acting heroically can only be acceptable if the person consents to it, as a matter of self-determination, but nobody should be imposed on to accept a situation that may force them to go beyond duty and sacrifice themselves (Carlos Peña, CCLJR, 16th January 2016).<sup>89</sup> In this sense the fact that abortion, if approved, is only an option and not an imposition was also mentioned. However, to force a woman to continue a pregnancy in these cases was even, argued several speakers, equivalent to torture and thus against human rights (for example, Lidia Casas, CCLJR, 24th November 2015).

In that sense, the argument that is at stake in this bill is a particular conception of woman as a subject of rights. If women are asked to make more sacrifices than those

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<sup>89</sup> Peña’s presentation in the CCLJR was followed by a discussion, through newspapers’ letters, between different representatives of the Church, in particular Bacarreza and Chomalí, both archbishops of Los Angeles and Concepción, cities in central southern Chile. In these letters the religious authorities insisted that to carry out abortions requires ‘killing a child in the mother’s womb’. Bacarreza commented that women are not the only citizens required to act sacrificing themselves, but also, for example, soldiers, even if they are tortured, have a duty to not reveal the secrets of their country, otherwise they will be facilitating the death of other soldiers (Bacarreza, 2016).

asked of the rest of the population, then their dignity is being harmed<sup>90</sup> As the Minister for Women, Claudia Pascual, said,

The current regulation is not adequate for a dignified treatment that our society owes women (Claudia Pascual, CS, 4th August 2015).

Mañalich, for instance, shifts the ‘clash of rights’ from the woman/unborn field to the gender field: ‘What is in question here is whether or not, under the existing Chilean law, the pregnant woman is a person just as we (us, here, discussing this bill) are’ (Juan Pablo Mañalich, CS, 14th July 2015). In the same line, Zúñiga concluded her presentation by stating that ‘This Congress must approve this bill in order to show the world that Chilean women are like the rest of the women in the world, in developed countries, also persons with human rights, because now they are not’ (Alejandra Zúñiga, CS, 14th July 2015).

In the debate, feminists articulated why the prohibition of abortion is highly problematic for women and what ‘truths’ and fields of knowledge should be challenged. Here I will mention a couple of matters from the feminist perspective and their strategies regarding the bill.

Some feminists in Chile have supported and campaigned in favour of this bill mainly because it is seen as a first step in the process of legalisation, while other feminists considered the bill so insufficient that they believe its approval is not the right way forward or may even be a setback. However, most feminists are part of the first group, and despite agreeing that the bill is insufficient, they still support it.

For the feminists who presented in the CS, or the speakers who raised feminist arguments, the bill is seen as a basic political agreement about women’s condition regarding reproduction, at least in these contexts, and also as a way to challenge myths

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<sup>90</sup> In an extreme case, it seems as if the defence of women’s autonomy becomes entangled in an Agambenian ‘zone of indistinction’: as if the impossibility of distinguishing the supposedly legally protected citizen from the politically vulnerable ‘bare life’, which may be killed or preserved arbitrarily, and is transferred from the unborn to the women and vice versa (Deutscher, 2008). I will come back to this idea in Chapter Eight.

surrounding female nature, motherhood, life projects, and so on. Therefore, the possibility of speaking publicly about these matters for the first time, in a political arena, opened up a new space and a new symbolic representation of women. One of the feminist discourses in the debate was around the dismantlement of the assumption that maternity is a natural and biological essence attached to women, which ignores their will and autonomy in their specific context.

Marisa Matamala Vivaldi, healthcare practitioner and member of the organisation *Articulación Feminista por la Libertad de Decidir* (Feminist Articulation for Free Choice) started her presentation by analysing the different international regulations and agreements that support the right to end pregnancies. She said that

The total criminalisation of abortion perpetuates cultural patterns of stigma and discrimination, creates barriers to accessing health services because of the fear of losing freedom, and barriers for women to access justice, affecting disproportionately poor women, teenagers, the disabled, migrants, and indigenous people. All this constitutes institutionalised State violence against women (Marisa Matamala Vivaldi, CS, 4th May 2015).

Ana Picker, representative of Amnesty International, added:

We cannot talk about abortion without talking about sexual and reproductive rights more generally. Protection of women's sexual and reproductive rights can be seen as a kind of gear that consists of many wheels, and these wheels [...] are related to the attacks that women suffer and the gender stereotypes that prevent women taking sexual and reproductive decisions freely (Ana Picker, CS, 1st June 2015).

As a strategy in order to at least liberalise the law on these three specific grounds, most of the pro-liberalisation speakers limited their presentations to just those grounds (even if most of them supported abortion on women's request). However, some speakers gave clearly their positions with regard to the bill being just a first and limited step. Mañalich, for instance, said:

I think that this bill is absolutely insufficient, because the sociological problem related to the practices of clandestine abortion will not be solved with this bill (Juan Pablo Mañalich, CS, 14th July 2015).

Fanny Berlagosky, midwife and member of the *Articulación Feminista por la Libertad de Decidir*, proposed a much broader approach to the issue:

Our proposal is based on key elements: a legal framework including and guaranteeing sexual and reproductive rights; [...] respect for men and women's human rights; access to information, knowledge and services; sexual and reproductive decisions to be informed and free; the end of criminal laws [on abortion]; interruption of pregnancy on women's request with a system of weeks [...]; public services guaranteeing contraception and free and safe abortion (Fanny Berlagosky, CS, 4th May 2015).

## **ii) Women as Victims**

Those against abortion in this debate often portray the pregnant woman who is confronted with the decision of ending her pregnancy as a victim, because, according to them, the 'real reason' that a woman chooses abortion is abandonment or fear; it is never her own 'free' decision. Additionally, anti-abortionists also portray women as persons who should tolerate suffering, because to live out these pregnancies is testimony to their 'human strength'.

This 'victimisation of women' is contrary to the discourse that emphasises the protection of the foetus, in which women are depicted as murderers of their own children, and thus lacking any kind of humanity. This change of strategy has also happened in other countries. Reva Siegel has analysed the way in which, in the context of this debate in the USA, the anti-abortion advocates' focus has also shifted from the protection of the foetus to the protection of the woman (2007). This is a strategy to stop or reverse the liberalisation of abortion using 'feminist rationale'. In a similar way to the Chilean debate, feminist arguments in the USA have shifted their focus to the issue of women not suffering the consequences of clandestine abortions or being treated without any respect for their autonomy. Thus, anti-abortion advocates started considering the necessity for women to be safe, moving away from the typical opposition of 'women's rights' versus 'foetus rights' to portraying both the woman and the unborn as victims of the situation; victims who should be protected by the State. So the role of the State is also challenged. In this way women are not depicted as criminals, as selfish or evil human beings, but as victims who are 'defenceless' and left to their own devices.

As a consequence, when asked if women should be punished for having an abortion, which was a crime in all the cases according to the legislation at the time and is still a crime in most cases in the current legislation, most anti-abortion speakers (for example, Ignacio Sanchez and Magdalena Ossandón) conceded that women should not be prosecuted, but that that does not mean that abortion should be allowed. In the

same way, the priest Fernando Montes expressed in an interview that, regarding the abortion legislation, he was ‘reflecting about it because it is unfair that a woman could be put in jail for having an abortion’ (Valdebenito, 2016).

Other speakers suggested that, even though women did not deserve criminal prosecution, it was still necessary. Jorge Becker, a maternal-foetal medicine specialist, said ‘I am convinced that a woman who aborts is a victim and should not go to jail, but the only way to reach the abortionist or misoprostol dealer is reporting the abortion’ (CS, 16th June 2015). According to him, women are not guilty but they are a means to finding those who profit from abortions.

Additionally, women are also seen as victims because there is an unavoidable connection between women and the maternal instinct to protect the life of their children. Several speakers referred to the unborn as a ‘child’ and when talking about the pregnant woman they talked about ‘mothers’. The interruption of pregnancy then, is always the end of the bond between a mother and her child. The MP Claudia Nogueira from the right-wing UDI party discussed her own experience of pregnancy: ‘I never went to see a “foetus” when having a scan, or told my husband “let’s see the embryo”, but rather “my son”. And that is a perspective that only we, as women, have naturally’ (CS, 4th August 2015). This view maintains that a woman who has support would not even think about having an abortion, because of her natural instincts.

In this debate women were usually described by anti-abortionists as weak, vulnerable, and defenceless beings, and this also shapes what is demanded of the State. As women are seen as abandoned individuals, it is crucial for the State to defend them; thus by ‘protecting’ women, the speakers refer to the provision of support which will prevent them from having an abortion.<sup>91</sup> Hence, the bill was portrayed as a way for the State to

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<sup>91</sup> However, the research group PASA from the Psychology Faculty of the *Universidad de Chile* analysed some aspects of the first session of the CS and wrote a draft that was given to the deputies called: *Contribución al debate parlamentario en torno al Proyecto de Ley sobre la despenalización de la interrupción voluntaria del embarazo en tres causales* (Contribution to the parliamentary debate on the Bill that regulates the decriminalisation of voluntary pregnancy termination on three grounds) which I accessed through personal communication with Irma Palma. In the draft PASA analysed and commented some aspects of the discussion. In particular, they noticed that the *desamparo*

avoid its duty of supporting women during their pregnancies. Soledad Alvear blamed feminists for these women's defencelessness: 'the project takes an ideological stance, representative of some feminist groups' option; a woman's autonomy over her body to the extent that abortion is allowed [...] The results of this bill are the abandonment of the weakest in this drama: the mother who suffers, left by the State on her own; and her defenceless child, dead in a rubbish bin' (CCA, 16th January 2016). In an interview she said that abortion was an 'easy solution; *machista* and conservative' (Alvear, 2015). She criticised the logic of private property that, according to her, feminism supports. She argued that, when phrases like 'my body is mine' are symbolic of the struggle of women over their bodies, it is a devastating situation. In this view abortion is depicted as selfish and neoliberal, and thus critiques such as Alvear's are shown as 'progressive' because they protect women from neoliberalism and individualism. I will come back to this last point in Chapter Eight.

Speakers from different organisations supported this position. Katherine Nambrand, from *Chile Dice No al Aborto* (Chile Says No to Abortion), represented a foundation created in May 2014 to defend the life of the unborn. She highlighted that there are no serious State programmes which accompany and support

women who are vulnerable or at risk of having an abortion [...]. If there is a guarantee that the State will support me and I will have support for not making a decision that will have consequences for myself, my family, and people around me, this bill would be different' (Katherine Nambrand, CS, 8th June 2015).

In a similar line, Jorge Acosta from the *Instituto Res Publica* also argued that women usually abort because they are abandoned (CS, 3rd August 2015). Julio Isamit from *Fundación Chile Siempre* mentioned that 'the bill tries to present abortion as a "magical solution" for women's problems related to poverty, lack of education, and so

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(abandonment) of women has been used in different ways, not just to reject the liberalisation of abortion. In France, for instance, it was the main reason to support an abortion law in 1975: as women could be alone in their pregnancies or have social difficulties, they deserved to have the possibility of aborting.

on [...]. We as a society, through our laws and through our government, have to say to women and children that we will not leave them alone' (CS, 13th July 2015).

Additionally, personal stories were used to illustrate how lonely some women can be throughout their pregnancies. The MP Claudia Nogueira conversed with a pregnant woman who was invited to the CS, discussing the difficulties of going through this experience without any help from the State, and the ways that having a State that is more involved in the process could help other women. Nogueira explained that

instead of a State informing you, as the bill establishes, on how to get an abortion, how your baby will be taken away from you, where they will put the baby after the abortion [... it would be a better solution] to change the discourse and have a State supporting and protecting you in order to guarantee a peaceful pregnancy (Claudia Nogueira, CS, 13th July 2015).

She added that women would be much more calmed if they knew that the State would support them: 'what a shame that there is not a State [...] that arrives on time, and because the State does not arrive on time, there are abortions in Chile (CS, 13th July 2015).

According to these speakers, women abort because society abandons them. And thus the bill does not contribute to a general protection of motherhood, because it reinforces this abandonment. The way in which the State should support what the vice-chancellor of the *Universidad Católica*, Ignacio Sánchez, called 'vulnerable pregnancies' is through the 'accompaniment law'. Indeed, Soledad Alvear proposed to the *Democracia Cristiana* party that it present and support a bill about *Acompañamiento a madres con embarazos complejos* (Accompaniment to women with difficult pregnancies), as a way of replacing the bill presented by Bachelet. She said: 'We have worked on an Interdisciplinary Accompaniment Programme [...] to support the pregnant mother in difficult situations. To embrace, accompany and support them' (Alvear, 2016). Claudia Nogueira, in order to support the idea of an Accompaniment bill, said that 'scientific studies conducted in our country concluded that over 85% of women who were at risk of aborting would have changed their decision if they have had comprehensive and effective support' (CS, 17th March 2015). Different anti-abortion organisations were invited to the CS to explain their role in accompanying, helping, and supporting pregnant women through their pregnancies: Verónica Hoffman from *Fundación Chile Unido* (Foundation Chile



United, 14th April 2015); Virginia Latorre from *Fundación Chile es Vida* (Foundation Chile is life, 21st April 2015); Miriam Paillán from the NGO *Quiero Nacer*, (I want to be born) and Paulina Luchherini from *Portavitae* (8th June 2015), among others. They also invited women to talk about their experiences of difficult pregnancies and how the support that they received from these organisations helped them.

It is interesting to explore what is understood by ‘accompaniment’ by both pro- and anti-liberalisation speakers. There is a general consensus that establishes that women should have support when experiencing difficult pregnancies, but there are some significant differences as to how this ‘accompaniment’ is understood.

Anti-abortion advocates understand accompaniment as a way of supporting women who feel forced to abort by their social circumstances. It is also understood more as charity for women in vulnerable situations rather than as a proper public policy directed towards strengthening women’s ability to make their own reproductive and sexual decisions.

Pro-liberalisation speakers also acknowledged the importance of supporting women during their pregnancy, but they rejected the idea of having an accompaniment-type law instead of abortion liberalisation.<sup>92</sup> Indeed, speakers tried to signal the difference between a counselling service that respected women’s decisions and one that represented an imposition on women to continue the pregnancy, thus forcing women (if not in words, in deeds) to be mothers. For instance, the MP Karol Cariola recognised the importance of making a place in the bill for ‘well understood’ accompaniment, one ‘related to the possibility of guiding, not forcing, women to make a choice and to give them the tools and information’ (CS, 14th April 2015).

In a similar way, the psychologist Paula Sáez published several articles in the media and was part of the research group that prepared some presentations to the CS (for

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<sup>92</sup> Additionally, and as I will explore in chapters Seven and Eight, for the feminist movement ‘accompaniment’ (*acompañamiento*) has been a key strategy during the abortion process, providing solidarity between women who are experiencing abortion clandestinely.

instance, Irma Palma, CS, 1st June 2015; Sáez, 2015). She explained that the accompaniment concept presented by anti-abortion groups was not so much a real space to offer information to women but rather a way to prevent abortions. According to Sáez, there is no evidence to support the idea that women abort because they are vulnerable. Mostly, anti-abortion representatives talked about the cases that they saw in their own anti-abortion centres. In fact, there appears to be no scientific study showing this vulnerability of women as a causal factor in the decision to abort. Sáez explained her own approach to the principles of accompaniment: autonomy, accessibility, transparency, no judicial process, and counselling. She also talked about public policies that should not be based on charity but on women's rights. So, instead of reinforcing 'motherhood', in her view, 'accompaniment' should support women's decisions regarding their pregnancies and life projects. She summarises the way in which the concept of accompaniment is promoted by anti-abortion groups as dissuasive, coercive, and as a strategy to oppose the liberalisation of abortion.

In her presentation to the CS, gynaecologist Rubí Maldonado claimed that 'listening to a woman and her problems is the most important way in which I, as a doctor, can help' (CS, 13th July 2015). She defended counselling as a way to provide women with all their options and lay bare all the risks. She recognised that accompaniment in the context of deciding to end a pregnancy is very important and should be provided by the State, 'with practitioners trained in not interfering with the patient's decision and not pressuring them according to their own personal values. Besides psychologists, the State should support women with healthcare, employment, and education' (CS, 13th July 2015).

Another way to think about this concept would be to focus not only on the differences of both the pro- and anti-liberalisation approaches but also on their commonalities. Foucault and Agamben come to mind. Consider, for instance, Foucault's 'pastoral power' and its prescription 'of passing everything [...] through the endless mill of speech', which is common to almost all modern forms of counselling (1978: 21). Words, expressions, and vocabulary become the object of decency, decorum; in sum, 'normality's' censorship. On the other hand, the more detailed the accompaniment, the more protection starts revealing itself as a form of domination, or at least as a power relation between protector and protégé. Using an expression of Agamben, a 'secret solidarity' appears between humanitarian politics and sovereign power (Murray and

Whyte, 2011: 99). Accompaniment for what, then? Certainly there is a difference between offering charity, or directly dissuade women to not having abortions than offering support in a way that strengthens autonomy. If accompaniment wants to avoid forcing and manipulating women, like cattle, to be mothers, a decisive kind of respect towards women (and a non-naïve autonomy) is paramount. There is a notion of accompaniment that constructs a paternalistic image of the State as provider that sees women as dependent, vulnerable, and passive. Human rights is also political in that sense. Counselling is a free relation: the patient is free to take the advice or not (as kings and queens have counsellors; as educators counsel students: they cannot force them to take the advice, although ‘advice’ usually implies a work to be done by the advisee).

### **iii) The Case of Rape as a Specific Ground**

A ground for abortion particularly resisted by anti-abortion advocates is rape. It has indeed particular characteristics in contrast to the other grounds. It is the only ground in which there is no ‘medical’ reason to abort, as when the woman’s life is at risk or the foetus is non-viable, but instead the woman is the one who decides and her voice is the one that is heard. The justification is solely that a woman who has suffered sexual violence should have the option of choosing to interrupt that pregnancy. There are even legislators and speakers who supported the other two grounds but not this one. By contrast, it seems that, according to a recent survey, public opinion sees little difference between the three grounds.<sup>93</sup>

The way in which women are characterised in this context also has some particularities. When opposing abortion on the ground of rape, women have been portrayed mainly as potential liars or, again, as victims of abandonment. In a sense this ground has been perceived as a ‘door to free abortion’, especially in association with the view of women as potential liars. For instance, Becker, following this position, said that:

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<sup>93</sup> According to different surveys, at least 70% of the population support abortion in the case of rape (see, for instance, Maturana, 2016).

A woman who becomes pregnant as a result of rape is usually a patient with the same baseline risk of any pregnant woman with a child who is usually healthy; therefore there is no medical justification to interrupt the pregnancy [...]. On the other hand, this ground also enables the fabrication of rapes to terminate an unwanted pregnancy [...]. Of course violations do exist and are a tremendous human drama. For that there are many institutions in Chile that have support policies for women with vulnerable pregnancies, due to this and other reasons, showing excellent results with their operations (Jorge Becker, CS, 16th June 2015).

Furthermore, to abort in the case of rape was described by anti-abortion speakers as a 'double aggression'. For instance, Ignacio Sánchez explained: 'I think the decision of having an abortion is to repeat a second act of violence that attacks life: the first is the rape and the second is against a defenceless being, who has no voice to defend itself; and who has been the most innocent in this situation' (CS, 7th April 2015).

For those defending the right to terminate pregnancies on the ground of rape, the case is the opposite: the 'double aggression' is caused by the total prohibition of abortion, because to the violence that originates the pregnancy (the rape) is added the violence of being forced to be a mother, and that violence is gendered.

Irma Palma, a psychology scholar from the *Universidad de Chile*, argues:

In general terms, motherhood is forced by a law that bans abortion; however, sexual violence introduces a critical element, sexual violence is one of the most inhumane forms of male dominance [...] I would like to think about women as subjects.

This violence translates into intimacy, bodies, and sexuality; also into the power relations between men and women that make it [the violence] possible, and also reflects the power relations between childhood and adulthood and adolescence. In the sexual violence suffered by teenagers, both forms of dominance intersect. Sexual violence happens very often between close relatives, and therefore it is not just an erotic subject but also a subject related to emotional ties; it is both sexual violence and emotional exploitation, as claimed by the American feminist philosopher Judith Butler (Irma Palma, CS, 1st June 2015).

In this way, the case of rape is shown as different from the other cases because it is the paradigm of gender oppression and violence. According to Juan Pablo Mañalich, women's autonomy is a 'relational status of non-domination', and rape would be

the paradigm of a certain form of behaviour that illustrates a relation of domination [...] because it is the materialisation of the aspiration of reducing the value of another person's body to its use-value (2015: 27).

For anti-abortionist speakers, the defencelessness of women was particularly serious in the context of this ground: women are left on their own. First, because in the original bill the reporting of the crime was not mandatory, thus the perpetrator would not necessarily be prosecuted. Second, because women are offered the opportunity of aborting instead of a support programme, which includes psychological therapies, to continue with the pregnancy. The speakers presented real stories in order to show how women who chose to continue their pregnancies and had support were now happy with their decision, as was discussed above in the accompaniment section. Isabel Arraztoa, representing the group *Movimiento Historias de Vida* (Movement for Histories of Life), an institution that promotes the dissemination of ‘real stories in order to learn from other people’s experiences’. Arraztoa explained that they have compiled many cases of women, mothers, and fathers who have defended the life of their children despite the circumstances of their pregnancies. She introduced Soledad Lizama, who personally told her story:

I am one of the cases that this bill contemplates: I was a victim of repeated violations by my stepfather since I was 8 years old [...] I got pregnant when I was 13. [...] I want to tell you that it never even crossed my mind the idea of having an abortion. I knew that the being growing in my belly was a victim, as I was, but I never rejected her; I just wanted to protect her. She was my reason for fighting, for being a better person, for achieving something in my life. [...] And now, here is my 17-year-old princess sitting behind me. I really do not know if I could have lived with the memory of having had an abortion, of having killed my baby who was as much a victim of terrible circumstances as I was. If someone had offered me an abortion, it would have been like offering for me to become the aggressor who abused me, a violent abuser myself (Soledad Lizama, CS, 13th June 2015).

Regarding the issue of the impunity of the perpetrator, Camila Maturana, a lawyer from the NGO *Humanas*, replied that:

The law is a response to gender violence. It is not generosity with the perpetrator. There is always a possibility that an aggressor remains unpunished, but this bill is not the cause of it. Surely this law improves the chances to free the word of women in a situation of violence. The existence of this law can help women carry out judicial proceedings, but this is certainly not their task (Camila Maturana, CS, 21st April 2015).

Mañalich in a similar line commented,

Those who oppose the legal interruption of a pregnancy of a victim of a rape could believe, perhaps, that they are showing solidarity with ‘an innocent and helpless child’, but in fact they are sympathising with the rapist, endorsing his expectation of

forcing the raped woman to experience a pregnancy, and forcing her to assume a maternity that another has criminally imposed (2015: 27).

#### **iv) What Happens with Women who Abort? The Psychological Consequences of Abortion**

As we have seen, anti-liberalisation speakers depicted abortion as a terrible experience for women in distress, such that the inevitable consequence will be a trauma or, as it has been suggested, a 'post-traumatic stress syndrome'. This was an important argument to justify the prohibition and is related to the previous characterisation of women as victims. According to several speakers, most women who abort regret their decision or suffer because of it. The psychiatrist from the *Hospital Sótero del Río*, Alvaro Jeria, expressed the view that abortion causes more harm to the mother than to give birth:

to think that an abortion will treat the trauma of these women is a terrible mistake because [...] as a psychiatrist who treats patients in the public hospital every day, to think that abortion erases the trauma [...] is simply not being able to empathise with the pain (Alvaro Jeria, CS, 4th August 2015).

This theory, however, was extensively challenged during the debate. The Psychologists' Association of Chile published a statement about its position in regard to the bill. It declared that 'regarding the abortion post-traumatic stress syndrome, we communicate that it does not exist' (Colegio de Psicólogos de Chile, 2015). They studied for three months different cases of women who experienced abortions and concluded that there is not any scientific reason to believe in a traumatic effect of abortion. Moreover, in any case, 'the psychological discomfort can be associated with the experience of an abortion in a context where it is criminalised and women are blamed. In this sense, the discomfort is caused by a social phenomenon and not a woman's clinical condition' (Colegio de Psicólogos de Chile, 2015). It also said that 'abortion post-traumatic stress syndromes' is very difficult to diagnose, and that most of the time women experience relief after an abortion. Finally, it signalled that 'abortion post-traumatic stress syndrome' is not listed as a mental disorder according to the Diagnosis Classification DSMV APA 2008; therefore it would be 'unethical to diagnose a syndrome that does not exist'. Even though we can agree with the message of this declaration, the reasons given are also interesting: firstly, that they assume somewhat too easily the difference and separation between the internal predisposition to a specific mental disorder and its development as a result of social pressure;

secondly, that appearing on a specific list is what gives existence to a mental disorder phenomenon.

## V. Conclusions

There are specific biopolitical techniques of subjectification and governing of the self that are preserved and spread by certain configurations of power/knowledge and regimes of truth. The parliamentary debate is a unique place for seeing how governmental techniques in which conduct is modelled, in this case the conduct of the pregnant body, are deployed from a normative standpoint. According to Vikki Bell, 'Foucault's work itself encouraged a very particular attention to the *how* of political government, to the specific rationalities, technologies and geometries at stake in the domain under consideration' (2007: 88).

By analysing some sessions of the parliamentary debate, in this chapter I explored the way in which different actors from diverse cultural, social, and political positions understand and interpret the regularisation of abortion; constructing, accordingly, the figures of the foetus and the woman.

Some of them defended their position from a theoretical perspective, while others drew upon actual experiences. It is interesting to note that, while a key contribution of feminism has been to acknowledge and incorporate the actual experiences of women, in this debate such experiences were also used to defend the anti-abortion position, especially cases of women who decided not to abort and shared their experience.

What counts as knowledge or not was also relevant. It is sad that this point did not receive much attention in the debate. Different fields of knowledge were constantly invoked and differentiated, with their own principles and interpretations, such as the law, religion, biology, social sciences, and bioethics. For instance, the Constitution was interpreted in completely different ways by legal scholars; for some of them it permits the liberalisation of abortion, while for others it is totally incompatible with it.

Regarding the foetus, both parties recognised that life begins with conception and that it has at least certain value; the difference being in whether that value is absolute and, thus, more relevant than the woman's rights and the specific circumstances that led her to abort; or whether that value is limited because it clashes with other rights at

stake: those of the woman. For anti-abortionists the foetus represents ‘the weakest of the weak’, a person from conception, which culturally should be recognised as such. In this sense the body of the woman is seen as a potentially dangerous environment.

In relation to the figure of the woman, those who defended the liberalisation of abortion portrayed her as the subject of rights; rights that should be guaranteed by the State. Anti-abortionists showed women as passive victims who should be protected by the State. This is paradoxical, given the idea of women being potential murderers of the life of the foetus, but, interestingly, both constructions coexist in this position. Additionally, pro-liberationists also portrayed women as victims, but as victims of an archaic and repressive legislation that does not treat them as equals but as ‘superheroes’ who are forced to endure pain in the very dramatic and extreme circumstances as those considered in the bill.

The case of rape was a special one. Indeed it is the only case of the three in which there is no life at risk (nor the mother nor the foetus), but in which abortion is a response to sexual violence. This was the most difficult ground to accept for anti-abortionists and also for conservative health care providers. Among other things, there was a concern about a medical procedure that was not intended to save a life but, on the contrary, to terminate one (in the first two grounds the reasons for ‘killing’ the foetus could be justified either to save the woman’s life or because there is not life expectancy for the foetus). Additionally, this case was more difficult to accept for conservatives in general because this was the only scenario in which the woman would decide without the supervision of a medical diagnosis, so her decision would not ‘mediated’ by external authorities. For the same reason, this ground was seen by some as a possible route for women to evade the law, by ‘fabricating’ rape. For those supporting the bill, however, it was a crucial ground for the liberalisation of abortion: from their position, women who have suffered sexual violence should certainly be allowed to end a pregnancy that was criminally imposed. This ground resonates with gender violence and vulnerability in a way that the other cases do not. In particular because it usually involves the systematic abused towards girls and teenagers who not only cannot defend themselves but also have to endure the sexual attack from someone close to them. In sum, it was seen as a ground in which the mistrust and violence towards women showed it ugliest face precisely because it encounters the most patent expression of women’s autonomy.





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**Chapter 7**  
**Visual Representations in the Chilean Abortion Campaigns: Suffering Bodies  
and Feminist Displacements**

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## **I. Introduction**

The discursive battles around abortion that this thesis has been analysing have also been fought through important visual campaigns, to which I will now turn. Integral to the various discourses at stake, these visual campaigns assert their different constructions of gender, sex, and feminist politics in order to present their case. In this chapter I will offer an analysis of these visual campaigns as another point of entry into the analysis of the contemporary situation of the abortion debate in Chile. I will assess a selection of the campaigns, choosing those that have been most visible in the media in the recent years, focusing especially on those surrounding the legislative discussion, as well as those campaigns that may have had less media coverage but that are notable in terms of their creativity, novelty, or diversity. I will explore both the campaigns against abortion and those in favour of abortion, within which we should distinguish those supporting the bill that allows abortion on three grounds, those supporting universal access to abortion, and those more radical campaigns that, I suggest, offer new alternatives of resistance.

In these campaigns, two main types of approach can be distinguished. First, there are rather ‘familiar’ representations of abortion and women (abortion as murder, women as murderers, or women as suffering victims of a prohibitive legislation). Importantly, these representations, either in favour of or against liberalisation, are framed in a broadly construed human rights discourse that manifests traits of ‘spectacular rhetorics’ (Hesford, 2011) as well as a humanitarian rationality (Fassin, 2016). Second, there are campaigns that displace the traditional lines of debate by promoting new, alternative modes of resistance. These displacements are mainly focused on the figure of the woman and the foetus.

Key questions that guide the following analysis are: How do these representations maintain, alter or subvert discourses around abortion in Chile? How are these figures constituted and resisted? How do images play a part in and add value to certain ways of thinking about abortion? What are the gendered effects of these images when understood as gender technologies (in De Lauretis’ sense)? Whose body is represented

in the abortion campaign: women ‘as such’, all women, some women, or a ‘partial woman’? Some of these questions allow a straightforward answer; some call rather for a contextual exploration.

## II. Some Theoretical Considerations

The way in which women are represented has been critically analysed by feminism and visual studies for decades (De Lauretis, 1982, 1987; Mulvey, 1989; Kuhn, 1994; Shiach, 1999; Laguarda, 2006; Vivaldi and Stutzin, 2017). Gradually, the interest has moved from the denunciation of visual stereotypes towards an exploration of how these (gendered) images are *operative*, that is, how they are constitutive or productive of ways of being and seeing; how they are capable of shaping sensibilities and affects (cf. Torricella, 2009: 201). In Pollock’s terms:

Representation is one of the many social processes by which specific orders of sexual difference (internally differentiated across the axes of class, race, sexuality, age, ability and so forth) are ceaselessly constructed, modified, resisted, and reconstituted. The issue here is whether we can transcend the idea that representations are symptoms of causes external to them (sexism, patriarchy, capitalism, racism, imperialism) and learn to understand their *active role* in the production of those categories. Representations articulate/produce meanings as well as re-presenting a world already meaningful (1999: 206).

Images can be understood as practices of representation and visualisation that are productive of sexualised, gendered, and politicised subjects. This means that through these representations we give meaning to our world, both in the sense of being situated in a space of given representations and being given a space of deliberation as to how to relate to, or use, these representations.

Particularly relevant here is the idea of ‘technologies of gender’ developed by Teresa De Lauretis (1987). There have been many feminist works about gender and representation since De Lauretis, but her work is close to Foucault and her particular insights mean she remains highly relevant to an understanding of the present configuration of visual campaigns. Foucault did not include the analysis of images in his studies, but they are an important dimension of his notion of a *dispositif*. De Lauretis’ starting point is Foucault’s theory of sexuality as a ‘technology of sex’: ‘Gender [...] both as representation and as self-representation, is the product of various social technologies, such as cinema, and of institutionalised discourses,

epistemologies, and critical practices, as well as practices of daily life' (1987: 2). Following Foucault's approach to sexuality, De Lauretis states that gender is not a pre-existing property of bodies, something that can be defined a priori, but rather the "set of the effects produced in bodies, behaviours, and social relations" by the deployment of a "complex political technology" (Foucault, 1978: 127; De Lauretis, 1987: 36). This political technology of gender entails the crossing of power relations and the formation of knowledge that does not have its source in one single political apparatus or institution. Thus, although a lot of feminist work has to tackle institutional problems, the focus for the analysis of gender cannot remain solely on institutions but rather also on the growth of varied and intertwined technologies of power, whatever forms they take, as a Foucauldian analysis of power suggests (see, for instance, Foucault, 1977: 26). It has been noted that Foucault did not pay close attention to considerations of gender while examining the discourses and practices of sexuality, although it is not so much that he ignored gender per se but rather that he did not consider 'how the deployment of sexuality had affected the relations between men and women' (Bell, 1993: 27). In this sense, the approach of De Lauretis goes beyond Foucault by taking some of his insights and applying them to the detailed examination of gender as the product of multiple social technologies involving all kinds of institutionalised discourses, epistemologies, practices, and (certainly) visual representations.

Gender is a representation. Being a representation, however, does not mean that it has no concrete implications for the material existence of individuals. The reality of gender is to be found in the effects of its representation. Gender is something that becomes real; the representation of gender is its own construction. This construction is both the product and the process of its own representation and self-representation. Moreover, it is linked not only to the ideological State apparatus, and to institutions that we usually understand as producers of representations, such as schools, families, the media and so on, but also to other social institutions: the academia, artistic groups, or even feminist groups (De Lauretis, 1987: 3). In this way 'the construction of gender is also effected by its deconstruction; that is to say, by any discourse, feminist or otherwise, that would discard it as ideological misrepresentation' (De Lauretis, 1987: 3). This last point is particularly relevant to the analysis of representation and social construction in the visual strategies of different positions in the abortion debate, of

women as subjects, of women's bodies (especially reproductive organs), and of the foetus, etc.

Furthermore, both textual and contextual dimensions of representational practices are inscribed in a 'visual economy'. According to David Campbell, the notion of visual economy

makes clear that the visual field is both made possible by and productive of relations of power, and that these power relations bear at least some relationship to wider social and political structures which are themselves associated with transnational relations of exchange in which images are commodities (2007; also cited in Hesford, 2011: 8).

These images are inserted into diverse markets, geopolitical spaces, temporalities, etc. The idea of visual economies implies also that the images add value to textual or spoken discourse. In this way, the following analysis focuses on the close and complex relationship of meaning between words and images that emerges in the campaigns, and so on the transaction of value between images, slogans, and discourses (Peller, 2009; Chartier, 1992). Indeed, the idea of visual economy means 'that images cannot be isolated as discrete objects but have to be understood as imbricated in networks of materials, technologies, institutions, markets, social spaces, affects, cultural histories and political contexts' (Poole, 1997: 10). It invokes the intertextual rhetoric of images, the fact that images (here, those of foetuses, women, and the metaphors applied to them) are embodied in a network of diverse technologies and social spaces, of affects, of historical narratives, etc. Moreover, they can add – or reduce – value to what is signified by the spoken or written word.<sup>94</sup>

One of the key concepts in these regimes of visualisation, in particular with respect to the diverse figuration of victimhood, is that of human rights. Some of the visual campaigns that I will consider below present a problematic notion of victimhood that can be explored and clarified with the help of Hesford's spectacular rhetorics and Fassin's humanitarian rationality. Hesford explores the rhetorical devices of human

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<sup>94</sup> We can omit for the moment in this discussion the presence of images in the market as commodities.

rights pleas and the role of spectator of human rights. In particular, she claims that there is a visual economy that shapes our experience of human rights into a kind of spectacle that intensifies diverse power relations:

Human rights defenders fight for international recognition and visibility in a global marketplace that tends to recast structural inequalities, social injustices, and state violence as scenes of individual trauma and victimization. Yet human rights advocates and scholars have not sufficiently considered what the status of visibility is in human rights advocacy, or how the moral vision of human rights internationalism becomes entangled with global capitalism and hierarchical structures of recognition and visual technologies to produce and regulate human rights subjects (2011: 29).

The governing ocular epistemology heightens the salience of normative scenes of social and civic recognition (or misrecognition). There is a tension between struggles for recognition and struggles for visibility that needs to be addressed in order to move beyond the conception of empowerment as visibility and disempowerment as invisibility.

Moreover, the problem of recognition cannot be disentangled from our emotional and affective response that moves us to action. This tension between recognition and solidarity is what is behind the humanitarian rationality that appears in the contemporary understanding of victimhood. Humanitarianism, explains Fassin (2012), has become a powerful force in the world today, which means that the discourse of affects and values offers a high political return.<sup>95</sup> Humanitarian government and humanitarian rationality, through diverse institutions and individuals, are constituted by an inner tension between the recognition of inequality and the impulse to alleviate suffering. The politics of compassion engaged in the recognition of the victim and the attempt to alleviate her suffering involves a tension between domination and assistance. This compassion is political and sociological rather than psychological,

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<sup>95</sup> For Fassin there is a kind of 'pathetization of the world': a pathetic representation of social inequalities and the introduction of pathos into the political (cf. 1999:33). It is not that suffering did not exist before, but rather that it was mainly a private matter, which has just recently entered into the public and political sphere. In order to provoke emotions, suffering has to be shown to the spectator. Additionally, these elements imply victimization and a singularization of the excluded. Humanitarian government is the deployment of moral sentiments in contemporary politics (2012: 1).

because it implies not only an attitude of superiority but also an objective relationship of inequality. The relationship is always politically asymmetrical, as ‘precarious lives’ are governed. Humanitarianism is thus a mode of governing that concerns the victims of every situation characterised by precariousness. In this sense, the paternalistic victimisation of some of the visual campaigns based on the discourse of human rights display this government of inequality and solidarity. Thus spectacular rhetorics and humanitarian rationality can help us understand not only why emotions run high in the debate but also how the debate itself and its participants are constituted.

Finally, this social, cultural, and political embeddedness of visual figurations, as well as its active role in forming power relations and subjectivities, involves a mechanism of displacement that is most salient in the campaigns against liberalisation and in the new radical feminist representations. The displacement brings about a resignification through the rehearsal of conventional formulae in non-conventional ways. Moreover, ‘the possibility of a resignification [...] is based on the prior possibility that a formula can break with its original context, assuming meanings and functions for which it was never intended’ (Butler, 1997: 147). This possibility of resignification is open for all perspectives in the debate, both for and against liberalisation, and consequently is at the base of its political and dynamic character. Thus, as we shall see, foetuses can be resignified as citizens, women can be (de)victimised, the iconography of political crimes can be transferred to the foetus, the right to life can be changed as the right to not be born, etc.

### **III. Campaigns Against the Right to Abortion: Public Foetuses, Women as Victims, and the Use of Postdictatorial Memory**

In general, the national campaigns of pro-life groups have followed a similar orientation to previous and current campaigns elsewhere in the world. In the foreground and centre we find the ‘humanisation of the foetus’, which leaves the woman in the background or frankly completely out of the picture. The message it conveys seems clear enough: the destruction of the foetus in the abortion is analogous to an assassination (Braidotti, 1994; Petchestky, 1987; Rothman, 1989).

In that sense, it resonates with Haraway’s insight:

For a political semiology of representation, nature and the unborn foetus are even better, epistemologically, than subjugated human adults. The effectiveness of such representation depends on distancing operations. The represented must be disengaged from surrounding and constituting discursive and non-discursive nexuses and relocated in the authorial domain of the representative. Indeed, the effect of this magical operation is to disempower precisely those [...] who are 'close' to the now-represented 'natural' object (1992: 312).

However, recent years in Chile have seen a peculiar new development in the pro-life/anti-abortion position that moves from its confinement to religious arguments towards a diversified perspective that includes the help of bioethics, medico-juridical terminology, and even the left-wing political discourse of human rights and 'memory'. There is a resignification and owning of 'secular' discourses, a certain 'strategic secularism', according to which, rather 'than basing their defence of a restrictive definition of family and sexuality in religious discourses, conservative religious actors are increasingly using legal arguments, scientific data and bioethical considerations (all secular discourses) for public purposes' (Vaggione, 2014: 141). One of the key strategic movements has been the representation of women as victims, making their own position one 'in defence of women', mimicking feminist strategies. The visualisation of concrete experiences and sufferings of women, sometimes drawing explicitly on humanitarian iconography and slogans, takes distance from the hitherto almost exclusive representation of the foetus. Another example is the inclusion of significant references to the recent traumatic history of the dictatorship. The strategy is clear: to mobilise negative feelings against the abortionist movement by comparing the violations of human rights by the State during the dictatorship with the violation of the rights of the foetus in abortions.

One of the immediate consequences of the visualisation of the foetus is to introduce it into the public sphere as an active social participant. The campaigns make it present in public life: it can be seen in the streets, either in public demonstrations or on billboards, and in magazines and on the Web, as if partaking in the debate: a 'public foetus'. The notion of the 'public foetus' appeared in feminist cultural criticism in the United States in the 1980s, after *Roe v. Wade*, Petchesky being one of the first scholars to analyse it (1981, 1987). The public representation of the foetus, according to Petchesky, permeated mass culture, supported by 'medical authority and reproductive rationality' (1987: 281). The construction of the foetus as a person is



historically recent and mostly it was made possible thanks to the intersection of conservative ideology and reproductive technologies.

New technologies allowed one to obtain a visual registry of the foetus by means of echography, ultrasound, and endoscopic images. However, the use of technologies was also criticised both for turning women into passive spectators of their own pregnancy and because the foetus is shown in a ‘desubjectivised environment’: it seemed as if the foetus dwells in a place completely separated from the woman’s body, as if in moral abstraction, which in turn appears determined only by its function as medium for the foetus’s development (Vacarezza, 2012). Vacarezza analyses this strategy, which can be also seen in Chilean campaigns, in Argentina: it consists in representing ‘public foetuses and transparent wombs’ (2012: 47), using images that blur the links of dependency between the pregnant woman and the foetus, portraying the latter as an autonomous individual, and consequently as an individual entitled to certain fundamental rights. In a second strategy, the link of dependency between pregnant woman and foetus is reconstructed as potentially deadly, appealing to some stylistic conventions of horror artworks, like gore or gothic (2012: 53). For instance, in some cases the body of the woman who aborts is shown as the protagonist of a horrific act or there are actual images of blood and human residues.

The conceptualisation of the foetus as a person is also articulated with the idea of the foetus as citizen (Berlant, 2011; McCulloch, 2012). McCulloch analyses the dystopian consequences of what she calls the ‘foetal citizenship’ (2012) that came about with the development of modern technologies of medical visualisation. In particular, she focuses on how this technology might imply an increasingly sophisticated network of surveillance and control over women:

‘Monitoring and subsequent prosecutions of pregnant women would surely increase, and perhaps state authorities will need more specialised policing units that focus on foetal-citizens [...] Many have pointed out that new technologies, like IVF and stem-cell research, would be either severely curtailed or outlawed’ (2012: 21-22).

The figure of the foetus has also been described as a fetish object charged with affective power, an object in relation to which ‘we can feel whole and disavow death and anxiety by creating an embodied representation of the future’ (Gentile, 2016: 23). Furthermore, this ‘citizen’ is at the same time so small, vulnerable, and innocent that the target of the campaign is compelled to feel an affective connection with it, to feel

the need to protect it, and finally to feel abhorred by abortion. The foetus is portrayed not only as innocent in general but also as an innocent citizen and furthermore as ‘the purest citizen’, so its rights prevail over the rights of others, including of course the rights of women (McCulloch, 2012: 21). We can see this perspective also articulated in the use of technologies in recent demonstrations in Chile. In Santiago in October 2016, for instance, women gathered using a Doppler on their bellies. The Doppler translates movements into sound, and this sound was amplified with the use of megaphones in order to allow people to hear the heartbeats of their foetuses (Barrasa, 2016). These women called people to ‘listen to the voice of the heart’.

I will consider two cases in more detail: *Mujeres de Blanco* and *Informaborto*.

### **i) *Mujeres de Blanco* Campaign**

The group *Mujeres de Blanco* (Women in White) is part of an institution called *Chile es Vida* (Chile is Life), an organisation that promotes the accompaniment<sup>96</sup> of pregnant women and their families (Emol, 2015). This campaign has tried to equate abortion with assassination, through the construction of coffins with names written on them as a way of symbolising the burial of foetuses, as was mentioned in the previous chapter. They believe they stand against abortion not by virtue of being religious but as a matter of ‘justice’:

We are not all Catholics. It is a matter of natural law and a right to truth. The government [...] has lied to us women; it is a demon disguised as sensibility and as an angel of light to spare women suffering. Abortion is death, money, and a business. The right to be born is for everybody, it is not a religious matter (Romero, 2015).

Additionally, they aim to spread information about ‘the value of life from conception until natural death’ and promote all the initiatives related with these issues. In particular, *Mujeres de Blanco* have since March 2015 carried out a series of

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<sup>96</sup> As mentioned Chapter Five, ‘accompaniment’ (*acompañamiento*) is the process of support to pregnant women who face the decision of having an abortion or not. One of the main arguments of those who oppose abortion is that women abort mainly because they are left alone. Thus, their idea of accompaniment is not ‘neutral’ but mainly to dissuade women to continue their pregnancies.

demonstrations in which they dressed in white (Figure 7.1), sometimes accompanied by boys and girls, carrying little white boxes, the ‘children’s coffins’ (Figure 7.2), with written names on them that symbolise, according to one of the organisers, Maria Paz Vial, that the child ‘had a body’ and ‘that occupied a space, that there was never a child like him, and that there will be never a child like him’, a ‘unique and unrepeatable being thought by God since all eternity’ (Romero, 2015). According to them the colour white represents them mourning the aborted children. It is a colour that also symbolises purity and chastity.

*Mujeres de Blanco* have interrupted masses<sup>97</sup> and formed circles outside historically important buildings, such as the *Congreso Nacional* (House of Parliament) or the *Plaza de la Constitución* (Constitutional Square), where the *Palacio de la Moneda* (Presidential Palace)<sup>98</sup> is located (Woo, 2015). There were also members of Parliament, belonging to right-wing parties, who took part in these performances. When President Bachelet visited the Pope in 2015, a delegation from *Mujeres de Blanco* travelled and conducted a demonstration in St. Peter’s Square with a double purpose: to prevent a liberalisation of abortion in Chile and also to complain about the widespread liberalisation of abortion in Europe (Romero, 2015). They also carried out silent actions, like the ‘white wall’, which they filled with papers with crosses and names of foetuses (‘victims of abortions’), imitating cemeteries (Figure 7.1). Thus, they try to give foetuses life and personhood performatively, giving them burial as if we were dealing with beings already born: ‘citizen foetuses’ which have been systematically killed or disappeared.

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<sup>97</sup> In Chile every year, in the commemoration of independence from Spain, a mass called *te deum* is conducted with the participation of the President and religious and political authorities. In 2015 *Mujeres de Blanco* interrupted this celebration to show their anger for the abortion bill (t13.cl, 2015).

<sup>98</sup> *Palacio de la Moneda* is the site of the President of Chile and also three ministries.



Figure 7.1 Mujeres de Blanco performance, 2015.  
Source: Bárbara Bustamante (ACI Prensa)<sup>99</sup>



Figure 7.2 Mujeres de Blanco demonstration, 2015.  
Source: cooperativa.cl<sup>100</sup>

The organiser of *Mujeres de Blanco*, Paz Vial, said in an interview that aborting is the most traumatic experience for a woman, and added: ‘Among us there are many mothers who aborted and they are still suffering because of the lost child. To offer

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<sup>99</sup> <https://www.aciprensa.com/noticias/mujeres-de-blanco-denuncian-contenido-tendencioso-en-simposio-sobre-aborto-en-chile-82975>

<sup>100</sup> [http://www.cooperativa.cl/noticias/pais/salud/aborto/mujeres-de-blanco-marcharon-este-domingo-en-contra-del-aborto/2015-04-12/191945\\_6.html#top-galeria](http://www.cooperativa.cl/noticias/pais/salud/aborto/mujeres-de-blanco-marcharon-este-domingo-en-contra-del-aborto/2015-04-12/191945_6.html#top-galeria)

abortion as a solution is the easiest way for the authorities, but it is, by far, the most difficult, painful, and bitter experience for women' (Emol, 2015). The woman who decides to abort is thus placed as victim. Participants in *Mujeres de Blanco* include women who have aborted and regret it; they use coffins with the name of the child that they decided not to have. These women are portrayed as victims of their own decisions and *Mujeres de Blanco* as helping them to heal. As we saw in the previous Chapter, those opposing the legislation also replicated this manner of framing the issue in the debate in Parliament. Women were placed as sufferers who only choose to abort because they do not have sufficient support. Indeed the 'gender ideology', which I will see in more detail in Chapter Eight, and the 'pseudo liberation of women' are blamed as responsible for disseminating lies about maternity and attacking the three 'foundations of women': virginity, motherhood, and wifedom' (Romero, 2015). According to Maria Paz Vial, *Mujeres de Blanco* needs to counteract these ideologies that have used women as objects and stop telling lies, because 'forming a family is the greatest thing, the most entertaining; a great trip, a great madness. But they have transformed it into something enslaving and hideous that crushes you. There is no greater realisation than being a mother, having children, and work' (Romero, 2015). *Mujeres de Blanco* and these campaigns represent women as essentially defined by the possession of a maternal instinct, according to which it is unthinkable that they could freely and voluntarily decide to abort. By allowing abortions, the State is merely leaving women alone and condemning them to suffer. There is indeed an interesting paradox here, or a tension, in asking the neoliberal State to protect vulnerable women. I will come back to this subject in the next Chapter.

## ii) *Informaborto* Campaign

As stated on its webpage, the members of *Informaborto* grouped together as an answer to President Bachelet's call in May 2014 to have 'a mature and informed debate about abortion' (Emol, 2014). They state their mission as follows:

- To show publicly the reality of abortion in a graphic, visual, and explicit manner; it is a unique product/service which is sold without showing entirely the 'service' which will be provided.
- To make evident the inhumanity of abortion and the violent torture to which the foetus is subjected in the process itself and subsequently in the disappearance of the body.

- To unmask the abortionist manipulation of discourse, a discourse designed to conceal, confound, and cover up the truth about abortion.
- To protect the life of those to be born, as stipulated in the Chilean Constitution.
- To offer actual medical, sociological, and legal information about the reality of abortion.<sup>101</sup>

Their aim is to show through the use of images the ‘consequences of abortion’, but also the language itself is visual; the discourse is thought in a visual way.

The campaign *Informaborto* is also a clear example of the simultaneous use of the strategies mentioned above by Vacarezza (2012): both blurring and emphasising the link of dependency between foetus and woman, as we can see in Figures 7.3, 7.4 and 7.5.



Figure 7.3 *Informaborto* lorry, 2014.  
Source: Informaborto.org

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<sup>101</sup> See <http://www.informaborto.org/quienes-somos>



Figure 7.4 Poster created by *Informaborto*, 2014.  
Source: *Informaborto.org*



Figure 7.5 *Informaborto* lorry, 2014.  
Source: *Informaborto.org*

The *Informaborto* campaign took place through posters displayed in the streets (particularly on the side of trucks), via its webpage, and in public demonstrations. As for the pictures themselves, they are mainly photographs of aborted foetuses, very crude and bloody images in which the foetuses are shown in the whole space in order

to provide a very detailed impression and to impact on the observer. The images, striking and horrific, are accompanied by the line: ‘This is an abortion, torture and disappearance’, alluding to vocabulary used in relation to the crimes of the dictatorship (Figure 7.3). Another one is addressed to senators and members of the Deputy Chamber: ‘Do not allow abortionists to profit from innocent blood’ (Figure 7.5). That the foetuses take up the whole of the image conveys not only the bloody details, but also the absence of women.<sup>102</sup> This visualisation fits nicely with the discourse of the *Informaborto* webpage, where we read about ‘the abortionists’ as if they were all one large genocidal corporation that deceives agency-deprived women.

As mentioned, the campaign construes the foetus as a person. In Figure 7.4, the text that accompanies the picture of the aborted foetus says: ‘Boy of 8 weeks’ gestation: Aborted by suction and aspiration’. Indeed, the image operates by erasing the biosocial and historical existence of the pregnant woman. It does not even display the neutralised womb common to other campaigns, and it does not talk of a son or daughter, but only of a ‘boy’. The process of pregnancy is also silenced, as well as sexuality and reproduction in general; in other words, the whole cultural and political contexts of gender relations in which sexuality and reproduction occur are removed. In this sense, as Vacarezza (2012) has discussed in relation to the Argentinian situation, there is a ‘metalepsis’ or ‘temporal elision’ that suppresses the procedural character of the pregnancy and voids the importance of birth and labour: the ‘boy’ appears as an essentialised entity that is equated with the distinct entities that come before in the process of reproduction (zygote, embryo, and foetus). In its performative construction as a person, the foetus is also attributed a ‘voice’, a conscience that speaks its mind, a foetal voice that speaks from the margins; but precisely because it does not have a voice it has become a *ventriloquisable subject* (Squier, 1996): its voice cannot be contradicted. Additionally, if its voice cannot be heard, then it needs to be protected and defended by self-appointed pro-life representatives of the ‘unborn person’. In public protests and activities, members of the *Informaborto* scream: ‘*Se escucha, se siente, la voz del inocente*’ (it is heard, it is felt, the voice of the innocent).

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<sup>102</sup> <http://www.informaborto.org/nuestra-campana>



The *Informaborto* campaign also co-opts the discourse of human rights. Indeed, its webpage claims that ‘abortion is the ideological and legal imposition of a new regime of genocide, torture, and disappearance of defenceless human beings’.<sup>103</sup> The claim is that the most serious discrimination is inflicted on unborn babies by denying them the right to life. Furthermore, in an impressive discursive twist, they articulate the campaign as a defence of the interests of women, appropriating ‘feminist strategies’ and proclaiming themselves as ‘women’s *real* supporters’. Abortion, according to *Informaborto*, is ‘a ploy and manipulation played against women and society at large, as abortion is the only “product/service” that is “commercialised” without acknowledging one of the most serious attacks against the dignity and integrity of women’. Moreover, ‘abortion is the triumph of the most radical and violent *machismo*’. The idea here is that women are being sexually instrumentalised: men use women as means for their own satisfaction, avoiding (through abortions) the consequences of their actions (namely, to take responsibility for their children). *Informaborto* then offers protection to ‘vulnerable women’, although there is also plenty of space devoted to condemning those women who monstrously abort, convinced of the autonomy of their decision. In an interestingly ambiguous construction, the woman who aborts is represented as both guilty and as a victim; intolerant and patient. At the same time, such representation articulates the discourse of morality (guilt), law (murder), and medicine (post-abortion syndrome). It is interesting that this aspect of the discourse plays a crucial role in the case presented before the State asking for further protections for the foetus as well as for women. Finally, the campaign claims also that abortion is a ‘multi-million pesos business’ where only ‘a few get rich at the expense of the genocide of innocent people’.

Another milestone in the visual campaign of *Informaborto* was the display of massive pictures on motorway billboards of famous (or clearly recognisable) detention camps, explicitly comparing political disappearances and aborted foetuses. The idea was to link abortion and the dictatorship narrative. The pictures were placed along the

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<sup>103</sup> <http://www.informaborto.org/quienes-somos>

motorway connecting Santiago and Valparaíso/Viña del Mar<sup>104</sup> on two separate occasions: in October 2015 and January 2016. One of the pictures showed some political prisoners detained at the National Stadium in 1973, and it was written in white letters on a red background: ‘Abortion is torture, death, and disappearance’ (Figure 7.6).

Elements of the recent traumatic history of Chile are reinterpreted and redirected by the anti-abortion campaign. The emotive concept of the funeral and burial of foetuses also appeals to the same cluster of referents, very much alive and far from resolved in Chilean culture: political detainees who remain without burial or funeral.



Figure 7.6 Poster created by *Informaborto*, 2015.  
Source: *Informaborto.org*

How are we to read this reinterpretation of the symbols of the dictatorship? What is the meaning of this symbolic activation of the figure of the disappeared? What exactly is the point being made: the innocence of the foetus is paralleled to the innocence of the disappeared, or the analogy runs rather in the direction of the guilt and criminalisation of women that abort? One might well ask (as many of us from ‘the left’ asked ourselves when we saw the billboards on the highways or in the news): is

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<sup>104</sup> Viña del Mar and Valparaíso are two cities, 120km from Santiago, which are famous for tourism.

this a legitimate fight for memory, truth, and justice, a genuine vindication of those vanished *on political grounds*? Certainly, there are no political ideals defended by the aborted fetuses on account of which they were ‘disappeared’ by the ‘corporation of *abortistas*’. It could also be that the campaign’s use of these images is an attempt to discredit ‘the left’ and those fighting for human rights, on the ground that *they too* are accomplices in the killing of innocent fetuses. More charitably, the campaign seems to suggest that both *detenidos desaparecidos* and aborted fetuses are innocent victims of a (very) vaguely defined ‘apparatus of oppression’. Indeed, if abortion is taken as the arbitrary interruption of the life of an innocent person, it can (and must) be further characterised as a criminal, and even genocidal, practice. Undoubtedly, one of the immediate effects of the campaign is to stigmatise and criminalise the group of women that stand for the acknowledgement of women’s right to self-determination, not to mention those women who abort. Even if there is no ‘corporation of *abortistas*’, the analogy of women’s bodies and autonomy as genocidal dictatorships might still haunt the minds of those exposed to such images. Indeed, the campaign was a success in terms of awakening a host of moral feelings and sensibilities related to Chilean recent history, a history that continues to shape the Chilean cultural identity, and to also colour abortion as a practice crossed by horror and torture. In this respect, it brings to mind Hesford’s spectacular rhetorics (2011): maybe the most interesting thing about this campaign is how the recasting of inequalities/injustices/violence as scenes of individual victimisation can be co-opted and reinterpreted in unexpected ways in the global marketplace.

#### **IV. Campaigns that Support Abortion: Women as Victims and State Protection**

The campaigns in favour of abortion diverge in the sense that some of them support the liberalisation of abortion on the three grounds included in the bill, others support abortion on request (*aborto libre*), and others rather ‘radically’ speak directly to women, spreading information on how to perform an abortion (with the use of misoprostol) outside the law; there are even some that portray abortion itself as something positive and desirable. The campaigns considered in this section support the liberalisation of abortion through the discourse of international human rights. We find here two problematic figurations of womanhood. First, women are portrayed as victims in need of protection. Second, women are portrayed as self-sufficient

individuals who should be allowed to choose, somehow irrespective of their broader social context (historical, political, economic, etc.).

### **i) Amnesty International Campaign**

In June 2015, Amnesty International in Chile launched a campaign which supported the abortion bill, called '*Chile no protege a las mujeres. La criminalización del aborto viola los derechos humanos*' (Chile does not protect women. The criminalisation of abortion violates human rights), with the hashtag *#Desprotegidas* (unprotected) (Amnistía Internacional, 2015).

Amnesty has constantly advised that the Chilean prohibition of abortion in any circumstances is at discord with the international recommendations on human rights.<sup>105</sup> Indeed, and as was previously discussed according to international recommendations, by forcing women to continue pregnancy, especially on the three grounds included in the bill, the Chilean State is infringing women's right to life, health, privacy, and physical and psychic integrity, among others.

Nevertheless, the notion of 'protection' is problematic. The '*Chile no protege a las mujeres*' campaign focuses on the vulnerability of women and demands from the State some guarantees of protection. In bills and public policies, the word 'protection' refers to the broader situation of women in different aspects related to gender equality: not only abortion but also issues such as violence or political participation.<sup>106</sup> UN Women also employs the term when it calls on countries to protect women's rights worldwide.<sup>107</sup> However, we can recall how the same concept is being used by anti-abortion campaigns that portray women as victims and vulnerable subjects who need to hand over their autonomy. While the objectives of each campaign are obviously different, if not opposing, in both cases women are seen as defenceless and without

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<sup>105</sup> <https://amnistia.cl/noticia/amnistia-internacional-es-hora-de-poner-fin-a-la-penalizacion-total-del-aborto-en-chile/>

<sup>106</sup> For instance, the law against violence towards women in Spain, passed in 2004, is called *Medidas de Protección Integral contra la Violencia de Género* (Measures of integral protection against gender violence).

<sup>107</sup> <http://www.unwomen.org/en/news/stories/2012/9/un-women-to-call-for-protection-of-women-s-rights-worldwide-during-67th-session-of-the-un-general-as>

agency. On the one hand, women are vulnerable for not being able to continue a difficult pregnancy; on the other hand, women are vulnerable for not having access to a safe abortion. How are we to think through this ambiguity?

The strategic use of human rights is not new in feminism, as was discussed in the literature review. In particular, feminist groups in Latin America in the 1990s worked for the incorporation of sexual and reproductive rights into the human rights discourse (Matamala Vivaldi, 2014; Lamas, 2008, Corrêa and Reichman, 1994). Since then, sexual and reproductive rights have become intertwined with central debates about quality of life, religious freedom, and personal responsibility (Lamas, 2001). In this way, in the Chilean fight for the liberalisation of abortion, activists have used juridical and political tools from international human rights law. Additionally, in the particular history of dictatorships in Latin America, ‘human rights’ have been crucial in condemning and requesting justice against all the systematic violations that occurred. Even though international human rights law does not explicitly recognise a right to abortion as such, several international committees, like the UN Human Rights Committee and the Committee on the Elimination of all Forms of Discrimination Against Women, have established that the absolute prohibition of abortion constitutes a violation of human rights, and the Chilean government has been warned accordingly (Maturana, 2014: 82). Women’s movements have constantly invoked these international treaties, but there are some remarks to consider. For instance, Costas Douzinas comments on how human rights ‘operate in a dual manner; they both conceal and affirm the dominant structure but they can also reveal inequality and oppression and help challenge them’ (Douzinas, 2007: 108). Indeed, both in the parliamentary debate and in the campaigns, human rights have been framed as a way of promoting the liberalisation of abortion, but it is difficult to be clear about the consequences of defending abortion from the perspective of human rights. The decades that have passed since the Universal Declaration have made abundantly clear that there is a long way to go from the declared ‘one humanity’ to real equality. In the particular case of abortion, for instance, one may wonder if rights are able to incorporate and duly recognise the experience of women.

To some extent, Amnesty’s campaign was sensitive to this tension and set up a new reading of women’s human rights as an answer to the use of memory and post-dictatorship imagery and discourse on the part of anti-abortion campaigns. Indeed,

Ana Piquer, executive director of *Amnestía Internacional* Chile, has explicitly stated that ‘the criminalisation of abortion is women’s torture’ (Piquer, 2015). According to her, the ‘true’ human rights that are being violated (or the human rights that are ‘really’ being violated) with the prohibition of abortion are those of women suffering the consequences of black-market abortion.

As for the campaign itself, we see the use of portraits of women, one per composition, accompanied by some text and the campaign’s slogan (Figures 7.7 and 7.8). Women appear in the middle of the composition; you cannot tell whether they are pregnant or not (of course, before 12 weeks, pregnancies are not apparent). Contrary to the anti-abortion campaigns, which usually depict women with advanced pregnancies or no women at all, in this case women are portrayed without evident signs of pregnancy. Women also appear alone, isolated from any network.



Figure 7.7 Poster created by *Amnestía Internacional*, 2015.  
Source: Amnestía Internacional<sup>108</sup>

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<sup>108</sup> <https://www.es.amnesty.org/en-que-estamos/blog/historia/articulo/despenalizacion-del-aborto-en-chile-se-protege-a-las-mujeres/>



Figure 7.8 Poster created by *Amnistía Internacional*, 2015.  
Source: Amnistía Internacional<sup>109</sup>

In Figure 7.8, the picture of the woman in the foreground seems to make her the protagonist, as if we are to regard her as having been prohibited to have an abortion. But on a closer look, the picture does not necessarily represent a woman speaking in the first person, because the accompanying text talks in the third person about other women: ‘They should not be criminalised’. In other words, the message is constituted from a third party and directed towards the State, not to the women whom the campaign seeks to protect, accusing and questioning the State as being oblivious to women’s rights and needs. Finally, it suggests that women’s agency is absolutely limited. In this case the woman is not speaking for herself, but there are others speaking for her, which resonates with Spivak’s famous publication ‘Can the Subaltern Speak?’ (1988). Additionally, this campaign resonates with some Western and colonial feminist discourses which have been criticised for their monolithic construction of third-world women as a homogeneous oppressed group in need of protection (Mohanty, 1984). With respect to the portrayed figure, is she a figure of

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<sup>109</sup> <https://amnistia.cl/noticia/mesa-de-accion-por-el-aborto-en-chile-votacion-de-proyecto-de-aborto-muestra-brutal-indolencia-de-algunos-diputados-hacia-las-ninas/>

‘the Chilean woman’ or is she implicitly figured as ‘all women’? The woman certainly has darker skin than, for instance, the models depicted in retail Chilean advertisement. Her expression is strong and defiant. The campaign refers to different women (Isabelle, Carolina, Rossana), and the woman in the picture could be any of them.

Even though the campaigns considered so far in this chapter can be clearly divided into those against the right to abortion and those in favour, we can sketch some important similarities. In particular, the use of humanistic and liberal rhetoric and, in some of them, the construction (implicit or not; unwittingly or not) of women as victims is significant.

Another image that was part of Amnesty’s campaign, under the hashtag #MiCuerpoMisDerechos (my body my rights), appeals to the well-established idea of ‘my body is mine’, that is, to women’s autonomy and our right to decide over our own bodies (Figure 7.9). The campaign was launched globally in March 2014. It focused specifically on the prohibition of abortion in Chile. In Figure 7.9 we see a woman, not overtly pregnant, but with her belly exposed. Over her belly there is a lock. In her hand she holds a key. The slogan says ‘It’s time to put an end to the penalisation of abortion in Chile’. The visual metaphor of having the key to open and closing the lock refers to women having access to and control over their own bodies.





Figure 7.9 Poster created by *Amnistía Internacional*, 2014.  
Source: Amnistía Internacional<sup>110</sup>

Another way to unpack the meaning of these images is to ask about the reasons behind conceiving of women's bodies as pieces of property, as it is understood under the liberal rhetoric. Are we supposed to connect the idea of the key and lock with property? In what sense is the body like a house? Is this concept really different from that of the body as a house-uterus-container of some conservative narratives? What are they telling us about related problems, like the limit between internal and external; public and private?

To get a clearer idea of these questions, we can connect and relate this image to Figure 7.10, which comes from the anonymous activism of social networks.<sup>111</sup>

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<sup>110</sup> <https://amnistia.cl/informe/los-derechos-sexuales-y-reproductivos-estan-amenazados-en-todo-el-mundo/>

<sup>111</sup> A campaign called *Gráficas Pro Aborto Chile* (Graphics Pro-abortion Chile), which I describe in more detail below, received online contributions in support of free and safe abortion. See: <http://graficasproabortochile.tumblr.com/>

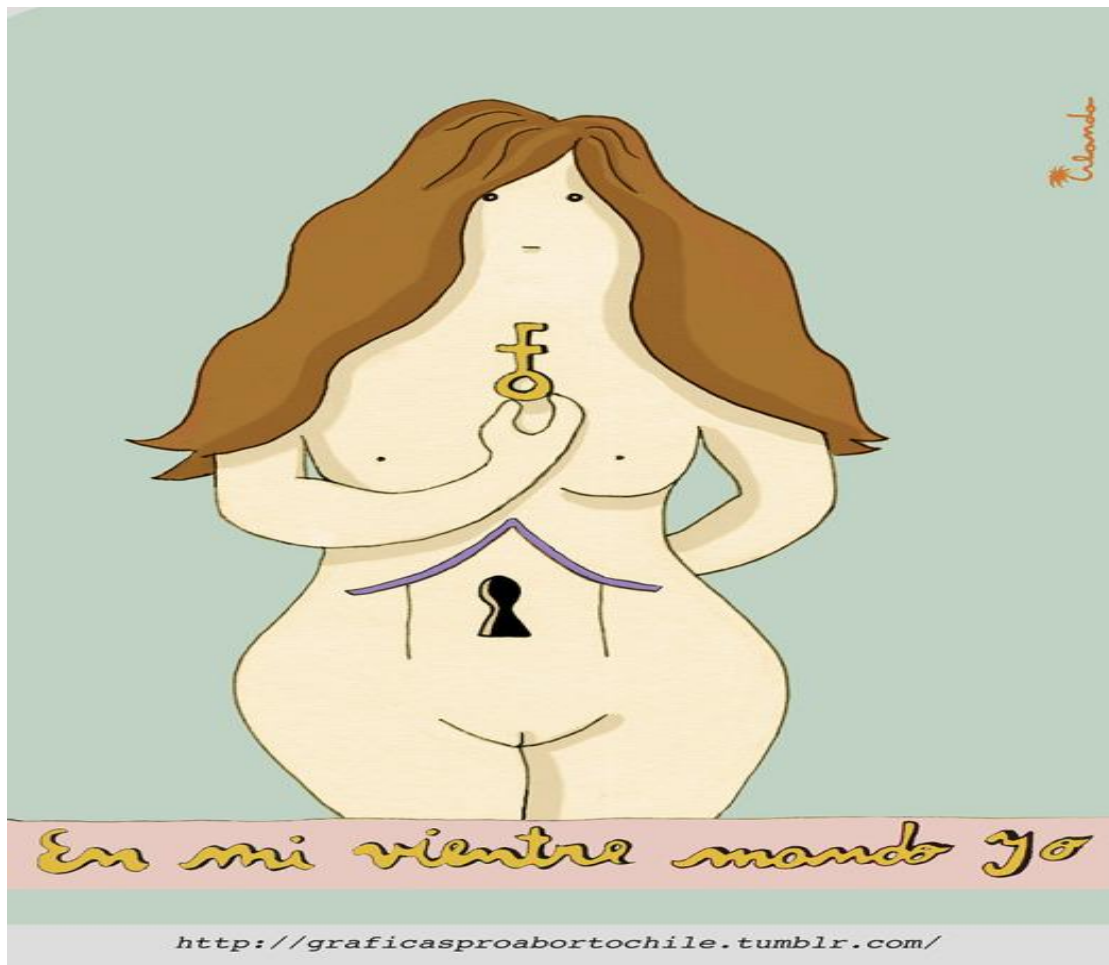


Figure 7.10 Poster created by Gráficas Pro Aborto Chile, 2016.  
Source: Gráficas Pro Aborto Chile, <http://graficasproabortochile.tumblr.com/>

We cannot know for sure whether this image is a direct reworking of Amnesty's, but the similarity is patent and calls our attention to an interesting reappropriation of a shared gender and social narrative. This second image is even clearer: the belly is house-shaped and the woman has a key, above the slogan 'I'm in charge of my own womb', which in Spanish sounds very similar to a phrase that means 'I'm in charge of own house' (*En mi casa mando yo*). As with the previous image, there are some interesting connotations with regard to gender relations. There are also some resonances with other common sayings that touch on gender tensions, for instance in relation to prejudices about the homeowner and housewife: the role of women as being in charge of the household but the husband being in charge of the wife, etc.

Where does this identification or analogy come from? Since Second Wave feminism, the slogan 'my body is mine' has appeared many times in different struggles relating to violence against women and the decriminalisation of abortion. The slogan is

intended to resist oppression, and it was gained with effort. In practice it has been useful to acknowledge the importance of putting limits on one's own body, especially in cases of violence towards women. However, at the same time the resistance brings with it many philosophical tensions, not least the apparent implication of understanding the body as property, which challenge how appropriate the use of this slogan is today.

Many authors see here the instantiation of a dualist Cartesian metaphysics, which goes back to the heart of modern liberalism as it describes a new relation of the 'I' with itself (Sabsay, 2016a). According to Sabsay,

[...] the dispositive of sexuality is part and parcel of a Western hegemonic imaginary indebted to possessive individualism, and the subsequent model of self-ownership. Embedded in this tradition, the Western paradigm of individual sexual rights based on sexual orientation and identity relies to a great extent on self-owned subjects whose relationship to their bodies, desires and sexuality becomes one of ownership (2016a: 154-155).

Some authors have underscored the sociopolitical implications of this identification/analogy in terms of a critique of the processes of individualisation and responsabilisation under the framework of neoliberalism (Foucault, 2008; Brown, 2015; Lemke, 2001, Fisher, 2011; Miller and Rose, 1992, Miller and Rose, 2008). According to this view, the understanding of the body as property might be linked with conceiving of women as managers of their bodies, which in the end might lead to unrestricted commercialisation of the body. Setting aside for the moment ethical considerations closer to the liberal world view (for instance, those concerned with Locke's idea that one is free in every way except to sell your own freedom), this commercialisation crucially overlooks the social character of reproductive decisions. Indeed, it overlooks the specific circumstances and living conditions of women undergoing reproductive decisions; it overlooks the responsibility that arguably lies with the State as guarantor of the access to services relating to sexual and reproductive rights, as well as the responsibility to tackle the inequalities produced by structural economic and cultural factors (in terms of class, race, and gender). For instance, Petchesky points out that we should not see abortion as part of individual rights, but rather of social rights (1986). Certainly, this normative claim depends on many other difficult questions, such as how far these 'social rights' depend on a universal

Keynesian welfare state in a world that seems to be moving further and further away from such a possibility.

## ii) *Miles Campaign*

Another campaign that followed the idea of defending women's human rights was carried out by the NGO *Miles*<sup>112</sup> (Thousands). *Miles* was created in 2010 and since then has advocated for women's sexual and reproductive rights. It has been actively supporting the bill. The *Miles* campaign remains committed to abortion on the three grounds, in contrast to feminist groups that advocate for free abortion under all circumstances (either via legal reform or direct action). Among its campaigns there was one that attracted national and international attention: the 'abortion tutorials'<sup>113</sup> (*Cooperativa*, 2015; *The Guardian*, 2015). Three deliberately dark and disturbing videos – 'Shoes', 'Traffic Lights', and 'Stairs' – show women instructing on how to terminate their pregnancy through different forms of self-harming disguised as accidents: making it look as if her high heels broke and she fell on to a fire hydrant, crossing the street to be hit by a car, or throwing herself down the stairs.

This campaign shows these methods ironically, as a way to raise awareness through a *reductio ad absurdum*: if the criminalisation of abortion is so reasonable, then it should be reasonable too to terminate pregnancies in this violent and extreme way. Or, in a kind of hyperbolic comparison, the video seems to say that prohibition is as violent as throwing yourself down the stairs or getting hit by a car. The background assumption, as *Miles* director Claudia Dides states, is that clandestine abortions are carried out in Chile 'with or without politicians or law', and so the objective is 'for abortions to be safe' (*The Guardian*, 2015).

As María Ruido indicates (2000), the use of irony can also be interpreted as an attempt to recover a sense of pleasure and playfulness that might be lost in certain moralist or legalist approaches characteristic, for instance, of human rights advocates. Moving beyond the abstract reduction of legal discourse, this campaign uses irony to

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<sup>112</sup> See <http://mileschile.cl/>

<sup>113</sup> See: [http://mileschile.cl/?page\\_id=639](http://mileschile.cl/?page_id=639)

appropriate and recontextualise some scenes associated with miscarriages. Furthermore, one might wonder to what extent the use of irony in this case (or any other) is free of certain simplifications of the debate (whether the issue itself calls for a certain seriousness). I will consider the use of irony further in the next section.

It is interesting to note how each of the ‘tutorial’ videos portrays a single woman, alone, ‘taking the matter into her own hands’. There is no reference to the women’s social or political background or to any of the structural reasons behind the prohibition. Moreover, we find again the appeal to strong emotions to arouse moral indignation.

## **V. Feminist Displacements and New Representations**

In recent years feminist organisations have not only sought legal changes but also fought for what might be called the *social and cultural decriminalisation* of abortion. The strategy is twofold. First, we find a destabilising resignification of the foetus, the uterus, and women. These campaigns put in motion a displacement of the traditional representations mentioned in the last sections. Second, at least in some of the campaigns I will consider below, there is an emphasis on the social or organisational aspect of women around pregnancy and abortion that aims to change the social imaginary from the condemnation of abortion as a sin or a selfish act, filled with guilt, into a process in which women shape their own biography or life project. Additionally, the campaign aims to promote social and cultural decriminalisation through a shift in emphasis from moral theory to the practical facilitation of safe abortions for women.

As mentioned, feminists have argued about the problem of invisibilisation of the process of pregnancy in the discussion of abortion. On the one hand the anti-abortion perspective represents the foetus as independent, a ‘citizen’. On the other hand, some feminists, in order to answer this over-representation of the foetus, emphasise freedom of choice (the uterus is shown isolated), generally with the motto ‘my body, my decision’ or ‘my body is mine’. But even if images of the uterus can be seen as a reappropriation of a figure that has been controlled by patriarchy, capitalism and the State, it also reproduces the idea that the uterus, and by extrapolation the female biology, represents a woman’s identity (Butler, 1990). Crucially, the tension involved

here shows that the issue of how to represent pregnancy, the foetus and the uterus is still an open question for feminism.

Writing in the 1980s, the feminist Rosalind Petchesky, for instance, highlights the necessity of restoring women to the discussion of pregnancy, and pregnancy to its diverse social environment:

To do this, we must create new images that re-contextualize the foetus, that place it back into the uterus, and the uterus back into the woman's body, and her body back into its social space (1987: 287).

### **i) *Gráficas Pro Aborto Chile* Campaign**

A good way to illustrate the general point just mentioned is the campaign *Gráficas Pro Aborto Chile*.<sup>114</sup> Set up in 2015 by a feminist group via Facebook and Tumblr, the project receives illustrations from Chile and the rest of the world giving visual treatment to the 'urgent necessity for having free and legal abortion'.<sup>115</sup> Being open to all kinds of contributions, it can be considered as a good indication of the state of mind of supporters of the right to abort who are not necessarily organised in a group. In some designs the idea of the isolated and fragmented uterus, somehow associated with the paradigm 'my body is mine' is repeated (Figure 7.11). In other designs, the woman is shown taking misoprostol (Figure 7.12).

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<sup>114</sup> '*Gráficas*' can mean both graphic design (the trade/craft), and the product of the craft (the design, icon, illustration, etc.).

<sup>115</sup> See [Graficasproabortochile.tumblr.com](http://graficasproabortochile.tumblr.com)



Figure 7.11 Poster, Gráficas Pro Aborto Chile, 2016.  
Source: Gráficas Pro Aborto Chile  
<http://graficasproabortochile.tumblr.com/> <http://graficasproabortochile.tumblr.com/>



Figure 7.12 Poster, Gráficas Pro Aborto Chile, 2016  
Source: Gráficas Pro Aborto Chile,  
<http://graficasproabortochile.tumblr.com/> <http://graficasproabortochile.tumblr.com/>



Figure 7.13 Poster, *Gráficas Pro Aborto Chile*, 2016.  
 Source: Gráficas Pro Aborto Chile,  
<http://graficasproabortochile.tumblr.com/> <http://graficasproabortochile.tumblr.com/>



Figure 7.14 Poster, *Gráficas Pro Aborto Chile*, 2016  
 Source: Gráficas Pro Aborto Chile,  
<http://graficasproabortochile.tumblr.com/> <http://graficasproabortochile.tumblr.com/>





Figure 7.15 Poster, Gráficas Pro Aborto Chile, 2016.

Source: Gráficas Pro Aborto Chile

<http://graficasproabortochile.tumblr.com/> <http://graficasproabortochile.tumblr.com/>



Figure 7.16 Poster, Gráficas Pro Aborto Chile, 2016.

Source: Gráficas Pro Aborto Chile,

<http://graficasproabortochile.tumblr.com/> <http://graficasproabortochile.tumblr.com/>

Yet further images do try to insert these bodies into broader contexts that indicate the material conditions in which bodies are reproduced and where the dominant structures in the sex–gender system (patriarchy, neoliberalism, heteronormativity, Church, State) become visible. In one image there is a call to ‘cut off the head of the family’, saying ‘we give birth, we decide, and we are blessed by our dead children’<sup>116</sup> (Figure 7.13). Another image names those institutions that are perceived as the main ones responsible for prohibition (Figure 7.14). Structural inequalities to access to abortion are represented, as in the case of a plane which shows that those who have the money can travel abroad to obtain safe abortions (Figure 7.16). Other images explicitly show solidarity among women as a political strategy: ‘we are together in this’ (Figure 7.15).

## ii) CUDS Campaigns

The feminist campaign *El Derecho a no Nacer* (the right not to be born), of the *Coordinadora Universitaria por Diversidad Sexual* (Universitary coordinator for sexual diversity, CUDS), uses social performances and artistic activism to address the issue of the representation of the foetus, provoking a debate about its ‘public appearance’ (Figure 7.17). The CUDS is an activist organisation formed more than 10 years ago in Chile, which has constantly worked on the ‘localisation’ of queer and feminist aesthetics, using micropolitical practices of resistance.<sup>117</sup> Through the use of artistic practices and parody they suggest a reappropriation and displacement of the ‘public foetus’ as a way to challenge the pro-life construction of the foetus as a citizen. Not without a certain irony, they recognise that the foetus has a right, but not the right to life defended in anti-abortion campaigns; rather, the right to exactly the opposite: the right not to be born. Although it is not clear what the strategy of the campaign is (exactly to whom they want to reach, how, to what extent, etc.), it is interesting to notice how sexual demands are addressed in non-hegemonic ways. It also resonates with Ranciere’s theatrical conception of the political, in the sense of

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<sup>116</sup> In Spanish the word used in this phrase to say ‘give birth’ is *parimos* which is a word which has a strong corporal and even animal connotation.

<sup>117</sup> <https://disidenciasexualcuds.wordpress.com/about/>

imagining politics as an interruption upon a stage (Hallward, 2006; Baiocchi and Connor, 2013).



Figure 7.17 CUDS campaign *El Derecho a no Nacer*, 2012.

Source: Revista Punto de Fuga, <http://www.revistapuntodefuga.com/?p=1637>

Another campaign performed by CUDS was '*Dona por un aborto ilegal*' ('donate for an illegal abortion') (Figure 7.18). *Dona por un aborto ilegal* used various strategies: jingles, online videos, mimicking 'traditional manoeuvres of pro-life groups and neoliberal rhetoric of the consumption of solidarity and compassion, rearranging the regular landscape of the political economies of the image of pain as well as visible bodies' (Henríquez, 2015: 194). They used the colours, dresses, and aesthetic of anti-rights campaigns to collect money in the streets in order to contribute to illegal abortions.



*Figure 7.18* Poster created by the CUDS, 2012.  
Source: CUDS, <https://twitter.com/donaporunaborto>

One might ask here: why would a feminist campaign focus on the foetus and not on the woman? According to one of the members of CUDS, the purpose was to ‘challenge concepts that are already naturalised and hegemonic in the public and political space of communication’ (Cabello, 2012: 12, my translation). Indeed, the campaign seems to use parody as a critical operation to displace (or resituate) the perspective (Henríquez, 2015: 200). It is through this change of perspective that we can reuse (ironically and deconstructively) the products of the status quo. This resonates with a point that Butler makes about the performative, which could be applied to this reflective displacement: ‘the force of the performative is derived precisely from its decontextualisation, from its break with a prior context and its capacity to assume new contexts’ (1997: 147).

The use of irony in these campaigns, however, has been criticised not only by groups against abortion but also by more ‘traditional’ feminism. According to the CUDS activist Jorge Díaz, campaigns like this are problematic for more traditional feminists

because of their insistence on the seriousness of language and the need to tackle these issues, which indeed involve a lot of suffering, with extreme care. But, maintains Díaz, that strategy is very dangerous

because it reifies the figure of the victim, which is exactly what we are trying to question. A more traditional feminism keeps insisting on a defeated and comforting *Bacheletist* logic. However, if the first strike for abortion in Chile summoned so many people it was because of the presence of other feminisms, more playful feminisms, with excessive aesthetics, that widen the categories of gender, age, race, etc. (Díaz in Misterio, 2014).

In this way, the use of parody and the performances deployed by the CUDS not only confront conservative views but also challenge, through the displacement of certain figures, feminist views of women as victims that tend to forget intersectional perspectives on abortion.

### **iii) *Miso Pa Todas* and *Con las Amigas y en la Casa* Campaigns**

Regarding access to safe abortions, I have mentioned in Chapter Five the ‘Free Abortion Hotline’ (*Línea Aborto Libre*) established in 2010, which through various methods has provided information on how to get abortions using misoprostol. Some of the activists from Free Abortion Hotline moved on to form *Miso Pa Todas* (Miso[prostol] For Everyone), launched in May 2016 (Figure 7.19), and *Con las Amigas y en la Casa* (With [female] Friends and at Home), launched in September 2016 (Figure 7.20). One of the activists of *Amigas*, Viviana Díaz, has spoken of her experience as a doctor accompanying women having abortions, and reveals the importance of acknowledging abortion as a shared experience, as well as the importance of changing the traditional narrative:

We are interested in doing this kind of micropolitical work, bringing discussion of abortion into everyday life, because we know that in this way we can disarm the narratives [*imaginarios*] that have been violently imposed on us by publicity and education (quoted in Etcheberry and Vivaldi, 2016: 43).

*Miso Pa Todas* and *Con las Amigas y en la Casa* use some new elements: women are shown together; abortion is not just an individual act but something that involves all women (Figure 7.20). One can recall at this point the Argentinean motto *Abortamos hermanadas, abortamos en manada* (We abort like sisters, we abort in a group).<sup>118</sup> Thus, the woman who aborts is not invisibilised or reduced to her uterus but is represented as part of a social network, or even in a context of *sororidad* (sorority). Indeed, this notion has gained some traction in recent years. For Marcela Lagarde, *sororidad* is an ethical, political, and practical dimension of contemporary feminism. Furthermore, it is a ‘subjective experience of women’ aimed at fostering positive relationships and a ‘body-to-body existential and political alliance, a subjectivity-to-subjectivity alliance with other women’, and so it is a contribution to ‘the social elimination of all forms of oppression and to the mutual support necessary to achieve the gendered power of all and the vital empowerment of every woman’ (Lagarde, 2012: 543). Although the notion so defined might try to accomplish too much (maybe in a similar way to ‘brotherhood’ (*fraternité*) tried to do in its time), the idea is to highlight and promote affects of love and solidarity that lead to this collective resistance and emancipation that sorority represents; or, in other words, to render visible the solidarity networks that arise with abortions as well as the love bred among women who accompany each other. In turn, this visibilisation serves also to challenge the ideal of independence and self-reliance of neoliberal rationality (Brown, 2015; Vivaldi and Varas, 2015; Gil, 2013), according to which the bonds between people are neglected, generating an illusion of self-sufficiency, such that there is a permanent social competition and the vulnerability of life is overlooked.<sup>119</sup>

These campaigns emphasise that ‘we all abort’. The limits between an individual and collective experience are blurred. As Viviana Díaz comments:

The woman we are accompanying has accompanied some other woman before, or has known of another similar experience. We have all aborted in some way, either because we have undergone the experience ourselves or because we have

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<sup>118</sup> <http://kaosenlared.net/argentina-socorristas-en-red-abortamos-hermanadas-abortamos-en-manada-audio/>

<sup>119</sup> I will develop this point in more detail in the next chapter.

accompanied another who has, which is also a way to abort (quoted in Etcheberry and Vivaldi, 2016: 43).

In a similar way to *Línea Aborto Libre*, which can be seen as developing strategies of love and information between women, *Con las Amigas y en la Casa*'s purpose is to offer safe space for women (Figure 7.20). Recently Vacarezza (2016, 2017) has noted how visual representations of abortions in Latin America more generally are shifting the focus from pain, injustice, or sorrow associated with abortion to affects such as joy, solidarity and pride, as I will show in the next chapter.



Figure 7.19 Poster from launch campaign of *Miso Pa Todas*, 2016.  
Source: Miso Pa Todas campaign<sup>120</sup>

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<sup>120</sup> <https://www.facebook.com/events/1746465182306906/>



Figure 7.20 Logo of *Con las Amigas y en la Casa*, 2016.  
Source: *Con las Amigas y en la Casa*<sup>121</sup>



Figure 7.21 Advert created by *Miso Pa Todas*, 2016  
Source: *Miso Pa Todas* campaign

<sup>121</sup> <https://conlasamigasyenlacasa.tumblr.com>



One of the hashtags of the *Miso Pa Todas* campaign is *#infinitascausales* (infinite causes/grounds) (Figure 7.21). The aim here is to show that there is no need for a specific reason to abort, as the bill proposes, as abortion can be motivated by an infinite number of reasons, which depend on the specific situation of each woman. Interestingly, in this way the experience of the ‘woman’ is not universalised. This point resonates with the way in which De Lauretis, among many others, has stressed that one of the major risks when talking about sex differences is that it might constrain feminist critical thought

‘within the conceptual frame of a universal sex opposition (woman as the difference from man, both universalized; or woman as difference *tout court*, and hence equally universalized), which makes it very difficult, if not impossible, to articulate the differences of women from Woman, that is to say, the differences among women or, perhaps more exactly, the differences within women’ (De Lauretis, 1987: 2).

There is an effort here to conceive of women independently of a reductive and unalterable identity. As Braidotti has pointed out, in feminist theory ‘women’ can be the place that designates an undetermined number of diverse, complex and potentially contradictory experiences, intersected by variables of class, race, age, way of life, sexual preference, etc. When one speaks as a woman in feminist theory, with the purpose of empowering women and activating social and symbolic changes, we must speak from an ‘antiessentialist’ perspective (Braidotti, 1994: 4).

Another new element in these campaigns is the misoprostol pill itself as a main character. Through the use of pictures of the pill or the box of pills (Figures 7.22 and 7.23) there is a resignification of the medicine that, although oppressive in certain scenarios (as the ‘edible panopticon’ of Paul Preciado [2008] suggests), can also be reappropriated by women. The idea of presenting a technological commodity at the centre of the campaign can also appeal to the necessity to remove the emotions involved, in the sense that an objective element might help to eliminate the guilt or the seriousness of the abortion. The motto ‘If she needs misoprostol, give it to her’ (Figure 7.23) points out the importance of demystifying the use of the pill, to show it as something common and to promote its access and distribution.



Figure 7.22 Advert for Miso Pa Todas campaign, 2016.  
 Source: Productora de comunicación social, vimeo<sup>122</sup>



Figure 7.23 Advert for Miso Pa Todas campaign, 2016.  
 Source: Miso Pa Todas Campaign

<sup>122</sup> <https://vimeo.com/165689457>

#### **iv) The Body as Territory and Ancestral Knowledges**

Some interesting recent campaigns incorporate new elements, not seen previously, including attention to the importance of indigenous knowledge, the act of abortion as a political act in itself, and the relationship between our own body and the earth/territory; between ourselves and ‘our people’.

The image in Figure 7.24, for example, makes reference to indigenous women to argue that abortion is not something new, something owned by Western medicine, but rather something ancestral, incorporating an implicit criticism of the Western world’s biomedical hegemony in relation to the control over women’s bodies. The intention is to recover indigenous and traditional knowledges and medicine in the direction of a ‘natural gynaecology’, something that might be interpreted in terms of a different ‘care of the self’, one that enfolds while giving new emphasis to a feminist ethic that involves love and care among women; care beyond the medical gaze. It remains to be seen whether abortion, in all its complexity, might emerge in this way as embodying a rationality of care that would be a re-imagining of the techniques of the self that Foucault described as a practice of freedom.



Figure 7.24 Advert for *Miso Pa Todas* campaign, 2016.  
Source: The Establishment<sup>123</sup>

In a somewhat similar vein, other images show the conceptualisation of the body as a territory and the connection between the recovery of both (the body and territory) as part of the same political claim. Latin American decolonial feminists have understood the body as a political territory; historical and not just biological (see for instance,

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<sup>123</sup> <https://theestablishment.co/pro-choice-posters-in-chile-spark-a-crucial-dialogue-59d4a91ac8c5>

Espinosa, 2010; Gómez Grijalba, 2012). Dorotea Gómez Grijalba poses the question: ‘Why say my body is a political territory?’ She assumes that her body ‘has been named and constructed from ideologies, discourses and ideas that have justified its oppression, exploitation, subjugation, alienation and devaluation. I recognise my body as a territory with history, memory and knowledges both ancestral and from my own personal history’ (2012: 6). Indeed the *Feminismo comunitario*, in the words of Julieta Paredes, one of the main activists of this movement, is based on the ideas of ‘community, *vivir bien* (to live well), time considered as circular, the deep love towards our pueblo,<sup>124</sup> the autonomy of our bodies, territories and knowledges’ (Paredes, 2017). Here again the autonomy of the body, territory and even knowledge are regarded as deeply interconnected. In an image created by the feminist Chilean collective *La Alzada, acción feminista libertaria* (The insurgent, feminist libertarian action) a woman appears as if she were crucified in her uterus and the accompanying motto is ‘my body, my territory’ (Figure 7.25). In another image, a woman is in the centre with the words ‘my territory’ written over her breast, and her hair is depicted as roots (Figure 7.26).

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<sup>124</sup> In Spanish ‘*pueblo*’ has multiple meanings. It means the people, working-class people, and also a village, nation or group of people.



Figure 7.25 Poster created by La Alzada.  
Source: La Alzada<sup>125</sup>



Figure 7.26 Poster created by La Alzada.  
Source: La Alzada<sup>126</sup>

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<sup>125</sup> <http://laalzada.org/web/?p=208>

<sup>126</sup> <http://laalzada.org/web/?p=244>

Doris Quiñimil Vásquez, a feminist and Mapuche psychologist, specialised in gender from an intersectional perspective, in her self-ethnographic thesis *Petu Mongenleñ, Petu Mapuchengen: Todavía estamos vivxs, todavía somos Mapuche. Un proceso autoetnográfico para la descolonización feminista de las categorías mujer, Mapuche, urbana, a través del aborto* (2012). The thesis analyses the categories of women, Mapuche and urban, through the issue of abortion. Quiñimil Vásquez proposes to

incorporate the demand for self-determination in the sovereign territory that is the body, and to do this through the vindication of the *right of resolution* that was present in our female ancestors (with abortive herbs). This would be a way of recovering our sovereignty (suspended by the hegemonic powers) and emerging as a corporal practice of resistance that is anti-heteropatriarchal and anti-colonialist (2012: 3).

She considers it crucial to increase awareness of the existence and practice of abortion through time (through the use of ‘occidental’ methods or the use of *lawen*<sup>127</sup>), because abortion could be considered part of the *pueblo Mapuche*’s agenda, which ties the need of decolonisation (of the people and of the uterus) to the need for self-determination and autonomy of territory (the land and the body) (Quiñimil Vásquez, 2012: 99, my translation).

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<sup>127</sup> *Lawen* is a Mapuche herb use to induce abortions.



Figure 7.27 Advert for *Marcha de Mujeres* demonstration on 8th March, 2016.  
Source: *Marcha de Mujeres*<sup>128</sup>

The relationship between the sovereignty over one's own individual body and the *pueblo*'s sovereignty is shown in a poster designed by *La Alzada* in 2016 for the fourth demonstration of the 25<sup>th</sup> of July, mentioned previously in Chapter Five, which says 'From the sovereignty of the body to the sovereignty of the *pueblo*' (Figure 7.28).

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<sup>128</sup> <https://vocesenlascalles.wordpress.com/2016/03/11/ni-la-mujer-ni-la-tierra-somos-territorio-de-conquista-contr-la-apropiacion-de-los-cuerpos/>



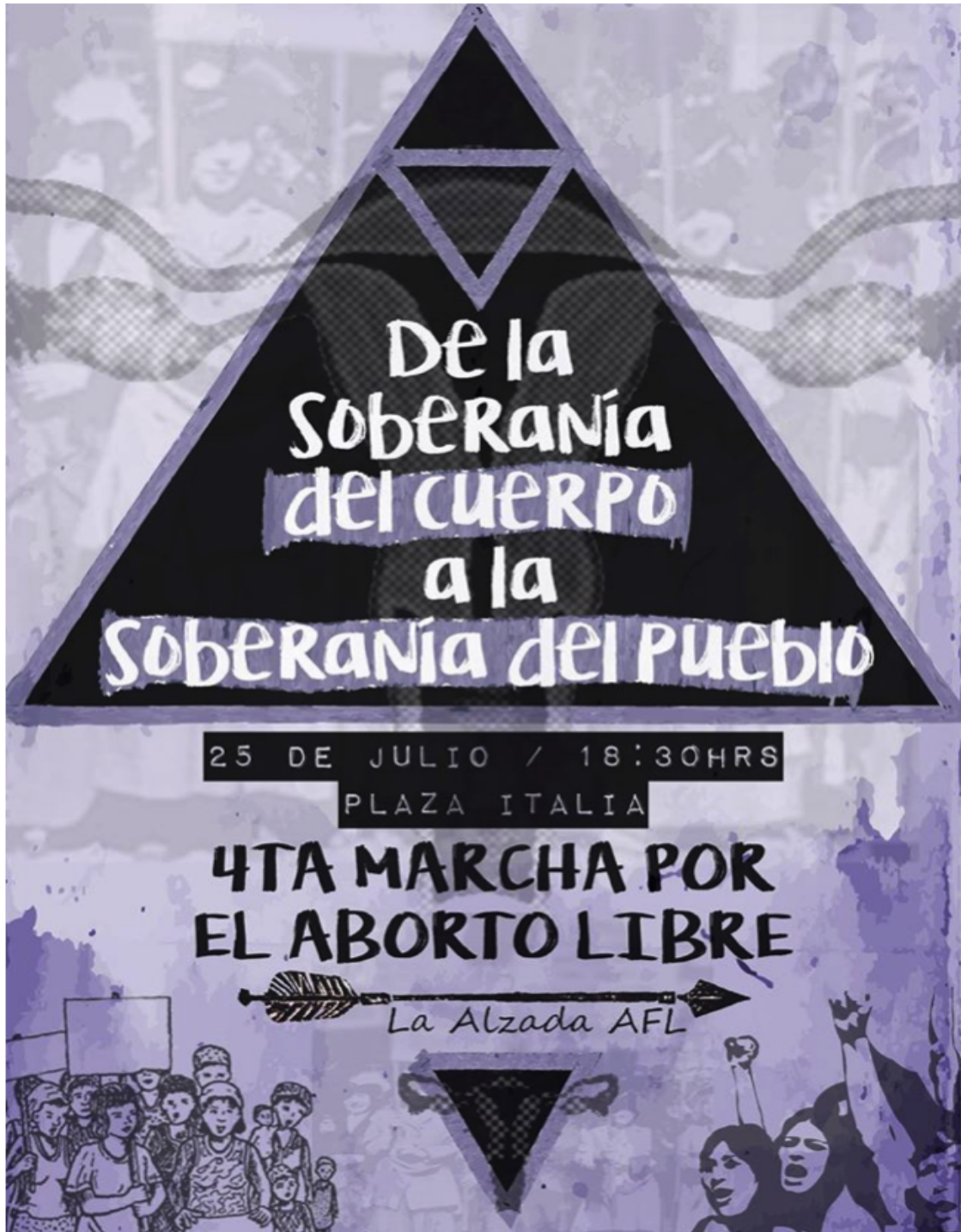


Figure 7.28 Poster created by *La Alzada* for the fourth March for Free Abortion, 2016.  
Source: *La Alzada*<sup>129</sup>

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<sup>129</sup> This image was obtained throughout personal communication.

In these campaigns, therefore, the body, and the recovery of the capacity to decide, is not seen as an individual or isolated struggle but as one deeply connected with history, the *pueblo* and the dual sense of territory (my body and/as my territory).

## **VI. Final Remarks**

The campaigns considered in Sections III and IV of this chapter can be clearly divided as being for or against the liberalisation of abortion. But, I would like to reiterate, they share some important similarities. Both share the use of humanistic and liberal rhetoric and (in the case of the *#Desprotegidas*, *Mujeres de Blanco*, and *Informaborto* campaigns) the construction of women as victims. In visual terms, the use of the photographic image dominates several of the campaigns discussed here. This is hardly by chance, especially if we take into account what Hesford (2011) refers to as creating ‘witnessing scenarios’ that work within a very precise and narrow mode of communicating human suffering. Indeed, photography has the particularity of generating a certain ‘reality effect’ that can be both persuasive and disquieting (Barthes, 2002). Even though they are interpretations of the world, photographic pictures appear as if embodying a kind of truthfulness, i.e. they seem to offer the authority of the real, even though they are but a momentary fragment of it (Sontag, 2006). By presenting itself as representing what is real (without qualification), photography ‘generates a modality of interpretation that naturalises a certain order of things’ (Peller, 2009). This seems particularly significant in the case of the ‘straightforward factual’ pictures of aborted foetuses, but also applies to the normalising effects of Amnesty’s campaign as gender technologies. Moreover, many of these campaigns (*Informaborto*, *Mujeres de Blanco*, Amnesty; particularly the first one) have in common the organisation of their messages around a ‘politics of suffering’ (Fassin, 2012) that seeks to appeal by presenting the issue of abortion from the perspective of the victim (whether women’s or the foetus’s).

We saw the way in which in some campaigns the ‘public foetus’ is depicted as a person, the uterus is isolated and women are either victimised or rendered invisible. In some cases the campaigns that support abortion also reproduce stereotypes of isolation, or women are shown as victims who lack agency, reproducing liberal understandings of the body and removing the social, cultural, political and economic contexts in which women are situated. Following Fassin and Hesford, these can be

seen as campaigns that reproduce a politics of recognition which is unhelpfully binary: trauma and subjection, victimisation and protection, domination and solidarity, etc. It remains to be seen whether or how these tensions will be aggravated or resolved.

As for the campaigns considered in Section V, the displacements of traditional perspectives and the emergence of new figurations reinforce the importance of the contextual situation of women, sketching a picture of the intricate network of productive relations of power that constitutes abortion, and how it is inserted into diverse markets and geopolitical spaces. *Gráficas Pro Aborto Chile* is an interesting opportunity to collect the varied imagination of people on the sideline of the public debate. The CUDS campaigns play with ironic variations on the public presence of the foetus as the protagonist of the process. *Miso Pa Todas* and *Con las Amigas y en la Casa* further explore the crucial role of misoprostol, the collective experience and the social context of abortion. Finally, the figuration of ancestral knowledges challenges Western medicine, and the presentation of different struggles that are interconnected and intersect show new ways to articulate the demands from a decolonial perspective. These campaigns open up new possibilities of thinking about our own subjectivities through productions and representations of gender.

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## Chapter 8

### New Feminist Challenges: The Current Agenda

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#### I. Introduction

The bill that allows abortion on three grounds was approved, after a long discussion, in August 2017 and then published in September the same year. In December 2017, the right-wing candidate and former president Sebastián Piñera was elected as President, and this caused concern among feminists regarding the actual implementation of the law, especially when the Minister for Women, a conservative woman, was announced (Freixas, 2018a). Additionally, as has been discussed, the law allows abortion only in limited cases, so women will continue to seek abortions clandestinely, and feminists are campaigning for the social decriminalisation of abortion and to help women gain access to abortions on the women's request, besides those specific three grounds. However, considering that the bill would help to guarantee basic healthcare for at least some women, certain feminist groups are organising in order to help women use the law, and to monitor its implementation. In this way, some of these feminist organisations are monitoring the actual observance of the law while at the same time continuing the fight for free abortion.

The *Mesa Acción Aborto Chile* (Panel Abortion Action Chile), in which I participate from London and in my visits to Chile, is one example. It is composed of different feminist organisations and individuals who have defined a 'plan of action', identifying the key aspects of the law that should be monitored, including the specific regulation of each ground, training for healthcare professionals, accompaniment, the implementation of conscientious objection, and the way in which information is given to women.<sup>130</sup> Regarding the 'social decriminalisation of abortion' they have identified

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<sup>130</sup> Some concerns are that accompaniment (the process of support to pregnant women who face the decision of having an abortion or not) and counselling should never be designed to influence a woman or to deter or prevent her from having an abortion. It must always involve the provision of full and truthful information intended to help women make informed, autonomous decisions. The education of healthcare professionals is also important. The use or misuse of ultrasound scans, which are apparently 'neutral' devices, can influence women and even prevent them from having an abortion. The role of the professionals here is crucial, because they are the ones who mediate between the foetus and the woman.

several tasks ahead such as: demystification of abortion, removal of social stigmas for healthcare professionals, awareness of the specific context of abortion, monitoring the law, sexual education in schools, education in careers related to healthcare, information to the broader public, strengthening activism in different parts of Chile, media coverage, awareness among academics, politicians, and key actors and information about the law to women and girls<sup>131</sup>. The NGO *Miles* launched a series of videos called *En qué consiste la ley de aborto?* (What is the abortion law about?), which aim to provide information about how to demand the right to abort established in the law.<sup>132</sup> Additionally, the organisation *Con las Amigas y en la Casa* created ‘OLA’: *observadoras ley de aborto* (observers’ abortion law), which aims to evaluate the observance of the law, to legally accompany women experiencing difficulties in accessing legal abortions, and to supervise the fulfilment of the ‘ethical minimum’ or basic rights of confidentiality, treatment and information’.<sup>133</sup>

In this chapter, however, I am interested in mapping some of the broader ideological and conceptual dynamics that characterise the feminist challenges with consideration to the present situation in Chile. First, I will discuss the conservative attack on feminism as ‘gender ideology’ and in particular how it affects the rearticulation of the campaigns against liberalisation. Second, I will analyse the risks for feminism of being co-opted by neoliberal governmentality while helping women to access abortions. Third, I will explore the ways in which the different and competing affects and realities that new interlocutors have put on the table (especially activists for sexual dissidence) challenge feminism’s capacity to deal with that multiplicity.

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In the case of rape, for instance, will women be offered the chance to listen to the heartbeat or to see the foetus? What precautions should be taken? The role of the primary healthcare services is also key. Even if they will not be implementing the procedure, most of the time they will be the first contact for women who need an abortion. Additionally, women have to be informed about their rights. Conscientious objection is also a main concern, which will be analysed in more detail at the end of this section.

<sup>131</sup> Information obtained through personal communication.

<sup>132</sup> See <http://mileschile.cl/?p=5884>, <https://www.youtube.com/watch?v=EBxjXW84URA>

<sup>133</sup> <https://www.facebook.com/events/151090429076027/>

## II. New Conservative Attacks on Feminism as ‘Gender Ideology’ and the New Act

### i) The New Act and Conservative Politics

Conservatives in Chile have tried to block any initiative to expand and recognise sexual and reproductive rights. Regarding the recently approved Act, as was seen in Chapter Six, conservatives lobbied constantly throughout the discussion in order to prevent its approval or at least limit its effectiveness. Indeed, they managed to change some important aspects that restrict or preclude access to abortion. For instance, they managed to impose mandatory reporting in the case of rape; to expand the definition of conscientious objection; to impose compulsory support and counselling, and to limit medical confidentiality. The movement against liberalisation is very much alive.

Each of these points was controversial. In the case of the time limit, for instance, the original bill contemplated 18 weeks on abortions in the case of victims of rape or incest. The final time limit was reduced to 14 weeks, which does not take into consideration the difficulties of detecting early pregnancies, especially when pregnancies are the product of rape or incest (Casas, Vivaldi, and Alvarez, 2016: 31-36 and 40-41). The original bill did not contemplate mandatory reporting of rape for women older than 18 years, in order to safeguard women’s decisions and because the report could prevent women going to hospital to have an abortion (Casas, Vivaldi, and Alvarez, 2016: 31-38). Conservatives wanted to make reporting mandatory for women in order to facilitate prosecution of the rapist, but additionally because women could pretend to have been raped in order to obtain an abortion. A Christian Democratic Deputy, Pablo Lorenzini, even questioned the possibility that adult women could be raped (*La Tercera*, 2015; Aguayo, 2017). However, the final version of the law makes it mandatory only for the chief of the hospital to report a rape, not for the woman concerned, and women can decide if they want to be part of the investigation and eventual trial or not. Medical confidentiality was also a matter of controversy: the original bill, in order to prevent some consequences of illegal abortions, established that doctors, under privacy and health rights, should not report or interrogate women who had had illegal abortions. This point was crucial in order to guarantee that women will not be prosecuted, and thus will seek medical help without fear if they presented medical complications after an illegal abortion. Regarding counselling, some of the organisations that are applying to counsel women who are experiencing one of the

situations described by the law have already disclosed their interest in making women change their decision to abort, instead of providing actual support and guidance which respects women's choices (Cavieres and Cuadra, 2018). Conscientious objection was problematic because, as I will explain later, the law that was finally enacted includes the right of all healthcare staff and even institutions to object.

Once the law was approved, conservatives lobbied for making access to the service more difficult and to prevent women from deciding to have an abortion. The law was introduced and approved with President Michelle Bachelet, but President Sebastián Piñera started his new period of office in March 2018, and his government will be in charge of the actual implementation of the Act. The newly designated Minister of Culture, Alejandra Pérez, for instance, revisited an old idea of gendered division of labour that demonstrates the conservative paradigms that are behind the new government. While speaking against gender quotas, she said:

If men, for some reason, almost for physical and historic reasons, have been more preponderant in the areas of power, we as women have been able to have power in childcare, children's education and other stuff that is extremely relevant (Santibañez, 2018).

Piñera chose as Isabel Plá as the Minister for Women, a member of the right-wing political Party UDI who has written columns in different media against abortion. For instance, in one column, called 'Seven reasons to oppose abortion', she said:

One of the greatest injustices allowed by abortion laws is to degrade to a second category the existence of an individual of the human species only because his/her survival relies on the mother. She is, indeed, the owner of her body but her property cannot be extended to the corporal territory of another person (Plá, 2015).

Once designated as Minister she said that she was going to respect the abortion law despite being personally an opponent (Focacci, 2018), but it definitely caused concern for those defending abortion.<sup>134</sup>

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<sup>134</sup> Gloria Maira, the leader of *Mesa Acción Aborto*, said that as a Minister Isabel Plá has a duty to fulfil the law (*El Mostrador*, 2018a).

In this context, the attack on the liberalisation programme under the banner of *gender ideology* has been key. The President of the right-wing party UDI, Jacqueline van Rysselberghe, when she assumed presidency of the party in 2017, said:

We are not going to compromise our fundamental values. For that reason we will say: no to abortion, yes to life. [...] We are going to say with total clarity and without fear: No to gender ideology, which is contrary to human nature, and we will say with all our heart's strength, Yes to the family, which is the soul of every society (24horas, 2017).

This quotation is extremely interesting because, as I will show in the next section, it summarises what conservatives understand as 'gender ideology'.

## ii) Gender Ideology

In different parts of the world conservatives have organised against what they called the 'gender ideology' that challenges what are perceived as 'natural values' (Fassin, 2016). To analyse today the way in which these campaigns are articulating seems urgent,<sup>135</sup> and especially significant for this thesis is to consider the way in which it has impacted on the abortion debate in Chile. But what does 'gender ideology' mean? The concept of 'gender ideology' or 'theory of gender' (I will use the first) was coined during the late 1990s, after the meetings of the International Conference on Population and Development (in Cairo), in 1994, and the Fourth Conference on Women (in Beijing), in 1995 (Corrêa, 2017a; Fassin, 2016). The concept has been used 'as a label representing the demands and theories of those who "deny nature" and consider sexuality as part of a social construction' (Scala, 2010, quoted in Vaggione, 2017: 303). Indeed, when the term 'gender' was for the first time introduced in an international document in Cairo six months later, in the Preparatory Committee Meeting for Beijing 1995, the term was openly attacked by religious groups in the US. Since then, several documents against the concept of gender have been produced.<sup>136</sup>

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<sup>135</sup> For instance, a recent issue of the magazine *Religion and Gender* was devoted to analysing this phenomenon. (See Bracke and Paternotte, 2016a).

<sup>136</sup> Sonia Corrêa mentions the books published in the late 1990's *The Gender Agenda* (Dale O'Leary) and *Salt of the Earth* (Cardinal Joseph Ratzinger), as well as the Vatican's criticism to the term in different publications such as the 2003 *Lexicon: Ambiguous and Debatable Terms Regarding Family*



Judith Butler's theories in particular were criticised in a Lexicon published by the Vatican.<sup>137</sup> As Fassin points out:

According to their reading of Judith Butler's *Gender Trouble*, whose distance from 'common sense' makes her definition sound to them like 'science-fiction', 'there exists no such thing as a natural man or a natural woman': one may wonder 'to what extent there exists any "natural" form of sexuality' (Fassin, 2011, quoted in Fassin, 2016: 176).

Fassin also calls our attention to the Vatican strategy for positioning nature and biology as 'God', against history, politics, and culture (2016). Accordingly, 'gender theory' is portrayed as a threat to nature and humanity because it contests the (now) scientific divine law of sexual difference (Corrêa, 2017a: 257). These new regimes of truth are based, then, in scientific reason guiding religious rationality. An ongoing tension between realism (essentialism) and nominalism (social constructionism) is evident here, the former being the understanding of categories as universal, a real order in the universe, which is only named by humans, and the latter being the belief that categories are agreed upon by humans, being mere creations than actual perceptions (Fassin, 2016: 178-180). According to the Catholic Church, genders are 'real' categories which are challenged by the social constructionism of gender ideology. Additionally, there is a defence of the 'culture of life' against the 'culture of death', the latter being defined as a 'selfish concept of freedom which sees procreation as an obstacle to the development of one's own personality' (John Paul II, 1995: 13, quoted in Vaggione, 2017: 302). In this way, 'all the demands that seek to expand the

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*Life and Ethical Questions* and the 2004 *Letter to the Bishops of the Catholic Church on the Collaboration of Man and Women in the World* (Corrêa, 2017b).

<sup>137</sup> Indeed in Brazil in October 2017, Judith Butler, while organising a conference called 'The end of democracy?' at SESC, a research organisation in São Paulo, was 'accused' of promoting gender ideology, distorting traditional family values. People protested against Butler, burning her image, calling her a witch and telling her 'to go to hell'. Feminists and feminist organisations around the world reacted with outrage to these attacks against sexual politics and gender and sexuality (see, for instance, Gallo, 2017; Corrêa, 2017b). Judith Butler said: 'My sense is that the group who engaged in this frenzy of effigy burning, stalking and harassment want to defend "Brazil" as a place where LGBTQ people are not welcome, where the family remains heterosexual (so no gay marriage), where abortion is illegal and reproductive freedom does not exist. They want boys to be boys, and girls to be girls, and for there to be no complexity in questions such as these. The effort is antifeminist, antitrans, homophobic and nationalist, using social media to stage and disseminate their events' (see, for instance, *The Guardian*, 2017 and Butler, 2017).

legal spaces for non-reproductive sexuality are deemed as belonging to “gender ideology” and as manifestations of a culture of death’ (Vaggione, 2017: 303). Contraception, sexual diversity demands and abortion are all part of this ideology. The condemnation of abortion in particular seems central because women are deemed to be not fulfilling the role that they are supposedly called to: reproduction.

Sonia Corrêa analyses different characteristics of anti-gender campaigns (2017b). First, they have been organised mainly in high spheres of international negotiations and not at ‘ground levels of societies’. Undoubtedly the Vatican has been the main actor in the anti-gender campaign (see, for instance, Bracke and Paternotte, 2016b), using the theory of the ‘complementarity of the sexes’ (see, for instance, Case, 2016) to prevent the discussion and implementation of gender, sexual, and reproductive rights and policies.<sup>138</sup>

A second characteristic of these campaigns is that they are a transnational phenomenon, in which not just Catholic groups but also other religions are involved. Furthermore, as ‘gender ideology’ is a loose and imprecise concept that defends morality and certain values beyond religion, it has permitted alliances with secular individuals and groups: biologists, psychologists, extreme right-wing coalitions, and so on (Vaggione, 2017: 303). In this way religion and secularism merge, in what the French call ‘Catho-laicite’ (Scott, 2017: 301). Corrêa also points that in Latin America the anti-gender crusade is not just supported by the Right; in cases such as in Ecuador, left-wing politicians have organised such campaigns too.<sup>139</sup> Since, according to anti-gender campaigners, the core values of society are at risk, it is not difficult to find support from actors that may seem completely unrelated to the agenda.

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<sup>138</sup> Lane Sjørup analyses the way in which the Vatican has negotiated women’s sexual reproductive rights (1999). In his research he noticed the ways in which, in its negotiations, the Vatican has used some concepts. In Cairo, for instance, they used and misused terms like ‘gender’ and ‘sexual orientation’ but also appropriating ‘human rights’ and terms like ‘dignity’, which Catholics associate in the case of women with motherhood (Sjørup, 1999: 386). ‘Women’ were also conceived of in a specific way: according to their reproductive role as mothers and wives. ‘The concept of woman was depicted as forever one, grounded in the creation story, in the nature of woman, and in the archetype of Mary’ (Sjørup, 1999: 387).

<sup>139</sup> Sonia Corrêa gives the example of Rafael Correa, President of Ecuador from 2007 to 2017, who in 2013 dedicated one of his weekly TV programmes to talk against ‘gender ideology’ for being a tool to destroy the family (2017b).

The gender ideology battle has erupted in different countries of the world beyond Latin America, with various particularities (Corrêa, 2017a). Churches and religious leaders have been the main opponents to the discussion, recognition, and implementation of gender, sexual, and reproductive rights and policies (see, for instance, Pecheny et al., 2016: 206).

In an interesting development, Pope Benedict I has also attacked the colonial nature of ‘gender ideology’. According to him, Western feminist and LGBTQ advocates have manipulated the UN to impose their views over the South, which is depicted as closer to natural values (Bracke and Patternote, 2016b; Corrêa, 2017a: 289).

In Chile, as elsewhere, this fear of ‘gender ideology’ is not new. During the 1990s there was a reaction against gender policies; the Archiepiscopal See of Santiago’s *Departamento de Pastoral Familiar* published a booklet in 1995 called *Mujer, cuál es tu misión?* (‘Woman, what is your mission?’) (Fernández quoted in Sjørup, 1999), which describes a crisis caused by the ‘loss of the feminine and masculine’. According to the booklet, the existence of both genders is an ethical imperative essential for the ‘world’s balance’ (Sjørup, 1999: 399).<sup>140</sup>

In Chilean academia, the law professor Hernán Corral Talciani from Los Andes University has been one of the main critics of ‘gender ideology’ in Chile, especially in order to oppose the Gender Identity Bill (see, for instance, Corral Talciani, 2017). An article published by Henríquez and Corral Talciani affirms that

Gender ideology is an ideology in the negative sense of the word, namely, a world view imposed in a totalitarian way which does not account for real facts. Indeed, gender ideology represents an error in the understanding of human beings and their way of being, and it’s becoming increasingly clear that it embodies an attempt to institutionalize these theoretical, pseudo-scientific and inscrutable claims as a philosophy and as an official (and discriminatory) social anthropology of the state.

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<sup>140</sup> In the booklet, the Catholic Church gave ‘the task of reflecting the divine wisdom of the World to the man and to reflect the divine love of the Holy Spirit to the woman’ (quoted in Sjørup, 1999: 399). This role of women was contrasted with radical feminist and others called ‘anti-women’ groups. This is similar to a letter that Pope John Paul II addressed to women which, towards the end, said ‘actually it is by giving herself to others in the daily life that woman discovers the profound calling of life’ (quoted in Sjørup, 1999: 399).

The label is necessarily broad because there is no single ideological theory of gender, but multiple (2017: 52-53, my translation).

Regarding abortion in particular, as I have shown in other chapters, conservative campaigns have appropriated and resignified the concept of gender as a mere ideology. They have adopted new strategies, sometimes mimicking the feminist movements, for example with the use of artistic performances or discourses that show concern towards ‘women suffering’, blaming feminists for leaving women alone. Conservatives have argued that they are the ones defending the right to life, they are the ones resisting neoliberalism, and they are the defenders of women rights (the ‘genuine feminists’). In particular, they defend women’s ‘natural desire’ to become mothers, a right that is threatened by various forms of social vulnerability associated with neoliberalism. In one of her last acts as President, Michelle Bachelet was interrupted by a female young doctor who gave her a letter. The letter was published later and expressed her concerns in these terms:

Every woman who decides to end the life of her child, for one of the causes authorised by the law or other causes, bears painful reasons that push her to take that decision, like feelings of fear, loneliness or economic difficulties and not necessarily aversion towards the foetus [...] When abortion is offered as a solution, not only a human life different from the mother’s is attacked but also the woman is left in the same state of vulnerability that drove her to that decision in the first place (Yévenes and Silva, 2018, my translation).

This attack is problematic because conservatives portray themselves as the defenders of women being materially and socially able to have children, an antagonistic stance aimed at feminism which, according to them, leaves women alone. Feminists who defend abortion try to bring into the debate precisely this issue of the material and social conditions that enable a woman to have children or not, but this conservative caricature denies that.

There are particularities and commonalities to the strategies of this anti-gender campaign and the way in which it works in every country or region, but in the rest of this section I will briefly analyse three concrete cases in order to illustrate the way in which this attack has operated in Chile.

### iii) Three Cases

In this section I consider three different manifestations of the conservative articulation. The use of strong messages and images in the media and public space, as was analysed in the previous chapter, is deployed in the two first examples: the cases of the *Bus de la Libertad* and the campaign against the first doctor who performed an abortion. The last example, one of conscientious objection, shows the way in which the scope of the Abortion Act can be actually diminished when conservative institutions and the government act in a coordinated fashion.

#### a. The *Bus de la Libertad*

In July 2017, a bus called *Bus de la Libertad* (Bus of Freedom) drove through Chilean main cities carrying messages against the imposition of ‘gender ideology’ in the school system.<sup>141</sup> The bus was a project of *CitizenGo, Padres Objetores de Chile* (CitizenGo, parent objectors of Chile) and the *Observatorio Legislativo Cristiano* (Legislative Christian Observatory), an otherwise unknown group with evangelical roots. The slogan was ‘#Don’t mess with my kids. Nicolas has the right to have a mother and a father, less State and more family’.<sup>142</sup> This in reference to a book published by the Chilean government called ‘*Nicolas tiene dos papás*’ (‘Nicolas has two dads’).<sup>143</sup> According to the main spokeswomen of CitizenGo and organiser of the campaign, Marcela Aranda, the bus sought to denounce those bills and laws ‘that force children to be educated in a particular sexual and affective behaviour; parents have a right to decide that education, regardless of any government’ (Flores and Parra, 2017).<sup>144</sup> Additionally, they wanted to avoid ‘confusing children with gender ideology’ (quoted in Zuñiga, 2017).

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<sup>141</sup> This bus was used for the first time in Spain with the slogan ‘*Los niños tienen pene y... las niñas, vulva. Que no te engañen*’ (‘Boys have a penis and ... girls, a vulva. Don’t be fooled’) (see BBC Mundo, 2017).

<sup>142</sup> In Spanish, ‘*No se metan con mis hijos. Nicolás tiene derecho a un papa y una mama, menos estado y más familia*’.

<sup>143</sup> The book was launched in 2014 and tells the everyday life of a boy living with two dads, showing that there is no reason to discriminate against single-sex couples (see, for instance, Leal, 2014).

<sup>144</sup> Interestingly, Aranda’s daughter is a trans woman.

Similarly, in recent years conservatives have reacted against certain events, especially regarding the sexual education of children: the launch of the above-mentioned book *Nicolas tiene dos papás*, as well as a sexual education handbook launched by Santiago's City Hall called *100 preguntas sobre sexualidad adolescente* (100 questions on teenage sexuality), the distribution of the Emergency Pill to minors, the discussion of the Gender Identity Bill,<sup>145</sup> and so on. The conservative position is to defend the idea that children should be educated according to the principle that genders are different by nature, avoiding any challenge to traditional roles. The parents' right to control their children's actions regarding sexuality and the information that they receive is defended against the interference of the State.

The 'bus of freedom' circulated while abortion was being discussed, because abortion in particular is seen as one of the main threats toward traditional family values. Indeed, abortion entails the recognition of the separation between sexuality and reproduction and the challenge to natural roles, according to which woman's distinctive role is reproduction and motherhood.

Despite Chile being one of the least religious countries of the region, experiencing an increasing secularisation,<sup>146</sup> it is crucial to notice the strong influence of religious ideas in sexual and reproductive rights policies: through the State and political parties, and working in complicity with think tanks and civil society. The visit of the Pope to Chile in January 2018 was characterised by much less participation than expected (Rubin, 2018), which some suggested shows that the Catholic Church is not as popular as it was.<sup>147</sup> However, there are different ways in which this influence is actually practised. For instance, there are political parties formally affiliated with religious groups, as in the case of the Christian Democrats or conservative right-wing parties.

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<sup>145</sup> The Gender Identity Bill was introduced in May 2013 (Bulletin Number 8.924-07) and was approved by the Chamber of Deputies in January 2018. It still needs to be approved by the Senate in order to become a law.

<sup>146</sup> See World Survey Value (<http://www.worldvaluessurvey.org/wvs.jsp>)

<sup>147</sup> Additionally, the Pope defended a bishop who protected a priest who was involved in a famous case of paedophilia (Bonney and Ramzy, 2018).

But the relationship is not always formal; there are novel ways in which conservatives exert pressures on politicians.

The *Bus de la Libertad* is indicative of the continuous conservative reaction to feminist achievements using confrontational methods. The freedom to educate children that this campaign defends is actually problematic because such education can be very oppressive when considering gender and sexual identity.

### ***b. Abortion's First Doctor***

Doctors who perform abortions have also been attacked by conservatives. A picture of the first doctor who did the procedure under the new legislation, Gonzalo Rubio, was photoshopped to show his hands covered with blood and published in different media (*El Desconcierto*, 2018). This was a reaction to an article published in the newspaper *El Mercurio*, which told the story of the first abortion performed under the Abortion Act and the way in which healthcare providers were trained to do so. In the article, Rubio told the story of the first abortion: a 12-year-old girl who had an abortion after being raped. He worked in the Hospital San José, a public hospital located in Santiago. The girl lived in the south of Chile, Chiloé, but, as the Act was recently approved and the protocols were not yet published, it was difficult to find someone local to the area who was willing to perform the procedure. Doctor Rubio said that the girl arrived to the hospital with her mother and she hugged her teddy bear before and after the procedure (Chernin, 2018).

Once the article was published a campaign started against him. A group called *Cruzada Nacional Contra el Aborto* (National Crusade against Abortion) created the image described above and distributed it widely (Figure 8.1). They used the photograph from the article and photoshopped it in order to portray Rubio as a murderer, thus putting pressure on doctors and healthcare providers to object to or refuse to perform abortions. It was a succinct but powerful image to represent their objections to abortion. The *Colegio Médico* (Medical Association) immediately reacted, publishing a letter in defence of the decision of those doctors who followed the Act and stating that it was a serious matter that this kind of publicity could interfere with the implementation of the law, consequently affecting the reproductive and sexual rights of Chilean women (CHV, 2018a).



Figure 8.1. Advert created by *Cruzada Nacional Contra el Aborto*.  
Source: *El Desconcierto*<sup>148</sup>

### *c. Conscientious Objection*

Contentious objection is a particularly difficult aspect of the new Act. According to the original bill, only physicians were allowed to object to performing abortions on philosophical, moral, or religious grounds, providing administrators with prior written notice. Thus, such privileges were restricted to physicians performing the procedure and not to diagnosticians or medical teams. This was changed during the discussion of the bill to include all health staff, which can be considered as a violation of the freedom of physicians willing to perform the procedure and also as an unnecessary

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<sup>148</sup> <http://www.eldesconcierto.cl/2018/02/16/foto-grupo-provida-viraliza-afiche-en-contra-de-doctor-que-realizo-primer-aborto-legal/>



way to complicate the possibility of gaining access to an abortion (see, for instance, Casas, Vivaldi, and Alvarez, 2016; Figueroa, 2016). The Abortion Act establishes that if a healthcare professional who has objected is required, he or she should communicate the objection immediately to the director of the service and the service must find another healthcare professional.

Once the law was approved, a group of conservative senators and deputies filed two constitutional challenges before the law could be enacted,<sup>149</sup> and the Constitutional Tribunal extended the right to conscientious objection to entire institutions.<sup>150</sup> In the period up to March 2018, seven institutions have already objected to performing abortions, either just in the case of rape or on all the grounds (*El Mostrador Braga*, 2018a). A protocol published by the Ministry of Health details the regulations.<sup>151</sup>

In the original protocol, public and private hospitals that receive funds from or have special agreements with the State were not allowed to object as institutions. Some hospitals and clinics that receive funds from the State considered that this imposition violated certain fundamental rights. The Catholic University, for instance, filled a lawsuit against the protocol because, according to them, it violated the rights of free association, equality before the law, freedom to express their beliefs, and the right to property (Blanco and López, 2018). The president of the Medical Association, Izkia Siches, reacted saying that the regulation followed the recommendations of the Medical Association, that the duty of the State was to guarantee access to abortion, and that conscientious objection should be absolutely exceptional. The lawsuit was rejected. However, the *Clínica Alemana* (German Clinic) of Osorno, a city in the south of Chile, also presented a lawsuit, and the *Corte de Apelaciones* (court of appeals) of that city suspended abortions in that clinic. The lawsuit quoted the Bible directly, in order to show that ‘God was against abortion’ (*El Mostrador*, 2018b). A

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<sup>149</sup> Sentencia del Tribunal Constitucional de Chile Rol N° 3729, 28 August, 2017.

<sup>150</sup> Different academics have criticised the right to object for institutions (see, for instance, Figueroa, 2016).

<sup>151</sup> ‘Protocolo para la manifestación de objeción de conciencia personal y para la objeción de conciencia invocada por instituciones en el marco de lo dispuesto en el artículo 119 Ter del código sanitario’, published on 27<sup>th</sup> January 2018.

private clinic, *Clinica Indisa*,<sup>152</sup> also objected to abortions in the case of rape (Leiva, 2018). In this case feminists called people to stop going to the *Clinica Indisa*, as a way of protesting against the decision. These hospitals and clinics represent either economic and/or religious powers exerting, formally or informally, pressure to avoid the actual fulfilment of the Act.

On 23<sup>rd</sup> March 2018, just 12 days after the beginning of his new period as president, the protocol was changed by Piñera's government in order to facilitate institutional conscientious objection.<sup>153</sup> According to the new regulation, any institution can object, regardless of where its budget comes from or whether it has an agreement with the State. Thus, more obstacles are created in order to prevent abortions. As a result of this new regulation, the Catholic University immediately withdrew its lawsuit against the original protocol (*La Tercera*, 2018). There was a strong reaction against this decision by feminist movements and those politicians who supported the Act (*El Mostrador Braga*, 2018b). Finally, the Office of the Comptroller General (*Contraloría General de la República*) ruled that the protocol was unlawful.<sup>154</sup> The Catholic University and other institutions, however, are threatening to use other legal resources in order to overturn this decision. Additionally, in some regions of Chile all the gynaecologists who work in public hospitals have objected (see, for instance, *Cooperativa*, 2018; *El Mostrador Braga*, 2018c), so women will have to travel to other cities in order to have the procedure. These are all strategies to block the implementation of the law.

Even in countries where abortion is permitted on women's request, such as Uruguay, Mexico or Italy,<sup>155</sup> conscientious objection has proved to be a problem for those women who need an abortion. Feminists are concerned about this, and they are monitoring the situation in order to guarantee that women will not be denied an

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<sup>152</sup> The *Clinica Indisa* does not have a particular religious affiliation. However, the archbishopric had shares in the clinic until 2017.

<sup>153</sup> <https://www.leychile.cl/Navegar?idNorma=1114188>

<sup>154</sup> <http://www.latercera.com/nacional/noticia/contraloria-anula-protocolo-objecion-conciencia-aborto/159245/>

<sup>155</sup> For the cases of Mexico and Italy, see, for instance, Borzachiello, 2008. For Uruguay, see, for instance, Coppola et al., 2016.

abortion because there is nobody available to provide it or because their health insurance only covers the institutions which are listed as objectors.

As this case illustrates, the use of administrative acts (protocol) in order to limit the scope of the law can be quite efficient. The protocol was changed, in part, by the pressure of certain institutions such as Catholic University and *Clínica Indisa*, which occupy an ambiguous space between public and private. What is challenging for feminism is that this precedent opens the door for new administrative acts that tend increasingly to restrain the reach of the law by facilitating the conscientious objection of medical institutions and professionals, even though in this case the Office of the Comptroller General reverted the situation. There are power relations and alliances between economic elites and religious conservative groups articulating this restraint on the expression of the law. This articulation has gained force as the interests of the new right-wing government aligns with those of conservative groups. The final impact occurs in the actual women's bodies that are being governed.

### **III. The Risk of Co-option of Feminist Work and Neoliberal Attitudes<sup>156</sup>**

In this section I consider the risks for feminism of being co-opted by neoliberal governmentality while helping women to gain access to abortions. The challenge then is for feminism to remain faithful to some fundamental values and ideas in the midst of an economic rationality that erodes democratic institutions, promoting individualism and anti-welfarism. Without simplifying the variety of feminisms, but also without being completely defined by such variety, feminism involves a form of political critique and social solidarity that seems particularly menaced by neoliberal rationality. In the case of Chile, that rationality appears intermittently in some positive formulations of feminists defining their own work for the purpose of liberalisation; it is manifested in the actions for helping women to abort , or sometimes appears in an exercise of self-critique, like the reflection of Viviana Díaz, activist of *Con las Amigas*

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<sup>156</sup> In this section I will draw upon some interviews that I carried out as part of some earlier research, as was described in Chapter Three.

*y en la Casa*. According to her by supporting women who abort, as feminists we *le hacemos la pega al Estado* (we are doing the work of the State). Insecure abortions involve high costs for the State and the health care system: women may get sick, spend long time on sick leave, die or face serious complications like reproductive problems.

For a long time it has been known that to legalise and guarantee abortion is an important public health measure for all the States. It is much cheaper to have safe abortions than to pay for the consequences of unsafe abortions, and for now we are doing that job for the State (quoted in Etcheberry and Vivaldi, 2016, my translation).

This declaration is a good illustration of how the debate, at least in some quarters, is aware of how feminist conceptions of the subject and power are muted when abortion becomes part of the biopolitical administration of the State and feminists are co-opted into helping that process.<sup>157</sup> *‘Le hacemos la pega al Estado’* neatly summarises the risks of co-option for feminist strategies of abortion: the most vulnerable end up being charged for (and in charge of) a significant part of the costs and dangers of the ‘administration of life’ involved. In order to get a better understanding of this co-option we need to explore the character of the paradoxical constitution of the subject under this power regime: responsible, vulnerable, dispossessed, resilient, self-reliant, and non-univocally autonomous.

### **i) ‘Doing the Work of the State’: Responsibility and Vulnerability**

In Argentina there has been an interesting tension, as Díaz et al. (2013) comments, because by opening up the possibility of safe abortions at home, as well as promoting the medical legitimacy of the self-administration of abortive pills, the work of the *Lesbianas y Feministas por la Descriminalización del Aborto* (LyF, Lesbians and feminists for the decriminalisation of abortion) has been criticised for its lack of attention to the fight for legalisation. It is argued that LyF has concentrated on ‘organising clandestinity’ (Díaz et al., 2013). In other words, there is a risk that abortion will remain prohibited because there is a group *haciéndole la pega al Estado*

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<sup>157</sup> See, for instance, Fraser, 2013; Dodge and Gilbert, 2015; Szendi, 2014.

(doing the work of the State), and consequently the State has no motivation to take on a job and a cost that is already being taken care of by someone else. The State does not have to address the injustice of the situation, nor ameliorate the precarious condition of those in charge of the work. This victory of providing women safer methods to abort is, therefore, precarious.

In a similar way, ‘doing the work of the State’ implies also that the State does not know (or can be legitimately oblivious to) *who* is aborting; what *kind* of woman. This obliviousness of State policy allows for a series of stereotypes (racist, sexist, classist), which means that in the end the most vulnerable women are targeted, by healthcare professionals and also by the criminal system in general,<sup>158</sup> receiving different treatment in hospitals or private clinics when they have complications with their abortions or when healthcare professionals suspect that they have had one. Accordingly, ‘high-class “fair and resourceful” women do not abort, but poor women, teenagers, and immigrants do’ (Díaz, in Etcheberry and Vivaldi, 2016). Consequently, as Viviana Díaz has commented, working-class, young, and migrant women are part of a population that the medical staff feel entitled to judge and discriminate against, but ‘when we have accompanied upper-class women, who also seek our help, they never have a problem, never’ (Díaz, in Etcheberry and Vivaldi, 2016). As an interviewee puts it:

As I could not tell the doctor the truth, because I didn’t want to end up in jail, I had to put up with a much riskier option... Also, not having money, I was really angry thinking about this friend who could afford proper care... Being forced to go to a slaughterhouse because you’re poor is a violent experience (Casas and Vivaldi, 2014).

As mentioned, the use of misoprostol is a worldwide phenomenon.<sup>159</sup> Undoubtedly it has decreased the risks associated with clandestine abortion, and additionally it has the potential to give greater autonomy to women; a doctor or hospital is no longer needed

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<sup>158</sup> During the 1990s different research showed that the criminalisation of abortion affected poor women to a larger extent (see Casas, 1995; Foro Abierto de Salud y Derechos Sexuales y Reproductivos, 1998. More recently, Eguiguren and Ferrer, 2014; Casas and Vivaldi, 2013).

<sup>159</sup> For instance, a special issue of the journal *Contraception* was recently dedicated to medical abortion. See Berer and Hoggard, 2017.

to perform an abortion,<sup>160</sup> and women generate solidarity networks which resonate with the idea of relational autonomy. But at the same time, as health policies remain unaware of this practice and the responsibility falls back on to a clandestine agency, marginalised women get the worse deal. While analysing the case of Ireland, in which abortion is also very restricted, Sally Sheldon offers a similar view. She proposes a ‘harm reduction approach’ in which local State agencies provide information to women:

Providing women with information that empowers them to manage their own pregnancies cuts against the grain of a powerful Irish discourse of women as victims of both unwanted pregnancy and those who offer abortion services. However, it would also reflect a second important understanding of women in Ireland, which has equally been relied upon by the state as a means of avoiding responsibility for the provision of services: as cosmopolitan and capable of travelling to access the health services that they need. By extension, it might be suggested that modern cosmopolitan citizens do not just travel to access services, they are also consumers of pharmaceutical products, capable of researching and evaluating medical information, accessing services online and ordering the pharmaceuticals that will travel to them. This can nonetheless expose them to risks, raising the issue of the state’s responsibility to offer appropriate support, protection and objective information to those citizens (Sheldon, 2016: 97).

As Sheldon points out, the case of misoprostol illustrates the self-reliance of women in contact with the wide (potentially global) network of possibilities that is offered by the market. As the State takes a step back, women (organised by themselves) fill the gap through their own initiative and the tools available on the market. This step forward and increased agency involves a certain proficiency, the absence of which can be paid for dearly, both in terms of personal or psychological alienation and in physical terms associated with pharmaceutical treatments.

In ‘doing the work of the State’, individuals are meant to perform a certain kind of resilience that becomes a means for neoliberalism and ‘forces its subjects to abandon dreams of achieving security and to embrace danger as a condition of possibility for future life’ (Bracke, 2016: 69). We see many examples of this. In my interviews,

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<sup>160</sup> Recent research has shown, however, that women do use the healthcare system in order to be sure about their pregnancy and after the abortion in order to know that it was successful (Palma et al., 2018).

almost all women who aborted told me that their first reaction was to blame themselves for getting pregnant: ‘How was I so stupid? I should have known better!’ This is the general opinion that is repeated over and over. In the interviews one hears that pregnancies are a result of failure or misuse of a contraceptive method or of having unprotected sex, and in many cases women are angry at themselves for having put themselves at risk, seeing it as a form of neglect of themselves. They feel guilty for not having taken better care of themselves. That might seem ‘justified’ when abstracted from other social elements. In a couple of cases, the person who performed the abortion told women to keep their mouths shut, as they lay on stretchers, because ‘they have voluntarily assumed the risk of the pregnancy’ (Casas and Vivaldi, 2013: 105). Another interviewee told me how much she wept, as the pains came and went, feeling terribly lonely despite having five sisters who could have accompanied and cared for her. The interviewee didn’t want to ‘tarnish her reputation’; she didn’t want ‘for them to make her feel that she had failed them’. When I interviewed her, it was nine years since the abortion and it was the first time she had talked about it (Casas and Vivaldi, 2013: 105).

Where does this self-blame come from? To the neoliberal mind it is an assumption that everybody wants to succeed, not let other people down, reach their full potential, etc. More often than not, people might ‘remain attached to unachievable fantasies of the good life – with its promises of upward mobility, job security, political and social equality, and durable intimacy – despite evidence that liberal-capitalist societies can no longer be counted on to provide opportunities for individuals to make their lives “add up to something”’: what Lauren Berlant calls ‘cruel optimism’ (2011). While it might be obvious that we can recognise those interests in ourselves, a critical approach notes how those interests acquire an idealised form in neoliberal ways of thinking, and that one of the consequences of this idealisation is that those interests can become isolated and tend to flood the spectrum of values. Arguments once common, such as ‘everybody makes mistakes’, and that decision-making in the real world is always imperfect, and that we need each other to thrive, etc., are eclipsed by a neoliberal logic of self-sufficiency, risk-plans and resilience.

In the extreme case, ‘doing the work of the State’ goes hand in hand with a state of vulnerabilisation and dispossession that can be interpreted in terms of Agamben’s *nuda vita* (bare life) (1998). That is the argument of the Argentinean scholar Barbara

Sutton (2017) as she juxtaposes detention and disappearance, forced abortions and clandestine abortion (she is analysing the politics of the body in Argentina from the dictatorship onwards, where the body is understood as a political place of discipline and resistance):

The figure of clandestinity – and in particular the clandestinity of abortion – what can it tell us about the exertion of the state’s sovereign power in modern democracies? How is it that state violence is implicated in the production of hidden bodies (in particular those of women), bodies that are nonetheless exposed to danger with total impunity? Is the violent control of these hidden and excluded bodies a condition of keeping up the illusion of sovereign State’s unified body? (2017: 890, my translation).

In the power dynamics of clandestinity there are tensions between inclusion/exclusion, visibility/invisibility, and what is known/neglected (2017: 892). Sutton quotes Deutscher:

This is the paradox of representing women as a menacing and sovereign power over the foetus, which in turn is falsely represented as *homo sacer*: in this way women are reduced to a reproductive life, and even more bare life, exposed to the hegemonic intervention of the state that annihilates the woman who is erroneously represented as ‘rival sovereign’ who exposes a life. While the woman is represented as one that exposes the life of other, she herself remains subjected, exposed and reduced to a life even more bare (2008: 67, in Sutton, 2017: 894).

In that sense, there is a paradox involved when women chose to abort clandestinely because, as women are constructed as *nuda vita* and dispossessed of basic rights by confinement in clandestinity, ‘they are affirming and reclaiming their whole humanity through the active rejection of the commandment to be merely reproductive organs’ (Sutton, 2017: 899). This represents a challenge for contemporary feminism because it remains to be seen how dynamic and durable this exercise of freedom can be. This freedom seems particularly at risk as long as remains conceptualised and practised individualistically and isolated or trapped in rigid and abstract institutions. If by ‘giving citizenship to the foetus’ women are denied their own citizenship, maybe in that political exile women can gain a form of ‘negative freedom’: by aborting clandestinely they gain the freedom of not being ‘just a reproductive organ’. This seems particularly clear, for instance, for lesbian-feminist groups that, under the slogan of ‘*aborto activado*’ (activated abortion), in which the practice of facilitating abortion is crucial, emphasise both the possibility of agency beyond the control of the State and taking advantage of the available pharmacological resources, as well as



including the ‘other women’ invisibilised behind the abstract and isolated women of ‘choice’ (Pampín, 2014). As Foucault suggests, this freedom becomes full only in relation to others, in relation to other conducts and behaviours, in an engagement of power relations, etc. There is no liberation from power, just as we are never totally determined by power. Beyond determinism and radical voluntarism the space of freedom is a struggle and practice without beginning or end (Butler, 2008).

## ii) Choice and Autonomy

We have seen in Chapter Six that the notions of choice and autonomy were central in the parliamentary discussions, and in the arguments for abortion in particular. Moreover, some of the Chilean mottos and campaigns (considered in the previous chapter) show, if not a direct influence, at least fundamental similarities with the model of the successful pro-choice lobby in the United States and elsewhere (Gleeson, 2014). By contrast, we saw how the case of misoprostol has been able to shift the emphasis towards the *collective* aspect of choice and autonomy, but it remains nonetheless in constant danger of unwittingly subscribing to a different discourse. Indeed, it has been argued for some time now (Wolf, 1995; Gleeson, 2014) that the pro-abortion discourse centred on ‘choice’ subscribes to an individualistic philosophy. Chilean feminism has not been a stranger to this debate: the conservative philosopher Daniel Mansuy (2016) published a discussed piece entitled ‘The triumph of individualism’, in which he argues that the movement for liberalisation of abortion (especially in its socialist and Christian-Democrat versions) subscribes to an individualist principle that they themselves claim to abhor. In a similar tone, the ex-Christian-Democrat senator Soledad Alvear (in T13, 2016) claimed that ‘*el aborto es lo más machista que hay*’ (‘there is nothing more sexist than abortion’). It was readily pointed out (Bellolio, 2016; Penaglia, 2016) that the pro-choice movement, including its Chilean variant, has made use of a certain liberal doctrine of individual choice, but always in view of its connection with other equally important principles (equality, justice, solidarity) and rooted in a wider collective struggle going back many decades. Moreover, as Penaglia (2016) points out, there is no reason why the achievements of individual freedom need to be reductively explained by the subscription to an individualistic doctrine, as if one were to describe the fight against slavery as merely individualistic and not as part of a collective fight aimed at changing the relations of production. However, it is important for feminism to be aware of such criticisms, as

they are rooted in a real risk of adopting the rationality and the values of the situation one is trying to transform. The Left did use a liberal argument to explain their vote, which does not commit them to a narrowly construed individualistic world view, but, as they engage with that discourse, they might become oblivious to other strategies and ways of seeing.

Recent feminist attempts to reconceptualise autonomy as 'relationality' or 'relational autonomy' are promising attempts to incorporate the values of interdependency and care. They are premised on the shared conviction 'that persons are socially embedded, and that agents' identities are formed within the context of social relationships and shaped by a complex of intersecting social determinants, such as race, class, gender, and ethnicity' (Mackenzie and Stoljar, 2000: 4). Usually, pro-life movements deny autonomy to women. Sabsay points out that it is not the capacity for making autonomous decisions per se which is questioned, but rather women's 'right to exercise this capacity over another sacred value: the life of the foetus. It is the legitimacy of the choice that is in question, not necessarily the faculties of the subject as an autonomous being that has the ability to choose' (Sabsay, 2016a: 171). The usefulness of this distinction between the legitimacy of the choice and the faculty to make that choice is manifest, for instance, in the case of sexual workers or the use of hijabs, where women are not recognised as political subjects capable of making certain choices; in these cases, what is in question is the capacity itself. However, in the case of abortion, I believe that not only the legitimacy of the choice but also the faculty to make the choice are questioned. Indeed, when it works in the conservatives favour, the woman is sometimes seen as 'freely' deciding to abort and thus guilty, or is seen as victim of circumstances that impair her capacity to make the choice. In the first case, women's choice is morally questioned by conservatives because of the life of the foetus, as Sabsay argues; the woman shows a kind of 'moral deficit' (2016a: 171). Josefina Brown (2016) offers an interesting illustration of abortion from the perspective of the liberal-self, who is in control of her choices. Brown analyses the process of individuation of abortion in the neoliberal context and the way in which to abort appears as a failure of the neoliberal subject in her ideal of autonomy as independence, self-control, rationality and calculation. In this way, the blaming is conceived in terms of lack of control and irresponsibility (for instance, adopting adequate contraceptive methods). There is no space for mistakes or for chance. Considering what we have seen about the concrete cases of women aborting, the

importance of contextualising abortion and recognising the opacities of autonomy becomes clearer: in ‘real life’, not in the abstraction of the means-end rationality of the *homo economicus*, women can indeed ‘fail’, they can change their minds, or things can simply go differently from what is expected.<sup>161</sup>

Sabsay argues that ‘freedom as autonomy can reveal itself as a mechanism of control, for instance, by undermining the ideal of freedom and the freedoms we might imagine for ourselves, or detaching questions of freedom “as a subjective capacity” from the social and economic conditions in which subjects could be actually free’ (Sabsay, 2016a: 167-168). The neoliberal twist of the conservative argument has also included the capacity to choose as an argument against abortion. Sabsay is right in pointing out that (generally) arguments against abortion are directed not against the capacity of choosing as such but against the choice (they chose the wrong choice because they failed to recognise the rights of other, etc.). But it is interesting to note that we can find in the Chilean debate something different: conservatives have started to question women’s very capacity to choose, as was seen especially in Chapter Six. They have maintained that no woman will (or could) ‘freely and autonomously’ choose to have an abortion. ‘No woman in her right mind would choose to have an abortion’, where ‘right mind’ seems to imply some basic psychological and material conditions (such as not being delirious or forced by poverty, etc.). According to the conservative view, either motherhood is so important and central for women that if they had the material and social conditions they will always choose to have the baby, or abortion always entails suffering so any woman will choose to avoid it. This perspective victimises and infantilises women: they are not capable of making reasonable reproductive decisions, and thus dissuasive counselling is needed (as we saw in Chapter Six and in the previous section of this Chapter). In this sense, it resonates with the abolitionist liberal feminist arguments regarding the lack of autonomy in the case of sexual workers, according to which a woman will never freely chose to be a ‘victim of sexual exploitation’ (Sabsay, 2016a: 168).

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<sup>161</sup> It is interesting to note that the three grounds allowed in the new bill escapes this logic, because the three cases act as an excuse to release women from responsibility, most of the time using the already-mentioned argument of ‘victims’.

Another problem with (neo)liberal autonomy, which obviates or denies the relational and socio-political background of choice, is that ‘neoliberalism operates as a technique of “governmentality” that aims to shape citizens’ attitudes and behaviours by reinforcing the autonomy of individuals as against the agency of politicized collectives’ (Undurraga, 2015: 14). In this sense the relations between people are dismissed. But it is when the interbody dimension is at the centre of agency that we enable alternative ways of thinking and experience action in ways that were unthinkable when agency is conceived merely in terms of an individual narrative (Macón, 2014: 17). We cannot ‘be’ if it is not already outside of ourselves, as Sabsay paraphrases Butler (Sabsay, 2016a: 176). This new understanding of vulnerability can help. Vulnerability ‘emerges from subject’s relationality and it is constitutive of our capacity for action’ (Sabsay, 2016c: 285). Vulnerability, from a relational perspective, ‘is based on the subject’s radical dependency and capacity to affect and be affected, which, in turn, indicates the vulnerable character of subjectivity’ (Sabsay, 2016c: 279, following Butler). In this way, ‘relationality refers to the fact that bodies depend on others and on social means to survive and flourish. This dependency is one of the things that mark us as precarious beings’ (Sabsay, 2016a:177). In this sense, as mentioned, human-rights rhetoric of the kind ‘*mi cuerpo es mio*’ (‘my body is mine’) remains problematic. Are these concepts appropriate for the situation in Latin America or Chile? Can they be reappropriated? A necessary and preliminary understanding of these questions involves, as we have seen, at least two things: a critique of human rights in general (as we saw in the literature review and other chapters), in terms of its abstraction and its liberal ascendancy, and the shift in the abortion discourse from autonomy, understood individualistically, towards the relational model in which vulnerability, precariousness, and solidarity are underlined.

Additionally, if women are labelled as ‘in need of protection’ and thus without the capacity to act, ‘biopolitical forms of control and regulation will be expanded’ (Butler et al., 2016: 5). Or, according to Bell, following Foucault, ‘as soon as one constructs a “vulnerable population”, the figure of a potential *homo sacer* if you like, one is caught in the biopolitical game, making populations and their lives the focus of administrative attentions while necessarily also drawing distinctions’ (Bell, 2010: 17). This resonates with Fassin’s argument that even humanitarianism has the potential to engage, in practice, in the constitution of distinctions that arrange human lives in a hierarchical fashion (Fassin, 2007, in Bell, 2010: 17).

There is, in sum, a serious challenge for feminism in facing the neoliberal retreat of the State and the neoliberal rationality that lurks in its own discourse. As the State takes a step back, feminist women and groups fill the gap creatively and courageously. Chilean feminism is still ambiguous as to how to deal with neoliberalism, but it seems clear that it is starting to steer away from a consumer-centred figure of autonomy. In that sense, the efforts promoting solidarity and independent organisation seem particularly promising in facing the risks of clandestinity, self-blame, and vulnerability.

#### **IV. Problematising the Figure of the Woman at the Centre of the Abortion Debate**

Contemporary feminist interventions have problematised the figure of the woman at the centre of the debate about abortion in a number of ways, but I will highlight just two of them: the analysis of affects at the centre of abortion and the role of sexual dissidence and *cuir/queer*<sup>162</sup> movements. The focus on affects has been instrumental in challenging the figure of the woman as a suffering being who needs support, and thus in moving beyond the ‘pro-choice’ or ‘pro-life’ dichotomy to a much more complex interconnection. Secondly, sexual dissidence and *cuir/queer* movements have become increasingly influential actors in the fight for abortion, mainly by bringing into the debate several challenges to feminist discourse and practice. The ‘affective turn’ can be, thus, an interesting tool for analysing these new articulations.

##### **i) Affects Around Abortion**

In recent years there has been a change in the feminist strategies dealing with the affects or emotions<sup>163</sup> linked to abortion. They started from affects that involved the victimisation of women, such as unprotection and sadness, to lately emphasising

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<sup>162</sup> The groups that I will analyse in this section do not identify themselves with the ‘LGBT’ movement because it is critically seen as a movement based on identity. Moreover, these groups resist the inclusion of the ‘Q’ in the acronym LGBT. There are not, then, part of the LGBTQ movement, but they position themselves as queer or *cuir sudaka*, or lesbo-feminist antiracist and decolonial groups.

<sup>163</sup> I am using ‘emotions’ and ‘affects’ interchangeably following Sara Ahmed’s tradition (2004a, 2004b, 2010).

opposite affects such as joy and happiness, and in this way articulate both in a complex correlation.

Affectively speaking, the process of abortion is a complex one; oversimplifications risk portraying women as victims and abortion as an experience of extreme suffering coloured in the darkest moral tones. As has been shown in the previous chapter, some feminist groups have ‘used’ the idea of women as victims in order to liberalise the law, but, however necessary or beneficial this might have seemed at the time, it also involved an oversimplification that is oblivious to the ‘messiness’ of the experience of abortion; to all the mixed emotions and affects that the decision to abort entails.

Some recent groups have started to emphasise just this point, that the experience of abortion is a mixed process including both joy and suffering, and, moreover, so is the practice of accompanying women in the process of having an abortion, which is offered by some activists. This has led to a more nuanced approach to abortion that aims to overcome the traditional dichotomies and oversimplifications. Indeed, I believe that many theoretical ideas that have explored the complexity of affects within a critical feminist ‘affective turn’ (Ahmed, 2004a, 2004b, 2010; Macón, 2013) can be helpful here. Moving beyond a closed psychological or individualistic approach, Ahmed for example, understands affects and emotions as social and cultural practices. She writes, ‘feelings do not reside in subjects or objects, but are produced as effects of circulation’ (Ahmed, 2004a: 8); this is what she calls an ‘affective economy’. The critical affective turn focuses on the role of affects in the public sphere, in particular looking beyond the dichotomy between ‘good and bad; affects, where the negative affects are related to what is paralyzing and disempowering, and the positive affects are related to the capacity to motivate action. A key point is that no affect is by itself oppressive or liberating’ (Ahmed, 2004a).<sup>164</sup>

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<sup>164</sup> Affects like shame, hate or depression, for instance, have been explored in their political consequences, productive dimensions and performativity. The case of shame as a queer emotion has been analysed by Sedgwick (2003). Berlant has also analysed ‘cruel optimism’ and its paralysing effect (2011).

If we think about abortion, this is very pertinent. In the ‘affective economy’ that surrounds the experience of aborting clandestinely and the practice of accompanying women who are having abortions, many affects are circulating. According to Macón,

suffering or even trauma are not conceived as mere limitations of action, but rather part of it. Thus, the wounded identity – the identity built up from a trauma or wound – which is part of subordinate studies, moves beyond the victim/agent dichotomy. Pain, shame, and desperation can be elements that nuance this distinction: the presence of any of these affects associated with victimisation can be conceived as key elements in the processes of empowerment and agency (Macón, 2013: 23-24, my translation).

In the context of feminist networks collectively supporting abortion, affects like fear, insecurity, and anxiety are no longer synonymous with a lack of agency. Furthermore, women can show joy and relief, the happiness of the abortion having been done, and not keep it as a secret. Indeed, the ‘social decriminalisation of abortion’ that I have described above has as one of its objectives to separate abortion from the signifiers of suffering, danger, and tragedy by which it is usually reductively described.

As mentioned previously, recent campaigns have created slogans such as ‘I love abortion’, ‘I love misoprostol’, or ‘*¡Sin doctor ni policía nuestro aborto es alegría!*’ (without a doctor or the police, abortion is joy!). There is certainly a political colour in these declarations, not only because they are professed in a political context; there seems to be an explicit attempt to reinterpret and resignify an experience that is commonly described as painful. The campaign *Miso Pa Todas* (*#Infinitascausales*) has also introduced the affective aspect of abortion by reinterpreting what a safe abortion is in terms of intimacy and friendship. Consider the slogan ‘*Aborto feminista es un aborto seguro. Aborta con las amigas*’ (‘A feminist abortion is a safe abortion; abort with female friends’). There is an explicit call to abort with *female* friends and not *male* friends. The very name of the collective *Con las Amigas y en la Casa* (With [female] Friends and at Home) conveys these affects of intimacy, friendship, and security. Moreover, in these feminist practices there is an attempt to reclaim the private/public dichotomy, frequently an object of questioning and reconstruction for

feminism. There is, however, a certain ambiguity in the subtext: ‘If you are a threat for the State, be happy and abort at home with friends’.<sup>165</sup> Is it an active call for the politicisation of the private or a symptomatic response to a retrenchment of the public? This is discussed in these movements that support abortions at home. Moreover, the call to abort ‘at home’ involves an expansion of the conception of home itself. In conditions of clandestinity, the space generated by these networks of trust can become a home, in contrast to the exposed space of the public. Even if there is abortion on demand, the use of misoprostol would be a political possibility that bypasses the hospital, and the patriarchal medical gaze, which can be violent too, in favour of affective networks that take on the administration of health. This is very particular to the Latin American case, that these groups are not necessarily fighting for the individual right to have a slot in the hospital but for networks of support and care during the process.

Furthermore, this perspective of abortion activism allows us to consider affects that do not remain anchored to old dichotomies (positive/negative, disempowering/empowering) but give passage to potential new collectivities, memories, subjectivities, and affective directions. For instance, even if abortion is joy, it is still important and complex for activism to give space to the possible mourning or grief, or to the pain and dangers associated with unsafe abortion. Additionally, Nayla Vacarezza highlights:

The abortion-rights movements cannot simply forget the pain, since women continue to die from unsafe abortions and the state continues to imprison women for having abortions. Leaving aside these forms of injustice, violence and suffering would imply denying past and present injustices still suffered by women (2017: 1).

In this sense, we cannot forget that, as feminists have argued for years, abortion-related deaths and criminal prosecution are extreme forms of injustice and violence against women (Vacarezza, 2017: 1). Of course, the impact of these injustices hits

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<sup>165</sup> <https://conlasamigasyenlacasa.tumblr.com>



harder on more vulnerable women. There is a challenge for feminism in articulating these complex and often conflicting emotional demands.

Recently for feminist groups, it has been important to collect different experiences and voices, in order to deconstruct normative ideas about motherhood, instincts, and the idea of a natural destiny for womanhood – which to a great extent it is what is at stake with abortion. An interesting example of this effort to collect experiences is the ‘*Cuaderno de Cuidados, pre durante y post aborto (con pastillas)*’ (‘Care Notebook, before, during and after abortion (with pills)’)<sup>166</sup>, created and published by the Chilean and Argentinean organisations *Mansa Ballena* (Argentina) and *Adelitas* (Chile). The *Notebook* gathers the testimonies of women who have decided to abort and the work of accompaniment in countries where abortion is restricted.

This *Notebook* does not engage in a detailed description of how to perform an abortion with misoprostol, because there is a lot of material already available. The content of the *Notebook* has been gathered and designed to accompany the process of abortion with pills from a particular feminist and care-between-women perspective. All women involved in the production of the *Notebook* have worked under the principle that a woman who decides to interrupt her pregnancy deserves the same care and protection as a woman who desires and decides to give birth (Adelitas and Mansa Ballena, 2016: 8).

One of the first pages of the *Notebook* quotes Carol Gilligan:

‘Care is a feminist, not a feminine ethic, and feminism, guided by an ethic of care, is arguably the most radical (in the sense of going to the roots) liberation movement in human history’ (Gilligan, 2013, in Adelitas and Mansa Ballena, 2016: 4).

Indeed, the objective of the *Notebook* is to serve as accompaniment and also to facilitate the circulation and communication of experiences that promote the work of care and solidarity between women. It includes various advice on decision-making,

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<sup>166</sup> See [http://cuadernodecuidados.blogspot.co.uk/2016/06/cuaderno-de-cuidados-pre-durante-y-post\\_16.html](http://cuadernodecuidados.blogspot.co.uk/2016/06/cuaderno-de-cuidados-pre-durante-y-post_16.html)

such as what to look for and do before and after the procedure, including traditional medicinal herbs and special diets. Moreover, there is what we could call a ‘pedagogy of feminist care’ that generates and shares new knowledge around abortion. The *Notebook* also introduces some non-hegemonic knowledge, from a diverse ‘ancestral’ praxis of caring akin to various Latin American decolonial feminisms.

This is an example in which the feminist community (national and international) gradually consolidates memories, experiences, and affects. In this way they are creating a ‘feminist memory’, not just for the sake of an archive but also to create a way for shared experience to help women and the accompanying of women having abortions: how much pain is normal, how much bleeding is normal, etc. This is interesting because here, again, performatively a certain ‘norm’ of the body and experience is produced and reproduced, this time in order to support women. The handbook is an archive about the past, for the present and the future. One might say that ‘the past returns not in general but fashioned for present purposes and in order to settle specific demands in the present’ (Bell, 2014: 59). This opens a question about the biopolitical present, about how feminist praxis and reflections deal with the administration of life and self-discipline: becoming aware of what is happening with our bodies and our affects and how they are implicated in a broader political context.

Another instance that problematises the affects involved in abortion, and, in particular, that sees abortion as a matter of care among women in a community, is the project *Mujeres que abortan con medicación en segundo trimestre de gestación acompañadas por activistas feministas socorristas. Un estudio cualitativo para comprender estas experiencias* (Women who abort with medication during the second trimester accompanied by activist feminist *socorristas*<sup>167</sup>). A qualitative study to understand these experiences.<sup>168</sup> The project was developed by the Argentinian *Colectiva Feminista La Revuelta*, *Centro de Estudios de Estado y Sociedad* (CEDES, Feminist Collective the riot, Centre of studies of the State and societies) and IBIS Reproductive

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<sup>167</sup> The word can refer to helpers or the members of a rescue team.

<sup>168</sup> The project can be found at La Revuelta et al. (2017). For an academic analysis of the project see Zurbriggen et al. (2018).

Health, but it has resonated in Chile. It collects stories and experiences from women who accompany others and from women who aborted between weeks 14 and 24. Abortion after the first trimester is a controversial subject even among feminists, and one of the objectives of the study is to challenge the medical gaze, which, according to the activists, deny other perspectives and values, like practices of community health, on which these experiences are built. Additionally, ‘the *Socorrista* model of abortion accompaniment is fundamentally rooted in the feminist value that women have the ability and the right to make informed decisions about their bodies and lives’ (Zurbriggen et al., 2018: 113). Most women who have an abortion after the first trimester are younger and more frequently live in poverty than those seeking the procedure in the first trimester (Zurbriggen et al., 2018: 109). The activists acknowledge the difficulties of summarising the reasons for having an abortion after the first trimester:

One might say that the ‘objective’ time of the physiological process of pregnancy is something that is crossed, shifted, and in tension with the narratives of a rather ‘subjective’ experience of time, an experience of time that is associated with the social and personal conditions that these women go through (my translation).<sup>169</sup>

A delayed decision imposed by a lack of information and adequate attention gets mixed up in these stories with other forms of urgency, uncertainty, doubt, denial, fear, and violence. Commonly the reasons ‘include delays in pregnancy recognition, logistical or financial barriers to accessing care earlier in pregnancy, and sudden changes in life circumstances’ (Zurbriggen et al., 2018: 109).

The key word and affect in this situation is, without a doubt, ‘relief’.<sup>170</sup> For all the interviewees there is a relief and peace that comes with the help, especially after going through many difficulties before arriving at the decision. When the help and accompaniment finally arrive, women realise that ‘there is a solution’. They are told

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<sup>169</sup> <https://yoaborte.info/la-decisi3n-de-abortar-en-el-segundo-trimestre-de-embarazo-5e4f32bfd008>, My translation.

<sup>170</sup> See <https://yoaborte.info/acceso-al-aborto-en-segundo-trimestre-una-carrera-de-obst3culos-contra-el-tiempo-d07a413c8b0f>

that the pregnancy they are bearing in their bodies is not an inexorable process, and that they do not need to accept it as a sentence if they choose it so.

As in the other projects described above, the personal stories collected in this study also show the anger and pain mixed with relief, calm, and happiness. The affective diversity that appears in these stories shows a temporality with a density that defies an operationalisation in objective data, for instance in terms of the number of weeks of pregnancy.

To sum up, there has been a diversification in the range of affects associated with abortion, but this situation brings political challenges. The challenge is to recognise the concrete experiences of women (an old value of feminism), which traditionally has been synonymous with the exposure to suffering and injustices; exposure that has been and is a political challenge in itself. A new political challenge appears as women organise to try to close by themselves policy gaps that an increasingly weaker State leaves open. That work of organisation highlights new affects that come at the cost of an increasing social precarisation. Richer and more complex efforts at engaging those affects, as in the work on the memory of the experiences that the *Notebook* carries out, are facing that precarisation, and even building alternatives to avoid any State intervention. The scene, as one surmises by the testimonies of its protagonists, is uncertain but hopeful.

## **ii) The Role of Sexual Dissidence Activism in the Abortion Debate**

In this section I will consider the increasingly influential role of sexual dissidence groups in the debate. These include lesbo-feminist Latin American groups, and *cuir/queer* organisations, and they contribute to problematising certain aspects of more ‘traditional activism’, moving, for instance, beyond the rhetoric of ‘my body is mine’ and pro-choice/pro-life arguments. In different ways (and sometimes in ways difficult to define with precision), these new actors, with their diverse theoretical and practical approaches, challenge the usual conceptions of the figure of the woman who aborts, of who fights for abortion in Chile, of the reasons why is it a relevant issue and for whom, and of what is the political language to fight for abortion. In general, over a broadly construed common ground of the value of autonomy and justice, there is an emphasis on the political connotations of disobedience, experimentation, and diversity.

As we saw in Chapter Four, during the transition to democracy the main feminist groups in Chile were divided into ‘*institucionales*’ and ‘*autónomas*’. The former are those who, in the government or as NGOs, intended to drive change from within institutions. The latter are a more varied and difficult-to-define group, which campaigned from within civil society, frequently defined by their criticism of the first group – criticism which was directed at their being co-opted by State policies which were unable to address the deeper problems involved. As we saw in Chapter Five, during the late 2000s new feminist groups appeared; among them, groups who advocate for sexual dissidence have been key in the fight for abortion. Moreover, the division between ‘*institucionales*’ and ‘*autónomas*’ has become blurred.

Within organisations advocating sexual dissidence, there are two main groups of activists that have been actively fighting for abortion: *Lesbianas Feministas* (lesbo-feminist) and the CUDS. The lesbo-feminist include groups such as *Línea Aborto Libre* or *Con las Amigas y en la Casa*, as well as some other decolonial anti-racist groups. The CUDS define themselves as *cuir/queer* and post-feminist. I have mentioned both previously, but in this section I wish to emphasise some specific aspects of their activism that will, to my mind, remain important for the contemporary dynamics of abortion in Chile.

As mentioned, lesbo-feminist groups such as the two noted above have taken a crucial active role in organising the distribution of information, support, and the constitution of solidarity networks. Articulating the thinking behind *Con las Amigas y en la Casa*, its member Viviana Díaz says:

For us abortion is the tip of the iceberg of many forms of violence that women experience. In fact, the subject [abortion] concerns me, not because I live it directly, as a lesbian I have less chances of getting pregnant, although I could be raped, but because I think that in this prohibition of abortion all the forms of violence are knit together. [...] I am lesbian and feminist, so everything related to recovering the autonomy of women’s bodies concerns me. I think that being a lesbian is also a disobedience and a recovery of autonomy, because the system forces us to be heterosexuals and mothers. I also understand abortion as a recovery of this

kidnapped body. It is like grabbing back the body and saying ‘no, this *huevada*<sup>171</sup> is mine, it is ours and it is not at your disposal to do whatever you want with it’. For me, to be a lesbian is basically that, it is a form of disobedience: ‘I am not going to fulfil what I have been forced into since I was a child, no; I do not want to, it does not concern me anymore’ (Díaz, in Etcheberry and Vivaldi, 2016, my translation).

It is interesting to note the way in which abortion, as a social issue, is seen as the ‘tip of the iceberg’ of many other issues related to heteronormativity and biopolitics, and in this sense relates to a form of resistance that lesbianism can represent too. Sexual orientation is another variable that, along with the body, the political and social, etc., remains invisibilised in simplistic and conservative approaches to abortion. And, as with those other variables, it becomes a task for feminism to engage with it.

Activists from *Línea Aborto Libre* argue similarly to Díaz:

Being lesbian is an act of liberation of the body, an act of recovery of autonomy, just as one might conceive of an abortion without shame or guilt. As lesbians we want to recover our bodies back from heterosexuality, we want to recover our capacity for enjoyment. [...] As lesbians and feminists we abort heterosexuality. We emphasize the fact that heterosexuality is at the foundation of the patriarchal system, just as obligatory maternity is, for instance. [...] If we are asked why lesbians are working on the issue of abortion, we answer that it is a strategy of solidarity, of love and care between women, a strategy against patriarchy, and consequently against capitalism and the system. Love between women is to stay with each other, carry each other, not fashion each other to our own image, but to try to understand each other in our own specificity. Love between women is the first step to put an end to the reproductive commandment and that cell of capitalism and patriarchy that is the family. The family, the structure that fulfils the hetero-winka<sup>172</sup>-patriarchal roles (Loaíza, 2016: 100-101, my translation).

Different elements are relevant in these quotations. To be a lesbian is seen as an escape from a biopolitical destiny according to which women should be heterosexual and behave and love in particular ways; in the same way, to abort is seen as an escape from maternity, which can also be a social imposition. Sex between women is also promoted from some parts of these activisms (Loaíza, 2016: 99). The recognition of other ways of being women, the diversification of the concept of woman (who aborts)

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<sup>171</sup> *Huevada* is a very popular Chilean word, which has different meanings. It can be used to refer to a thing, issue, or situation. Here is used as a synonym of ‘thing’, but in an emphatic and frank way.

<sup>172</sup> *Winka* is a Mapuche name for the Chilean people that are not part of the Mapuche community.

is an important resignification of the debate in ways that remain to be seen, but that might help to move the debate beyond its pro-choice/pro-life simplification. It is interesting how the expression ‘to abort heterosexuality’ also suggests a diversification of what it means to be a woman. Extracting ideas from different feminist traditions makes a connection between the prohibition of abortion and other social institutions that usually remain assumed, unanalysed, and invisibilised in the debate.

Lesbo-feminist groups have criticised the excessive attention that the gay movement receives in comparison with women and feminist movements. In particular, lesbo-feminists highlighted the fact, when abortion was not yet on the agenda, that the government has paid less attention to the liberalisation of abortion than to issues concerned with the ‘gay agenda’, such as the *Acuerdo de Unión Civil* (Civil Union Agreement). The Chilean academic and lesbian activist Iris ‘Toli’ Hernández wrote in 2014:

Sexual democracy [...] has omitted the lesbian voice, in that it doesn’t question the narratives that populate our conception of sexuality. Don’t you think it’s strange that the Chilean openness in terms of sexual diversity happens to coexist alongside the complete denial to discuss abortion? This refers to the limits of sexual democracy [...] Certainly, the voices of lesbians are not significant! And the voice of trans people suffer the same destiny. Then it is the masculine voice (albeit gay) that is the dominant one. Sexual democracy has meant an openness for masculine sexual diversity, but it hasn’t been enough to open the debate about the liberty of women to decide about their own bodies (Hernández, 2014, my translation).

The theoretical background or school of thought that influences the movement has also changed in recent years.<sup>173</sup> When these groups were created they were inspired by *cuir/queer* theories. Indeed, at the beginning they talked about ‘*feminismo verde flúor*’ (‘green fluorescent feminism’), which had *cuir/queer* and post-feminist referents. During the last few years, however, this movement started to see ‘*cuir/queer*’ perspectives as something adopted from the global North and consequently as a framework that is inadequate for or incapable of challenging Western hegemonies and

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<sup>173</sup> This is information that I have obtained through my own observations, reading about the different collectives on Facebook and blogs, and interviews with activists.

addressing the feminist fight situated in local contexts.<sup>174</sup> Lesbo-feminist groups started to define themselves as ‘decolonial’ and ‘anti-racist’ in the sense that ‘women’ and ‘lesbian’ were political categories yet to be reclaimed, especially being racialised subjects in the patriarchal, capitalist, colonial, and modern order.

The Dominican activist Yurdekis Espinosa and the ‘*feministas comunitarias*’ of Guatemala have been a great influence on the Chilean lesbian-feminist abortion movement. Indeed, it is interesting to note the way in which theories are adopted at certain times by different movements. Yurdekis Espinosa, for instance, started to travel more frequently to Chile for personal and professional reasons, which entailed an increasing exchange of new theories. She acknowledges the importance of the critique that in the last 30 years feminist groups have directed against the ‘universal’ category of woman, but she also sees the need for complementing any such critique with a truly decolonial turn:

The fictional unity of key post-feminist and queer authors, from Butler henceforth, insists on the figure of the neglected subject of modernity, which does not observe the *matriz* (matrix) of race/class/gender/coloniality that constitutes him/her enabling his/her historical emergence. In its materiality, the abjected bodies of gender and desire draw a fractured map among those who, supposedly, constitute the same universe of ‘anormality’ (Espinosa, 2017, my translation).

Espinosa coincides here with a similar questioning by Leticia Sabsay: ‘In which instances does the queer gaze reproduce certain ways of cultural imperialism and logics of paternalist actions?’ (Sabsay, quoted in Espinosa, 2017).

These sorts of questions have influenced the way in which activism is organised, for instance in terms of who is invited to participate in a group’s events and who is not. During the last couple of years, groups like the Free Abortion Hotline and *Con las Amigas y en la Casa* started to think about themselves from the perspective of their

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<sup>174</sup> In this section I will not discuss the actual possibilities that have been explored of the queer movement being able to decolonise certain understandings of the sexual (see, for instance, Sabsay, 2014).



indigenous heritage and knowledge, going back to the Mapuche's cultural heritage, for instance, incorporating the figure of the *Machi* (the Mapuche's female religious and medical leader). The role of 'race' has been increasingly underlined in the context of Latin America, with its indigenous and African influences. Additionally, the immigration to Chile from other countries of South and Central America has been incorporated into feminist practices. Recently, the handbook with the information on how to perform safe abortions using the pill, was translated into Creole, thinking especially of those women who have migrated from Haiti, in order to guarantee their access to the information (El Dínamo, 2018). However, the organisers of the event also emphasised the importance of knowing how the process of abortion was understood in the country of origin of these women, in order to improve the process of accompaniment and understand the fears, expectations, and intercultural diversities and similarities involved.

Another example of the incorporation of different perspectives of the women who abort is found in the lyrics of a feminist reggeaton<sup>175</sup> band called *Torta*<sup>176</sup> *Golosa* (*glutton cake*), formed by activists of *Con las Amigas y en la Casa*, in which race is always present. One of their songs is called 'Women abort':

[...] Women abort, camionas [lesbians/dykes] too,

Women abort, transvestites too

Women abort, Mapuches too<sup>177</sup>

This is relevant in terms of emphasising the diversity of women who abort, beyond their culture, religion, class, and race. In this sense, a broader and intersectional perspective should incorporate reproductive justice in general, which entails not just

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<sup>175</sup> Reggeaton is a musical genre originating during the 1990s in Puerto Rico. It has explicit lyrics about violence, sex, love, poverty, and so on. It has been criticised by feminists for objectifying women, promoting violence, etc. However, it has also been reappropriated by some feminists, as in this case, in order to use the genre for other purposes.

<sup>176</sup> The word '*torta*' in Chile literally means cake but is also used as an informal synonym of lesbian.

<sup>177</sup> See <https://www.youtube.com/watch?v=gBxAOZxEEuc>

the right to abort but also the right to procreate, which has been removed from some women because they are part of a specific race or culture.<sup>178</sup>

The CUDS, a *cuir/queer* movement, has a rather different epistemological background and promotes another approach. Their activism is more strongly rooted in theoretical considerations and the use of artistic performances, including parody, some of which are explored in Chapter Seven. They contribute to the abortion debate by engaging with conceptual narratives and through their cultural influence.

The CUDS, as a collective, define themselves in these terms:

The collective have worked insistently on the localisation of the cuir/queer, on aesthetic feminist experimentation and on the practices of the micropolitics of resistance. CUDS's work moves between theoretical production, intervention in the world of the academia and irruption in normative sexual narratives [...] We are a collective that interrogates our normative narratives about the body and sexuality, from Santiago. The contemporary trap of late capitalism is precisely to organise us in a body of individual resistances from which we can talk [...] We are postfeminist activists getting involved in the right to abort with our sterile bellies and our confused desires.<sup>179</sup>

Most of CUDS's members are not women, or at least they do not identify as women. Generally, they do not call themselves 'men' either, but use names such as *la marica* ('marica' is the reappropriated pejorative term for 'gay', and 'la' is the Spanish feminine article). Their intellectual background is influenced by completely different authors and schools of thought from the previous groups: Rosi Braidotti, Donna Haraway, post-feminism, post-humanism, new materialisms, and so on. In this way, their language and approach to the subject is also different.

Their theoretical reflections are very philosophically oriented and, through their performances, some of which are discussed in the previous chapter, they display their concerns. For instance, the performance '*Esto no es un ser humano*' ('This is not a human being') consisted of signs with an anthropomorphic figure of what looks like

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<sup>178</sup> For instance, indigenous women in Peru who were sterilised as a State policy during Fujimori's government.

<sup>179</sup> See <https://disidenciasexualcuds.wordpress.com/about/> (my translation)

the usual representation of the foetus. The objective of the performance was to reappropriate a fundamental figuration of pro-life campaigns and turn it into a 'feminist weapon'. In particular, they consider it important to question what makes us human – something that is certainly at the heart of the debate on abortion. By 'twisting' the image of the foetus, the performance tries to emancipate women from its power to keep woman tied down to her reproductive role. In the terms of the playwright Tomas Henríquez, 'the image emancipates from the support that contains it; emancipation will always be liberating yourself from the meanings imposed by others. It is that possibility – the emancipation of the image of the foetus – that allows us finally to think about the autonomy of women to choose' (Henríquez, quoted in Díaz, 2016, my translation).

## **V. Conclusion**

I have argued that we can identify at least three significant challenges for Chilean feminism in the context of the abortion debate. In a nutshell: the ideological challenge, the neoliberal challenge, and the dissidence challenge. As one can see, the challenges come from all corners of the debate and the political spectrum. First, feminism struggles, as it has always, to make itself heard against the protest of religious and conservative groups. Furthermore, this kind of challenge, in the 'gender ideology' form or in the concrete cases considered, has the peculiarity of showing little variation with respect to the interlocutors and also with respect to the themes involved, which can be traced back to different points of the development of the abortion debate in other parts of the world. There is a logic of iteration: the actors in the debate are still exploring the argumentative and epistemic possibilities of old ideas (conscientious objection, murderous associations, freedom, etc.) in new contexts.

Second, the neoliberal challenge is more recent and novel than the previous iteration of old themes. Chronologically, it gains momentum from the 1980s, and only recently is there a critical awareness of its dimensions and implications. It is also harder to grasp, as it depends on taking a step back from the conditions in which the debate itself is working. This is especially clear in the discourse around choice in advancing and explaining the liberalisation. In particular, there is a need to both keep on developing and also recover the social and solidary background that, before and after individual freedoms, articulates historically the demand for abortion. Recent work on

vulnerability and relational autonomy is one way in which social background can take hold.

Finally, there are new challenges arising from feminism itself, from new groups aligning around sexual dissidence. The challenge here seems to be about the capacity to reconcile differences and complexities on several fronts. There is a need to better articulate the affective discourse of liberalisation that, as it tries to remove the dark aura that surrounds the experience of abortion, might struggle to duly recognise and provide a possible space of grief. The work of feminist groups accompanying women and collecting experiences seems particularly important in that regard. There is a need for an intersectional perspective that not only recognises different struggles in their own specificity but that also learns and thinks from that difference. The work of lesbian, queer, post-feminist, and decolonial groups seems promising, especially in a country like Chile, which is not characterised by its diversity of thought and in which there is a strong religious and conservative movement. Even besides the features of disobedience and plurality that are necessary part of a functioning democracy, the feminism that can be identified as sexual dissidence also has the value of keeping alive the critique of heterosexuality and motherhood that is so crucial for the issue of abortion.

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## Chapter 9

### Conclusions: Celebrating the Feminist Struggle

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When I started this thesis in 2013, the Chilean student movement had recently been in the news for putting into question the pillars of the neoliberal project (see, for instance, Pulgar, 2011). Now, as I am finishing this process, feminist student groups have ‘occupied’ universities, questioning and criticising patriarchy in general, and in particular gender inequality in higher education and the way in which certain practices, such as sexual harassment, have been normalised in an academia that remains male-dominated (Millan and Carvacho, 2018; Yévenes et al., 2018). Moreover, this feminist movement – ‘new wave’ or ‘feminist revolution’, as it has been called by the press (see, for instance, Montes, 2018; *El Mostrador*, 2018c; Sepúlveda, 2018) – is conscious that gender cannot be understood as a separate axis and that in order to achieve more justice we need to think about how different oppressions intersect. It is interesting that students from different movements and for different reasons have coordinated to challenge social and cultural constructions of gender, and that feminist claims are now an urgent issue. New understandings of women, gender, and sexualities are playing, and will no doubt continue to play, a key role in the way in which abortion is understood.

This thesis has been, in large part, a celebration and affirmation of the feminist struggle for access to abortion in Chile. In this conclusion I want to delineate the dimensions I would like to emphasise about the feminist struggle: its creativity, its heterogeneity, its articulation of its case against the opposition, its strategies beyond the law, the role of social research. I will also offer a brief comment on the peculiarities of the Foucauldian approach and a few words on recent developments.

Firstly, I want to make some comments on the creativity of the feminist struggle. During the last ten years a profound transformation in the struggle for abortion occurred; undoubtedly the abortion *dispositif* has changed. For years abortion was not even discussed in Chile. An interesting analogy for thinking about the inability to change the abortion law in Chile for so many years after the recovery of democracy is Sara Ahmed’s ‘Table of Happiness’:

We begin with a table. Around this table, the family gathers, having polite conversations where only certain things can be brought up. [...] these are supposed to be happy occasions. How hard we work to keep the occasion happy, to keep the

surface of the table polished so that it can reflect back a good image of the family. So much you are not supposed to say, to do, to be, in order to preserve that image (2010: 1).

Abortion was not on the table; it was an uncomfortable issue to speak about, even for some feminist groups. As I explore in the thesis, at least some part of the feminist movement was always actively struggling for the liberalisation and recognition of the right to abort; in a way they were the ‘killjoys’, raising the subjects that get in the way of, and consequently threaten, the normative consensus, and thus the ‘happiness’ at the table.

As I explained in Chapter Four, during the first years after the recovery of democracy abortion was not a priority. It was just a struggle for some isolated feminist groups. It took 15 or even 20 years for abortion to enter the public debate properly. That the emergency contraceptive pill was prohibited, and only its distribution in public health services, simply because – according to some dubious scientific data – it could cause an abortion, was highly criticised by feminists. This event ‘erupted’ and women took the street for the first time in years, in order to show that they were willing to defend reproductive rights for every woman. A novel strategy was the ‘apostasy’, where many women went to the church where they were baptised, rejecting Christianity, and in that way they challenged the power of the Catholic Church and its rituals. Since 2011 student revolution demonstrations have incorporated dancing, colours, costumes, and choreographies, and later feminist demonstrations included this kind of performances too. When the Free Abortion Hotline started to clandestinely distribute information about abortion they were reshaping the landscape too, demystifying abortion: it did not need to be traumatic; it did not even need a medical doctor or a clinical procedure in a hospital. Thanks to feminism the experience of abortion could be seen as a new collective (or, at least, a shared and common) experience, and not as an individual failure for which each woman alone is accountable or even persecuted.

Moreover, by unhinging abortion from spectral moral concerns and institutional control, feminist groups have fostered an awareness that abortion is not an issue only for women from a certain social background. It is an issue that involves all women who, for different and particular reasons, are faced with that decision, or who know someone who is in that situation. Moreover, abortion activism is now no longer to be the struggle of solely heterosexual and ‘white’ women, as is also discussed in depth in

Chapter Eight. Even if, since the beginning of the last century, the abortion struggle in Chile, as was seen in Chapter Four, included working-class women and not just upper-middle-class women, it was mainly linked with heterosexual women. Through attention to this development, I wanted to emphasise the current heterogeneity of feminist struggle. There are many feminisms; and there is a political effervescence which we should embrace and with which we should engage: 'Feminism's political hopes rest upon being able to be confidently responsive and responsible' (Bell, 2007: 47). Of course the movement is not exempt from problems; there are internal contradictions, inclusions, and exclusions. But these are not a sign of atrophy but rather that feminism is very much alive, in continuous transformation. That is how we should read the lively debate and disagreement about some strategies (e.g. should we focus on changing the law or not; are the three grounds an advance or not) and performances (e.g. the intervention in the cathedral being a legitimate performance or an act of vandalism; the necessity or not of bringing the Church into the debate; whether to celebrate abortion as something desirable or not).

Secondly, through attention to the complexity and variety of the opposition to abortion, I have shown the different ways that those challenging feminist perspectives articulate their positions and how that opposition influences feminism in turn. The parliamentary debates (Chapter Six), the visual campaigns (Chapter Seven) and the implementation of the Act (Chapter Eight) show how some of the feminist strategies or arguments have even been mimicked by conservatives. For instance, conservative groups have reimagined the use of performances, such as those created by the Women in White, or girls praying together for certain outcomes in judicial or political decisions that could affect the foetus, or the use of certain colours in the demonstrations mimicking a joyful tone. Another dimension is the reimagination of medical and human rights language. I considered in several places of the thesis the use of certain medical language and techniques, such as foetal scans, to support the conservatives' claim that foetuses are 'persons'. They also appropriate human rights rhetoric to defend the rights of foetuses's 'citizenship', even drawing on post-dictatorial memory. Additionally, the figure of the woman as victim, which has been used by feminists to show the consequences of the prohibition in terms of exposing women to unsafe abortions or forcing them to continue pregnancies that can be a risk, has been used by conservatives with a twist: they claim to be 'the most feminist', because if abortion were allowed, women would be forced to abort instead of

receiving support to continue their pregnancy. As was explored in the thesis, the characterisation of women as ‘in need of protection’, typical of humanitarian governmental practices, is highly problematic because it can involve new modes of biopolitical control (see, for instance, Butler et al., 2016: 5). Indeed, there is a tension in feminism, as it sometimes seems compelled to use the rhetoric of victimhood in order to make political demands. The challenge for feminism, then, is to understand abortion as an issue of social justice in a way that addresses the complexity of affects involved in the experience, without patronising, and without removing women’s agency by reducing them to their sorrow. Regarding the implementation of the Act, conservatives have tried, sometimes successfully, to restrict the law. Feminists have begun to monitor its actual compliance, because there are many barriers, such as conscientious objection, that could hinder women’s access to abortions or access to good-quality care services. The rearticulation of the conservatives’ stance, thus, needs constant attention and reflection that enables feminism to find new and creative ways of resisting the ‘attacks’.

Thirdly, I have argued that although recognising the importance of the law being passed, we should not focus solely on the legal as the site at which feminism ‘loses’ or ‘succeeds’: to do that is to eclipse the wider feminist activity and restrict our attention in understanding the task. To appreciate the feminist intervention within the abortion *dispositif*, it would be wrong to measure the impact or relevance of feminist struggle just by looking at the legal change. There are many other aspects that have been and continue to be important: feminism has provided a much-needed discursive space to speak about abortion; it has criticised and challenged certain representations of abortion and has destigmatised it. It has created the very crucial networks of support mentioned in this thesis, in which assistance and information is shared beyond institutional control.

Fourthly, it is interesting to question the role of feminism in relation to the place and task of social sciences in the debate. Social research is key to understanding the complexity of an illegal and clandestine practice, and also to informing the cultural and political debate. But that illegality and clandestinity itself can be a serious obstacle to the development of research: it is not only a social issue to understand but also a practical challenge to tackle and overcome. Feminism has been crucial here, bridging between social sciences and the people directly involved by articulating a



common network of understanding, care, and solidarity. Mostly (though not exclusively) this bridging has been crucial in fighting the invisibilisation of an event common to women's sexual, reproductive, and social lives, showing experiences and practices that are usually subjugated. In this sense my thesis is also a product of this relationship.

Data on women seeking and having abortions is incomplete, which affects estimations and projections, and the access to the experience of women is particularly challenging. Despite the scarce and insufficient data, there seems to be an increase in the use of scientific arguments or statistics precisely when a more nuanced political deliberation is needed. There is a professional as well as a political responsibility here for social scientists, not only to fill the gap in our understanding and thus contribute, directly or indirectly, to the policies aimed at the social 'control' of the issue, but also to inform the wider sociocultural debate with adequate evidence and critical tools. There are political and ethical debates that should not be avoided, and the abortion debate has shown how sometimes the discussion of the 'science' in relation to the problem can serve as an excuse to sideline important social, political, and ethical issues, such as women's autonomy and reproductive rights. Particularly urgent for critical thinking is improving our understanding of the resistance to liberalising abortion, in comparison with other demands related to gender and sexuality that could materialise more easily in laws and norms. Abortion seems to cut deeper: it is a key place for feminism, and indeed there does seem to be something new brewing in the *dispositif*, something 'untimely', which is both very urgent and very current about abortion, which concerns not just 'life and death' but also the autonomy of women (including autonomy in relational terms) and the possibility of self-definition outside the family and reproduction.

Indeed, understanding the complexity of this through the lens of Foucauldian biopolitics aims to provide such critical perspective. The thesis has shown how feminist struggle is part of a wider *dispositif* in which feminism emerges as a set of interventions into the different ways in which abortion is constructed. Feminism is, in this sense, a mode of constructing power/knowledge, intervening and attempting to influence the *dispositif* and itself being influenced in turn. The system of power relations (the tangle of lines) that constitutes this *dispositif* is not a zero-sum game; it

is a relational struggle (a resistance) that continues and changes. And this is ongoing, as we have seen, and there are new challenges that feminists now face.

Following Foucault and Deleuze, I proposed to look at the abortion *dispositif*, as an ensemble in which lines of power/knowledge and practices intersect, and in which situated feminism is a part of this *dispositif* as another discourse and practice. The abortion *dispositif* means that each subject belongs to these lines of discourse and practice; each of us lives and acts within them. In tracing the events of abortion, its discourses and practices, I have proposed an analytic mapping through which we might achieve a clearer view of the feminist contributions to the debate and the challenges open for feminism. The abortion *dispositif* is an ever-changing complex, in which heterogeneous elements map the way in which we are always becoming something else. Approaching the assemblage in this way requires, according to Deleuze, a

change in orientation which turns one's interest away from the Eternal and towards the new. The new is not supposed to mean the same as the fashionable but, on the contrary, the variable creativity which arises out of social apparatuses (*dispositif*) (1992: 163).

Finally, feminist work shows the importance of resisting and challenging conservative or reactionary modes of biopolitics in contemporary Chile. It illustrates how the government of populations has effects at the level of the individual body, certainly, but also how resisting in the name of the body's vulnerability and in the name of feminism can challenge traditional conceptions and produce new understandings, at the level of institutions, but also at the level of women's identity. This change of paradigm and expansion of the political and cultural imagination has been crucial because it connects abortion with a wider problematic in connection to patriarchy and capitalism, with certain roles that are assigned to people because of their gender, and with a whole 'administration of life' in which biopolitical power takes form in shaping women's lives. The establishment of the Free Abortion Hotline, and further feminist organisations such as *Con las Amigas y en la Casa* or the campaign *Miso Pa Todas*, also represent feminist collective resistance. These are forms of embodied resistance and solidarity in which women expose themselves to criminalisation and prosecution in order to support other women. The relation between vulnerability and resistance, thus, is key. Vulnerability can constitute a base for

political organisation and resistance. The pain, anger, and loneliness associated with the abortion prohibition, with its death tolls and imprisonments, create political and social agitation, ‘killing the joy’ of those who want to keep the status quo.

The point is to show that vulnerability is part of resistance, made manifest by new forms of embodied political interventions and modes of alliance that are characterized by interdependency and public action. These hold the promise of developing new modes of collective agency that do not deny vulnerability as a resource and that aspire to equality, freedom, and justice as their political aims (Butler et al., 2016: 7).

The vulnerability to death and to the arbitrary power of the State is not captured in a position that emphasises victimisation, or passivity (Butler, et al., 2016). On the contrary, novel strategies of resistance take shape from there. As Butler reflects, when thinking in modes of struggles against precarity:

Feminism is a crucial part of these networks of solidarity and resistance precisely because feminist critique destabilizes those institutions that depend on the reproduction of inequality and injustice, and it criticizes those institutions and practices that inflict violence on women and gender minorities, and in fact, all minorities subject to police power for showing up and speaking up as they do (Butler, 2016: 20).

Recently, Ireland (*BBC*, 2018) and Argentina (*The Guardian*, 2018) have taken important steps in order to decriminalise abortion. The case of Argentina, due to its proximity, will certainly have an impact in Chile, either because women may start travelling in order to get abortions or because its vicinity will reignite the debate for safe and legal abortion on request. Considering the current strength of the feminist movement in Chile and the questioning of patriarchal narratives, there is space for hope.

As I mentioned, one of the important contributions of feminism to rethinking abortion has been the collective or relational aspect of choice and autonomy as promising attempts to incorporate the values of interdependency and care in a neoliberal landscape.

We might begin by becoming increasingly conscious that part of this daunting character stems from a neoliberal social ontology that revolves around the individual, and the paralyzing effect that the complexity of our world has on that individual. If we refuse such ontology, and shift to a social ontology centered in relationality and interdependence [...] the overall task is not less daunting, but it is perhaps less lonely (Bracke, 2016: 72).

In this thesis I have argued that these values associated with feminism, which can be revealed by the Foucauldian approach, is not a mere cognitive or practical tool but rather a way of being, an aesthetics of existence, a work on the self that is the substance of ethics. Despite the fact that the legislative change achieved in Chile is limited, it is important to recognise and celebrate the fact that the feminist ways of coping or negotiating with this social conflict have been an exercise of freedom in terms of resistance, care of the self, and the aesthetics of existence.

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