

Old Ideas for a New Debate: Medieval and Modern Attitudes to Abortion

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IN 2012, A UNITED STATES Representative from Ohio named Jim Buchy was asked a question about abortion. Buchy, who was a driving force behind the bill HB 125, or the “Heartbeat Abortion Ban,” was appearing in *The Abortion War*, a documentary by Al Jazeera English. Buchy’s proposed bill would permit abortion only if the pregnancy threatened the life of the mother. Any termination after the detection of a fetal heartbeat—roughly six weeks into the pregnancy—would be illegal.¹ In direct contrast to the outlines in *Roe v. Wade* (1973), Buchy’s bill proposed severe limits to a woman’s right to have an abortion, even in extreme cases like rape or incest.² In this documentary, the reporter asks Buchy why, in his opinion, a woman would seek to have an abortion. After a brief moment of reflection, he responded: “Well, there’s probably a lot of—I’m not a woman so I’m thinking, if I’m a woman, why would I want to get—some of it has to do with economics. A lot has to do with economics. I don’t know, I have never—it’s a question I have never thought about.”³ His response was startling, given that he was such a

1. Representative Lynn Watchmann, Ohio General Assembly Archives, 1997-2014, the Ohio Legislature, http://archives.legislature.state.oh.us/bills.cfm?ID=129_HB_125, accessed 15 February 2017.

2. Justices Harry Blackmun, Potter Stewart, and William Rehnquist, Legal Information Institute, Cornell Law School, <http://www.law.cornell.edu/supremecourt/text/410/113> accessed 13 February 2017.

3. Siobhan Fenton, “US politician trying to ban abortion says he has never thought about why women have them,” *Independent*, 9 December 2016. Although the documentary is now available on youtube.com, further information about *Fault Lines* documentaries with Al Jazeera can be found

vocal opponent of abortion practices. Buchy argued that the passage of this bill would encourage responsibility to “reduce unwanted pregnancies . . . [as] the vast majority of abortions are performed on women who were not raped.”⁴ The same year as HB 125, Todd Akin, a Senate hopeful from Missouri, stirred controversy when he unapologetically asserted that a woman’s body is incapable of becoming pregnant from rape, discrediting the exceptions for rape and incest typical of some pro-life politicians. Todd Akin’s comments and the extremism of his anti-abortion views were labeled by the *New York Times* and the *Guardian* as “medieval” concepts.⁵ More recently, the *Independent* decried Donald Trump’s plan to overturn *Roe v. Wade* and close women’s health clinics as going “backwards into medieval mire.”⁶

This is hardly the only time that the image of “medieval” has been evoked in a negative light in the modern era, particularly concerning political issues. Donald Trump, for example, conjured barbaric comparisons when discussing the use of torture by members of ISIS during his 2016 campaign. Claiming that ISIS “is doing things that nobody has ever heard of since medieval times,” Trump reiterated how the use of waterboarding and other extreme methods of torture would be necessary for combatting modern terrorism.⁷ The then-deputy UK Prime Minister Nick Clegg also labeled the extremist group as “medieval” in 2014.⁸ Using words like “medieval” to incite images of unrestrained violence and absolutism is hardly unique, particularly when expressing perceived

on their website.

4. Camila Domonoske, “Ohio Legislature Moves to Ban Abortion as Early as 6 Weeks after Conception,” *NPR*, 7 December 2016.

5. Jennifer Tucker, “The Medieval Roots of Todd Akin’s Theories,” *New York Times*, 23 August 2012; and, Vanessa Heggie, “Legitimate rape: A Medieval Medical Concept,” the *Guardian*, 20 August 2012.

6. Grace Dent, “Donald Trump, Like his Supporters, Isn’t Pro-Life—He’s Anti-Women,” *Independent*, 14 November 2016.

7. David M. Perry, “This is not the Crusades: There’s Nothing Medieval about ISIS,” *CNN*, 16 October 2016; and Barney Henderson, “Donald Trump: ‘Torture Actually Works,’” *Telegraph*, 26 January 2017.

8. Kevin McDonald, “Isis Jihadis Aren’t Medieval—They are Shaped by Modern Western Philosophy,” *Guardian*, 9 September 2014.

instances of barbarism or inhumane practices. As Carolyn Dinshaw notes in *Getting Medieval: Sexualities and Communities, Pre- and Postmodern*, the Middle Ages have frequently been used as a synonym for barbarism or lawlessness: the title of her book is a direct reference to the scene in *Pulp Fiction* of graphic sexual and physical abuse.⁹ Wielding a weapon, the victim of rape turns the table on his abuser, proclaiming that he is going to “get medieval” before enacting his violent revenge. In her poignantly uncensored song “Fuck You” (2005), Lily Allen sang that “your points of view are medieval” in reference to George W. Bush’s stance towards homosexuality.¹⁰ Concerning violence, reproductive rights, and perceived totalitarianism, the word “medieval” is often used as an adjective meant to describe any action that is deemed unnecessarily restrictive, violent, or backwards.

Modern phraseology in mass media and cinema culture provides numerous examples of the perceived hostility of imagery evoked by the medieval period. The enormously popular HBO series *Game of Thrones*, for example, is said to be inspired by historical events from the high medieval period, perpetuating the idea that the Middle Ages were violent, highly erotic, and subject to lawless extremism.¹¹ Although the series was undoubtedly inspired by medieval political dynasties and powerful historical figures, the hypersexualization and brutal treatment of women form some of the more memorable moments from the show, connecting these themes with the already perceived brutality associated with the medieval world.¹² Thus, shows like *Game of Thrones* support the modern image of the Middle Ages as a haven of decriminalized violence towards women, sexual aggression, and repressive gender laws. While the world portrayed in stories like *Game of Thrones* is often based on

9. Carolyn Dinshaw, *Getting Medieval: Sexualities and Communities, Pre- and Postmodern* (Durham, NC: Duke University Press, 1999), 183–92.

10. “So you say / It’s not okay to be gay / Well I think you’re just evil / You’re just some racist who / Can’t tie my laces / Your point of view is medieval.” Lily Allen, “Fuck You,” *It’s Not Me, It’s You* (Regal, 2009).

11. Carolyne Larrington, “Game of Thrones: Medieval Inspiration,” *BBC History Magazine*, 24 March 2016.

12. Danielle Henderson, “Game of Thrones: Too much racism and sexism—so I stopped watching,” *Guardian*, 29 April 2014.

facts, particularly concerning the systemic repression of women, these incidents are not uniquely “medieval.”¹³ Unfortunately, the sexual, physical, and emotional abuse of women—as well as the subjugation of their reproductive rights—is not a medieval anomaly that modern feminists may proudly call a thing of the past. In spite of the fact that women are still subjected to cruelty and regulation today, incidents like Todd Akin’s claim that “legitimate rape” does not result in pregnancy or Donald Trump’s characterization of ISIS torturers are still called “medieval.” Violence and repression were endemic in the Middle Ages, but it is problematic to label modern occurrences of similar events as “medieval.” Although the extreme pro-life views of politicians like Todd Akin did exist in medieval texts, not all medieval attitudes to fertility control were this severe. This article will discuss various ideas from prominent theologians of the high Middle Ages to show that one consistent perspective on reproductive control did not exist in this period. Much like in modern debates, there were different viewpoints in medieval society on this controversial topic, thus negating the idea that gender inequality and the repression of reproductive rights are uniquely “medieval” traits.

“Legitimate Rape” and Reproductive Control

As the most literate section of medieval society, religious institutions served as both the enforcers and recorders of cultural, social, and sexual writings. Leading ecclesiastical figures wrote on the repercussions of a wayward society, and the dangers of illicit sexuality were often a target of this condemnation.¹⁴ Women, in particular, were singled out for their tempting bodies and disposition towards sinful activities in many of these passages on lascivious sexuality. The functions of the sexualized human body—as well as attempts to control them—were often mentioned in early and high medieval Church narratives without reservation.¹⁵ As the

13. Rhiannon Evans, “Games of Thrones: Where Sexual Violence and Misogyny are Good News for Women,” *Telegraph*, 17 June 2015.

14. Marjorie Chibnall, “Women in Orderic Vitalis,” in *Piety, Power and History in Medieval England and Normandy*, Variorum Collected Studies Series; 683 (Aldershot: Ashgate, 2000), 109.

15. Helen Rodnite Lemay, “Human Sexuality in Twelfth- through

spiritual guides of a frequently illiterate and culturally diverse society, some medieval theologians sought to understand the complexities of their lay members' sexual desires and sinful tendencies.¹⁶ In addition, most high medieval rhetoricians agreed that women were limited by their bodies, promoting the idea that their reproductive capacities made them inferior; women were subjected to their bodies' weaknesses and impurities because of perceived "ailments" like menstruation, lust, and pregnancy.¹⁷ For both intellectual groups—theologians and rhetoricians—women were limited to roles as men's helpmates in part because they were considered to be captive to the whims and flows of their sexuality. Theologians and canon lawyers therefore attempted to control women's irrational urges through both doctrinal and judicial means.

Medieval theologians viewed the sexual act as a sinful violation of the physical body. Although the ultimate goal of sexuality was the conception of a child, the many dangers and pains associated with pregnancy meant that it was not always viewed as a blessing from God.¹⁸ However much motherhood was revered, it was not the only option available to medieval women. Christian clerics, in an attempt to extol the virtues of a virginal life devoted to God, often reminded women of the extreme biological consequences that could result from sexual activity. Medieval women found themselves between lives of sexuality and chastity, never fully reaching the sanctified motherhood achieved only by the Virgin Mary.¹⁹ Although this virginal state was considered to be the most

Fifteenth-Century Scientific Writings," in *Sexual Practices and the Medieval Church*, ed. Vern L. Bullough and James A. Brundage (Buffalo, NY: Prometheus, 1982), 188–89.

16. Danielle Jacquart, "Medical Explanations of Sexual Behavior in the Middle Ages," in *Homo Carnalis: The Carnal Aspect of Medieval Human Life*, ed. Helen Rodnite Lemay, Center for Medieval and Early Renaissance Studies, Acta 14 for 1989 (Binghamton: State University of New York Press, 1990), 7–10.

17. Dyan Elliott, *Spiritual Marriage: Sexual Abstinence in Medieval Wedlock* (Princeton, NJ: Princeton University Press, 1993), 24.

18. Jacques le Goff, *The Medieval Imagination*, trans. Arthur Goldhammer (Chicago, IL: University of Chicago Press, 1985), 95.

19. Vern Bullough, "Sex Education in Medieval Christianity," *The Journal*

respectable for a medieval woman, it was not realistic to enforce it on all members of society. As such, it became important for theologians to discuss the appropriate boundaries for sexual behavior and implement restrictions on taboo or immoral conduct. Fertility control was one object of these imposed social limitations. Early medieval patristic rhetoric focused on the condemnation of reproductive control, asserting that it was immoral and contrary to God's intent.²⁰ High medieval theologians, while agreeing with these assertions, attempted to forgive some instances of fertility control, especially in the poorer classes, for fear of continual social instability and increased monetary pressure on the church to support these populations. Early and high medieval legal standards also reflect this shifting attitude towards reproductive control. Utilization of methods of abortion and contraception, although deemed to be contrary to the will of God in the early medieval period, were not consistently prosecuted as criminal activity.

As theologians attempted to understand the nature of sexuality as a God-given human characteristic, numerous opinions emerged. Some church officials were more lenient towards the societal need for reproductive control practices; others were more stringent in their disapproval. The theologian William of Conches (1080–1154) proposed his views on conception in *Dragmaticon philosophiae*, which explores the various impediments to conception as a dialogue between a *Dux* and a *Philosophus*, with the Philosopher answering the various questions of the Duke on the nature of the human body.²¹ William proposed that, in order for a woman to actually become pregnant, she had to find physical pleasure in the act. Proclaiming that women's bodies would always succumb to the sinfulness of the flesh, William suggested the medieval equivalent of Todd Akin's claim: that women, if "legitimately raped," would not become pregnant and thus not need to have an abortion, as

of Sex Research 13, no. 3 (1977): 188–89, <http://www.jstor.org/stable/3811777>.

20. Dawn Marie Hayes, *Body and Sacred Place in Medieval Europe, 1100–1389* (New York, NY: Routledge, 2003), 18–19.

21. I. Ronca, "The Influence of the *Pantegni* on William of Conches' *Dragmaticon*," in *Constantine the African and Ali ibn al-Abbas al-Magusi: The Pantegni and Related Texts*, ed. by Charles S. F. Burnett and Danielle Jacquart (Leiden: Brill, 1994), 266–69.

conception could occur only if both parties enjoyed the sexual act.

DUKE: I recall what you just said, that nothing is conceived without seed of the woman, but this is not plausible. For we see that raped women, who have suffered violence despite their protest and weeping, still have conceived. From this it is apparent that they had no pleasure from such an act. But without pleasure the sperm cannot be released.

PHILOSOPHER: Although raped women dislike the act in the beginning, in the end, however, from the weakness of the flesh, they like it.²²

William's skepticism of pregnant rape victims was based on his understanding of sexuality, particularly regarding the frequency and enjoyment of the sexual act. He used this same logic to answer why, in his opinion, prostitutes became pregnant much less frequently in spite of their numerous sexual activities. Answering why it was that "professional prostitutes have sexual intercourse most often, [yet] they rarely conceive," the Philosopher theorizes that a lack of enjoyment kept them from conceiving.²³ As vehicles for the lustfulness of wayward men, prostitutes were a necessity to act as "the receptacle of a society's filth . . . an odious evil": in this way, their bodies were sacrificial vessels for inferior or immature seed and were not fit for carrying a child.²⁴ In William's

22. William of Conches, *Dragmaticon Philosophiae*, Corpus Christianorum: Continuatio Mediaevalis, 152 (Turnhout: Brepols, 1997), 208. "DUX: Ad memoriam uenit michi quod nuper dixisti, sine semine feminae nichil concipi; quod non est uerisimile. Videmus enim raptas, reclamantes et plorantes uiolentiam passas, concepisse. Unde apparet illas nullam in illo opera habuisse delectationem. Sed sine delectation non potest sperma emitti. PHILOSOPHUS: Etsi raptis in principio opus displicet, in fine tamen ex carnis fragilitate placet."

23. Ibid. "Conceptio ex uno semine fieri non potest: nisi enim conueniant uiri sperma et feminae, non concipit mulier. Prostitutae igitur, quae pro solo pretio coeunt, nullam delectationem illic habentes, nichil emittunt nec gignunt."

24. Kevin Mummey, "Prostitution: The Moral Economy of Medieval Prostitution," in *A Cultural History of Sexuality in the Middle Ages*, ed. Ruth

view, pregnancy was physically possible only if the woman experienced sexual pleasure during the act, allowing her womb to become hospitable for embryonic development.

This idea was based on classical thought, as the prevailing views from Hippocratic and Aristotelian narratives on the female body indicated that, in order to conceive the best possible child, a woman should enjoy her sexual encounters, and that women had some control over when they could conceive. According to Hippocrates, “[I]f she is not going to conceive, then it is her practice to expel the sperm produced by both partners whenever she wishes to do so.”²⁵ Indeed, many of these texts that endorsed the mutual enjoyment of sex did so in order to create the optimal child. The Hippocratic Corpus outlined the essential functions of both the male *and* female seed for medieval audiences to follow. In his treatise on embryology, Hippocrates stressed what impact the thoughts and actions of a mother could have on the development of a child.²⁶ In his explanation of human formation, Hippocrates places much of the responsibility for the future character of the child on both the physicality and mentality of the parents: if they are strong people they will produce strong, male children; if they are weak, they will produce female children. The German mystic and theologian Hildegard of Bingen (1098–1179), in a direct adaptation of this idea for medieval audiences, expanded upon Hippocrates’s hierarchical idea to create a much more intricate concept of physical and mental influences on conception.

Evans, 165–80 (Oxford: Berg, 2011), 165.

25. Hippocrates, “On the Generating Seed and the Nature of the Child,” in *Women’s Life in Greece and Rome: A Source Book in Translation*, ed. Mary R. Lefkowitz and Maureen B. Fant, 4th ed. (Baltimore, MD: Johns Hopkins University Press, 2016), 307.

26. Hippocrates, *Selected Writings*, trans. J. Chadwick and W. N. Mann (1950; repr., London: Penguin Books, 1983), 320–21. “What the woman emits is sometimes stronger, and sometimes weaker; and this applies also to what the man emits . . . if (a) both partners produce a stronger sperm, *then a male is the result*, whereas if (b) they produce a weak form, *then a female is the result*. But if (c) one partner produces one kind of sperm, and the other another, then the resultant sex is determined by whichever sperm prevails in quantity.” [emphasis added]

When a man who has intercourse with a woman has an emission of strong semen and feels proper affectionate love for the woman and when the woman at that hour feels proper love for the man, *then a male is conceived because it was so ordained by God* . . . If, however, the woman's love for the man is lacking, so that the man alone at that hour feels proper affectionate love for the woman and the woman does not feel the same for the man, and if the man's semen is strong, then *still a male is conceived*. . . . If the man's semen is thin, yet he feels affectionate love for the woman, and she feels the same love for him, then a *virtuous female is procreated*. If [none of these previous conditions are met] a *female of bitter disposition is born*.²⁷ [Emphasis added]

In this way, the character of the mother and her sexual enjoyment were very important for creating the stronger child. Although Hildegard thought that mutual love had to be felt by both parents in order to produce the best possible child, she also suggested that the conception of children was probable without these feelings, directly contrasting William's assertion that women had to experience sexual pleasure in order to conceive.

27. Hildegard of Bingen, *On Natural Philosophy and Medicine: Selections from Causae et Curae*, trans. Margret Berger (Cambridge: D. S. Brewer, 1999): 25b–26a. “Si autem hic amor de est in muliere ad virum, ita quod tantum vir rectum amorem caritatis in ipsa hora ad mulierem habet et non mulier ad virum, et si semen viri forte est: masculus tamen concipitur, quod amor caritatis viri superexcellit. Sed idem masculus debilis erit et non virtuosus, quoniam hic amor in muliere ad virum deficit. Quoniam si semen viri tenue est, qui tamen amorem caritatis ad mulierem habet, et ipsa eundem amorem ad illum, ibi femina virtuosa procreator. . . . Sed si semen viri forte est, sed tamen nec vir ad mulierem nec mulier ad virum amorem caritatis habet, masculus inde procreator, quod tamen semen forte fuit, sed amarus ex amaritudine parentum; vel si semen viri tenue est et neuter ad alterum amorem caritatis in ipsa hora tenet, femina nascitur amarse complexionis. Calor autem mulierum, quae pinguem naturam habent, semen viri superat, ita quod infans secundum similitudinem earum multotiens in facie formatur.” Hildegard, *Causae et Curae*, ed. Paul Kaiser, Bibliotheca scriptorum Graecorum et Romanorum Teubneriana (1903; repr. Basel: Hildegard Gesellschaft, 1980), 47–48.

Although William of Conches represented one particularly strict strand of reproductive control, other theologians did not view pregnancy in the same definitive way. There were many who, out of sympathy for the woman, attempted to provide methods to alleviate her childbed pain or to avoid conception altogether. Labor pains and the discomfort of the mother were rarely addressed in a spiritually retributive sense.²⁸ Instead, physicians and theologians focused on the need to relieve pain, not to condemn suffering as divinely inherent, and to aid the woman in her hour of need. Pain, particularly as a result of a dangerous childbirth, was not a desirable or necessary imperative for a woman to suffer in twelfth-century medical thought.²⁹ The dangers of childbirth were well known in this period and the plight of a mother suffering from a difficult labor was not lost on medieval audiences. The overall consensus, although officially against any form of controlling procreation, was also sympathetic to the dangers that awaited women and the social implications that the loss of a mother would have had on a family structure if she were to die from an unwanted pregnancy.³⁰ Methods of preventing conception, or ending a pregnancy altogether, circulated among medieval medical audiences; however, the frequency with which they were practiced, as well as the extent to which these were known among the lower, illiterate classes, is frustratingly difficult to determine.³¹

Ecclesiastical figures such as the physician and theologian Peter of Spain (1205–1277)—believed to have later become Pope John XXI—took

28. C. H. Talbot, “Medicine,” *Science in the Middle Ages*, ed. David C. Lindberg (Chicago, IL: University of Chicago Press, 1978), 395.

29. Carole Rawcliffe, “Women, Childbirth, and Religion in Later Medieval England,” in *Women and Religion in Medieval England*, ed. Diana Wood (Oxford: Oxbow, 2003), 94–95.

30. Emily R. Coleman, “Medieval Marriage Characteristics: A Neglected Factor in the History of Medieval Serfdom,” in *Marriage and Fertility: Studies in Interdisciplinary History*, ed. Robert I. Rotberg and Theodore K. Rabb (Princeton, NJ: Princeton University Press, 1980), 78; and, Valerie L. Garver, “Childbearing and Infancy in the Carolingian World,” *Journal of the History of Sexuality* 21, no. 2 (2012): 239, www.jstor.org/stable/41475078.

31. Monica Green, “Books as a Source of Medical Education for Women in the Middle Ages,” *Dynamis* 20 (2000): 352.

a far more forgiving stance towards contraception.³² His mid-thirteenth-century *Thesaurus pauperum* (Treasures of the Poor) contains a large treatise on the various methods recorded in classical, Arabic, and contemporary medical texts for contraceptive techniques. By listing his knowledge of contraceptive techniques in *Thesaurus pauperum*, a volume dedicated to the poorer classes, Peter was attempting to help control the population, particularly for those unable to care for larger families.³³ In recognizing that it was incredibly difficult to encourage all classes of society to restrict their sexual activity, authors like Peter of Spain spread contraceptive knowledge in order to regulate the poorer populations through alternative means. Child abandonment at the expense of the church was on the rise; by the early thirteenth century, the majority of children placed in the care of local monasteries or other religious buildings were overwhelmingly from poorer families.³⁴ Methods for avoiding unwanted pregnancies would thus have been a favorable alternative to child abandonment. In his instructions to the poor, Peter was providing contraceptive information in order to help them keep their families, and thus their financial burdens, at a manageable level.³⁵

As sex was known to cause conception, yet not every act of intercourse resulted in a pregnancy, much thought was devoted to understanding the complexities of the reproductive body for either improving or impeding fertilization.³⁶ Much as in modern medicine, there were many

32. Charles T. Ambrose, "Medicus Petrus Hispanus (c1205–77 Peter of Spain): a XIII century Pope and Author of a Medieval Sex Guide," *Journal of Medical Biography* 21, no. 2 (2013): 85–94.

33. *Ibid.*, 87.

34. Sharon Farmer, *Surviving Poverty in Medieval Paris: Gender, Ideology, and the Daily Lives of the Poor* (Ithaca, NY: Cornell University Press, 2002), 79.

35. Barbara A. Hanawalt, "Childbearing Among the Lower Classes of Late Medieval England," in *Marriage and Fertility: Studies in Interdisciplinary History*, ed. Robert I. Rotberg and Theodore K. Rabb (Princeton, NJ: Princeton University Press, 1980), 28–29.

36. Thomas G. Benedek, "Beliefs about Human Sexual Function in the Middle Ages and Renaissance," in *Human Sexuality in the Middle Ages and Renaissance*, ed. Douglas Radcliff-Umstead (Pittsburgh, PA: Center for Medieval and Renaissance Studies, University of Pittsburgh, 1978), 105–6.

different remedies and schools of thought that could constitute either an abortive or contraceptive technique, depending on the views of the individual author. For example, the late twelfth-century Italian lawyer Huguccio advised men that *coitus/amplexus reservatus*, in which the man does not ejaculate at all, was spiritually cleaner than *coitus interruptus*, as achieving an orgasm was considered to be more sinful than performing sexual actions.³⁷ The thought behind this was that his seed, which was thought to hold life, was not wasted for orgasmic pleasure rather than conception. Although this did not discourage the sexual act, it did attempt to curb the enjoyment of the participating parties as well as limit the amount of disused sperm. The English theologian Thomas of Cobham (ca. 1160–1233) also vehemently condemned any abortive acts, but acknowledged that many couples chose to perform intercourse during pregnancy so as to satisfy the lustful urges of the man.³⁸ Coitus with

37. John T. Noonan, *Contraception: A History of Its Treatment by the Catholic Theologians and Canonists* (Cambridge, MA: Harvard University Press, 1968), 296–97. “To render the conjugal debt to one’s wife is nothing other than to make for her a plenty of one’s body for the wifely matter. Hence one often renders the debt to his wife in such a way that he does not satisfy his pleasure, and conversely. Therefore, in the aforesaid case, I can so render the debt to the wife and wait in such a way until she satisfies her pleasure. Indeed, often in such cases a woman is accustomed to anticipate her husband, and when the pleasure of the wife in the carnal work is satisfied, I can, if I wish, withdraw, not satisfying my pleasure, free of all sin, and not emitting my seed of propagation.” James L. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago, IL: University of Chicago Press, 1987), 282n133. “Unde sepe alius reddit debitum uxori ita quod ipse non explet uoluptatem suam et e contrario in premissis casu (scil.: ego habeo uxorem, instanter petit debitum) possum sic reddere debitum uxori, expectatiue quousque expleat uoluptatem suam. Immo sepe in tali mulier solet preuenire uirum et expleta uoluptate uxoris in carnali opere si uolo possum libere ab omni peccato discedere uoluptate mee non satisfaciens nec propagationis semen emittens”; and, Wolfgang P. Müller, *Huguccio: The Life, Works, and Thoughts of a Twelfth-Century Jurist* (Washington, DC: Catholic University of America Press, 1994), 4–6.

38. Thomas of Chobham, *Summa confessorum*, ed. Rev. F. Bloomfield, *Analecta mediaevalia Namuroensia* 25 (Louvain: Nauwelaerts, 1968), 333.

a woman approaching birth, however it might be desired by the mother and ignoring the opinion of physicians, was only to fulfill the lust of a husband.³⁹ He also suggested that such an act could cause abortion and that the ultimate purpose was clearly contraceptive, as intercourse with a pregnant woman served as a means of enjoying sex without relying on the use of any contraceptive techniques.

Most high medieval theologians, unlike some of the authors of medical texts, went further in their restrictions on fertility control, condemning abortionists as murderers and categorizing terminated pregnancies as homicides. Rufinus, Bishop of Assisi (fl. 1157–1179), decreed that abortive acts were homicides.⁴⁰ However, he did offer concessions for those who willingly came forward to confess their guilt, arranging penitential punishments rather than punitive actions.⁴¹ Other theologians used biblical law to determine how abortionists should be punished. The twelfth-century English cardinal Robert Pullus (ca. 1080–1147) cited Exodus when determining the parameters for penalizing abortion. He surmised that the level of punishment was based on the demands of the unborn child's father, instructing jurists to follow the example set in Hebraic precedent.⁴² Quoting Exodus 21:22, Robert Pullus allowed

39. *Ibid.*, 463–64.

40. Rufinus, Bishop of Assisi, *Summa decretorum des magister Rufinus*, ed. Heinrich Singer, (Paderborn, 1902), 128–29. “Dicere ceperat de homicidiis sponte vel ex contingenti commissis, sed quoniam qui abortum fecerit homicida quandoque iudicatur, ideo de muliere interserit, que inter caballos perstricta abortivum fecit: dicens quod, si non sponte hoc fecerit, non imputetur ei.”

41. *Ibid.*, 129. “Quomodo autem non imputetur ipsi, cum voluntarie non fit, aut imputetur, eum evenit ex industria, sufficienter tunc adiuvante Domino dicitur, quando infra Cs. XXXII.”

42. Robert Pullus, “Quare unus plasmatus, et quando anima infunditur,” *PL* 186.726. “Viro jam formato anima inspiratur, ideo forsitan et discamus in capite quid rite teneatur in successione: nam quod ante consummationem palatii regnatura haud inducatur anima; intelligenti insinuatur, dum in lege dicitur, percussorem praegnantis, et de percussione abortientis, si abortivus plena forma excutitur daturum animam pro anima; si semiplenus, multandum pecunia. Quare? nisi quia non infunditur spiritus ante formatum corpus.

the offended parties to determine the level of punishment against those who, through violent means, caused a woman to miscarry against her will, poignantly omitting any mention of the woman who causes an abortion on her own body.⁴³ Although theologians regarded abortion as a homicidal act, there was very little consensus as to what punishment or penitential atonement best suited the responsible parties or even what definitively defined an abortive action.

High medieval theologians not only used biblical law to determine the appropriate punishment for abortionists, but also to determine what exactly constituted an abortion. For example, numerous debates regarding abortion focused on whether or not a fetus had quickened, thus determining the state of the child's soul. The theologian Petrus Cantor (d. 1197) used the example of fetal animation to interpret biblical perspectives on abortion.⁴⁴ Citing Moses, Petrus argued that different punishments existed for abortionists, determined by the stage of the pregnancy and the animation of the fetus.⁴⁵ However, he equally condemned those who killed the fetus both before and after animation as murderers, theorizing that they would not have known the quickened state of the unborn child as they were not the mother. In this way, Petrus

Nam tum demum praesentia animae praedicatur, cum natus jam sentit et movetur.”

43. “If people are fighting and hit a pregnant woman and she gives birth prematurely but there is no serious injury, the offender must be fined whatever the woman's husband demands and the court allows,” Exodus 21:22.

44. Wolfgang P. Müller, *The Criminalization of Abortion in the West: Its Origins in Medieval Law* (Ithaca, NY: Cornell University Press, 2012), 48–49.

45. Petrus Cantor, *Liber Casuum Conscientiae*, ed. Jean-Albert Dugauquier, *Analecta Mediaevalia Namurcensia* 21 (Louvain: Éditions Nauwelaerts, 1967), 561–62. “Videtur contrarium predictis quod Moyses maiorem penam dicit infligendam ei qui excutit formatum puerperium et uiuum, quam ei qui excutit informe, cum tamen secundum predicta constet eos equaliter peccasse ex quo idem facerent, siue esset formatum puerperium, siue non, nec discernant, nec etiam de facili discernere possunt utrum sit formatum uel non. Sed forte Moyses presumpsit de maiori contemptu illius qui formatum puerperium excussit, et ideo propter presumptionem uel propter maiorem horrorem, maiorem penam inflinxit” (emphasis added).

adopted and adapted earlier stances on abortion to suit this different perspective on atonement. The question of whether or not abortion should be considered a homicide was mostly dependent on the formation of the fetus. The thirteenth-century Dominican friar and saint Raymond of Penyafort proposed that an abortion was considered a homicide only if the fetus had performed any animated movement discernible to the mother.⁴⁶ A pregnancy that ended through violent means was considered a “quasi-homicide” if it occurred before the moment of quickening.⁴⁷ Terminating a pregnancy in the early stages of development was not truly considered to be a homicide by Raymond, as the child had not yet reached the sensory awareness that stirred it to move. However, as it was contrary to the natural progression of development, such actions were still subject to punishment.

Spanish penitential texts from the ninth to eleventh centuries prescribed different methods of punishment depending on who caused the abortion: an outside individual through violent means or the unwilling mother via medicinal means.⁴⁸ The late ninth-century penitential *Vigilantium* required a woman who “kills a child in the womb by a potion or other means . . . [to] do penance for fifteen years, [s]imilarly for children already born.”⁴⁹ Another Spanish penitential text, the *Cordubense* of the early eleventh century, instructed a woman to do twenty-one years’

46. *Sancti Raymundi de Pennafort*, Honoratus Vincentius Laget, ex Typographia Seminarii, apud Augustinum Carattonium, 1744: Liber 2, tit. 1.6. “Quid, si aliquis percussit mulierem praegnantem, vel dat ei ventuum, vel ipsamet accipit, ut abortivum faciat, vel ut non concipiat; numquid talis iudicabitur homicida, aut irregularis?” Respondere: Si puerperium erat jam formatum, sive animatum, homicida est recte, si abortivum fecit mulier ex illa percussione, sive potationa, quia hominem interfecit.”

47. *Ibid.*, Liber 2, tit. 1.6. “Si vero nondum erat animatum, non dicitur homicida, quantum ad irregularitatem, sed *ut homicida* habebitur quantum ad poenitentiam; et idem de illo, qui dat, vel accipit venenum, vel simile, ne fiat generation, vel conceptio” (emphasis added). See Muller, *The Criminalisation*, 51.

48. Patricia Skinner and Elisabeth van Houts, trans. and eds., *Medieval Writings on Secular Women* (London: Penguin Books, 2011), 38–39.

49. *Ibid.*, 39–40.

penance, while the *Silense* of the mid-eleventh century demanded fifteen years' penance for a woman who killed her child "in the womb or newborn with a potion or other art." *Vigilanum* only required a woman who performed an abortion on another to do three years' penance and limited the mother's atonement to only three years if she killed her child in the womb "before it quickens"; literally, in this sense, before the child had a soul. This question of ensoulment formed much of the discussions on abortion, particularly as both civil and canon law mainly criminalized all abortive acts that occurred after the moment of quickening. Determining when this happened, as well as the privacy that early pregnancy and quickening afforded the unwilling mother, could have provided some measure of secrecy to early term abortions.

Quickening was usually considered to be the defining factor for determining when abortion became a homicide, yet the penalty for terminations before this moment was far less severe. High medieval canon law also extended punishments for the practice of abortion, whether intentionally through medical means or by assault, based on the moment of quickening. Even within canonical statements on the nature of abortion, termination of a quickened fetus incurred different charges than that of a nonviable fetus. In 1211, Innocent III wrote to a prior of the Carthusians after a monk was found to have caused abortive assault on a woman.

We have learned from your letter that a certain priest of your order, who previously had been a black monk, playfully grabbed by the girdle a certain pregnant woman, with whom he had been bonded together in an indecent intimacy and who asserted that she was carrying his child. As a result of this [grabbing] she claimed to be injured, consequently suffering an abortion. For this reason the priest, on the advice of prudent men, decided to refrain from ministry on the altar. . . . But we are responding to you by the present letter that if the fetus was not yet animated, he can minister; otherwise he ought to abstain from duty on the altar.⁵⁰

50. Robert Somerville, trans., "Licit and Illicit in the Yarnall Collection at the University of Pennsylvania: Pages from the Decretals of Pope Gregory IX," in *Law and the Illicit in Medieval Europe*, ed. Ruth Mazo Karras, Joel Kaye, and E. Ann Matter (Philadelphia: University of Pennsylvania Press,

The distinction between the killing of a viable fetus, and thus being barred from his religious duties at the altar, versus an early term abortion, create a striking stance on the nature of fertility control according to the medieval church. As a priest, his indiscretion and physical mistreatment of the woman were punished not according to the status or health of the woman, but by the quickening of her unborn child. These restrictions in some theological circles also extended to contraceptive measures as well.

The importance of determining when a fetus had gained spiritual awareness was vital for defining when abortion became a homicidal—and thus a mortally sinful—act. If the pregnant woman died from the violence of an assaultive miscarriage, there was no question that it was a homicide. However, if she were to commit an abortive act on her own body in secret, there was very little evidence for indicting her as a murderer. Additionally, an abortion did not only affect the mother. For a father, the terminated pregnancy could complicate inheritances or curtail his supply of laborers; for a lawmaker, the loss of a child was one less taxpayer, soldier, farmer, or child bearer for the state.⁵¹ In this sense, the loss of a pregnancy also had a financial—as well as spiritual—implication. Although the church and penitential texts outlined the necessary atonement required after abortive incidents, the state did not recognize the loss of a child with the same level of morality.⁵² However, there is

2008), 77-78. “Sicut ex vestrarum tenore perpendimus litterarum, cum quidam presbyter vestri ordinis, qui prius fuerat niger monachus, quamdam mulierem praegnantem, cum qua contraxerat consuetudinem inhonestam, et quae asserebat se concepisse ab eo, per zonam arripuerit quasi ludens, ipsa postmodum mulier sic ex eo se assertit fore laesam quod occasione huiusmodi abortivit. Propter quod idem presbyter proborum virorum usus consilio, se ipsum duxit ab altaris ministerio sequestrandum. Quare nobis humiliter supplicastis ut cum eo misericorditer agere dignaremur. Nos vero devotioni vestrae insinuatione praesentium respondemus quod, si nondum erat vivificatus conceptus, poterit ministrare; alioquin ab altaris officio debet abstinere.” *PL* 216:469.

51. Faye Getz, *Medicine in the English Middle Ages* (Princeton, NJ: Princeton University Press, 1998), 82.

52. Cate Gunn, *Ancrene Wise: From Pastoral Literature to Vernacular*

ample evidence to suggest that the unexpected loss of a child distressed the parents.⁵³ Determining a unanimous theological punishment for abortion was hindered by the many secrecies and medical limitations associated with premodern gynecology. Although theologians held different views regarding appropriate punishments for contraception, they did universally agree that abortion was sinful and contrary to the will of God.

Conclusion

It is difficult to determine how much influence theologians actually had over the reproductive practices of medieval women, if they actually had any at all. Although many theological treatises gave strong opinions regarding sexuality and reproductive control, the vast majority did not include any particular details or specific instances in which abortive or contraceptive procedures were used among the laity. Instead, many of the writings on abortion appear to be more theoretical arguments concerning biblical precedent, rather than discussions based on contemporary events. As such, it is difficult to know how much influence the church was actually able to exert over activities like fertility control and gynecological procedures. In spite of the difficulties of determining church influence, it is obvious that reproductive control was an important topic for discussion. Since theologians debated the appropriate punishments for abortion and contraception, while attempting to accurately define the parameters for each act, it is possible that some measure of fertility control—whether perceived or real—must have occurred to necessitate these debates. Through speculations, confessions, or accusations, theologians were aware that abortion and contraception occurred, or at the very least, they feared that it did.

Contrary to the modern assumption that all harsh restrictions on

Spirituality (Cardiff: University of Wales Press, 2008), 93–94.

53. Katarina Mustakallio and Christian Laes, eds., *The Dark Side of Childhood in Late Antiquity and the Middle Ages: Unwanted, Disabled and Lost* (Oxford: Oxbow, 2011); and Nicholas Orme, *Medieval Children* (New Haven, CT: Yale University Press, 2001).

women's rights should be labeled "medieval," actual sources reveal a very different perspective. William of Conches held beliefs that directly mirror those of the more conservative members of modern society, but his voice was not the only one in the discussion. For example, Peter of Spain provided many different recipes for helping the poor practice fertility control, and contemporary law did not reflect a unanimous view of abortion. Instead, medieval perceptions of pregnancy recognized that some were unnecessarily dangerous, particularly for those women who were physically unfit to carry a child safely to term. Some medieval theologians and canonists attempted to make exceptions for these women and discussed how best to avoid these potentially life-threatening situations, revealing far less stringent views than those automatically associated with the modern perception of the "medieval" world. The many instances of deep concern for the welfare of the mother shown in medieval sources contradict the modern idea that medieval society was brutally backwards and unrelentingly anti-woman. Much as in modern society, opposing views were expressed. What medieval discussions of abortion and contraception do demonstrate, however, is that modern society has not progressed as much as today's feminists and proponents of equality would like. In spite of the modern assertion that everything backwards and anti-progressive must be labeled "medieval," similar views unfortunately appear today—and among supposedly educated people who should be more enlightened. Although many critics of Todd Akin were quick to discredit his term "legitimate rape" as a uniquely "medieval" view, opponents of women's rights to reproductive choice and control of their bodies still exist and are often in positions of power. The views of Todd Akin and William of Conches cannot be labeled as either "modern" or "medieval"; they are, unfortunately, "timeless."

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