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# SUSPENDING DEMOCRACY, HARMING GENDER EQUALITY

## The 2013 Law on Pregnancy Termination in Macedonia

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This chapter contains my findings on the political and legal developments around the promulgation of a new law on pregnancy termination in the Republic of Macedonia in 2013. Being an outspoken supporter of freedom of choice regarding childbirth and a participant in the pro-choice mobilization against this law, I consider it a profound intrusion into both the body of women's human rights and the bodies of women which hinders gender equality. Liberal abortion laws are essential for achieving this equality, not in the least because parenting still has a greater gender-based impact on women's (rather than on men's) educational, career, and other life choices and trajectories.

However, the main point which I make here, based on my analysis of official documents and media items,[1] is that the recent restriction of the access to safe abortion in Macedonia was not only a victory of the opponents of this access. The exploration of this change requires a larger perspective, such as Charles Tilly's (2007, 60) first principle for describing democracy, democratization, and dedemocratization: "Concentrate on observations of interactions between citizens and states; . . . [O]bserve what happens when groups of citizens make claims on state officials and when state officials seek to repress their enemies or rivals." I argue that this instance of legislation was exemplary for the disturbing *de facto* suspension of the already fragile nascent democracy in Macedonia between 2006 and 2017. The Macedonian authorities implemented a broad anti-choice agenda, which extended far beyond childbirth and included a comprehensive unlawful suppression of dissent. Lastly, the analyzed developments are an infamously good illustration of the worldwide emergence of new forms of opposition to abortion. Thereby, even if abortion remains legal, the access to it is seriously hampered through the introduction of e.g. a very permissive conscience clause for the medical professionals, compulsory biased counseling and a waiting period, additional

requirements for the abortion providers and facilities, or limitations on the use of medical abortion (Benson Gold and Nash 2013; Bijelić and Hodžić 2014; Finer and Fine 2013; Norberg 2016).

In the remainder of this chapter, I will first trace what preceded the submission of a draft law on pregnancy termination to the Macedonian Parliament in May 2013. That section is followed by an analysis of the short period in which the draft law was discussed and passed, including the resistance this law incited and the related legislative procedures. Afterwards, I describe the later, unsuccessful attempts to challenge the law and the ruling parties' continuous anti-choice practices. Having presented a thick description of the relevant events, I will close the chapter with my interpretation of the process and my insights on what progressive societal forces that care about gender equality and democracy can learn from this Macedonian case.

## Preceding Developments

Up to June 2013, Macedonia had a rather liberal abortion law, stemming from the country's past as one of the constitutive units of the Socialist Federal Republic of Yugoslavia. The gradual liberalization of abortion which took place in Yugoslavia after World War II culminated with a constitutionally guaranteed freedom of choice regarding childbirth. The Yugoslav constitution of 1974 defined this freedom of choice as a human right that could only be restricted on medical grounds. At that moment, having such a provision not only made Yugoslavia unique among the socialist countries, but in the rest of the world, too. Prominent female officials of the League of Communists of Yugoslavia, many of whom were respected veterans of the antifascist resistance in World War II, pushed for liberalization of abortion—along with family planning and use of contraception—for the purpose of building a modern society in which there would be gender equality, a better standard of living, happier families, and as few undesired children and unsafe illegal abortions as possible (Bonfiglioli 2016; David 1999; Petrić 1976; Služben vesnik 9/1974; Tomšič 1987).

Subsequently, each Yugoslav constitutive unit established its own legal framework within which abortion could take place. The laws of all six Yugoslav republics and both autonomous provinces stipulated that abortion was a medical intervention which could be freely and urgently performed up to 10 weeks of pregnancy if that would not endanger the woman's life and health. Terminations after the 10th week were allowed as well, but they were subject to approval by a special medical committee. The Law on Termination of Pregnancy which was passed by the Macedonian Parliament in 1976 contained an additional stipulation. Women were allowed only one abortion per year. Nonetheless, even then a specially appointed medical committee was entitled to approve more abortions per year, as well as abortions after the 10th week of pregnancy, in case of pregnancy-related health risks for the woman, fetal malformations, power abuse (e.g. incest and rape), and

difficult personal, family, material, and other conditions. When Macedonia became an independent state in 1991, its constitution also declared that freedom of choice regarding childbirth was a human right. In effect, the 1976 abortion law remained as good as intact (Rožman 2009; Služben vesnik 18/1976, 52/1991).

Prior to 2008–2009, there were no anti-choice campaigns in Macedonia, although the Macedonian Orthodox Church and some conservative (nationalist) politicians and intellectuals occasionally called for the restriction or criminalization of abortion. Consistent with the regular interethnic tensions and power struggles between the two largest ethnic communities—the Macedonians and the Albanians—these pronouncements were predominantly aimed at increasing the ethnic Macedonian population's birth rate, lest it would be outnumbered by the ethnic Albanians.

The developments in 2008 and 2009 announced a sea change. A substantial number of unsigned posters featuring graphic images and stating that abortion was murder was put up at prominent locations. No non-governmental organization (NGO) or state institution claimed responsibility for this action, and the government—which mainly consisted of members of the Christian Democratic VMRO-DPMNE[2] party—also denied attempting to hamper access to abortion.[3] Its officials spoke of considering legislative changes only for the purpose of modernizing the existing law. Not before long, a previously unknown NGO, Revita, started making public appearances. Using strong anti-choice discourse, it spoke about the importance of educating women on the health and moral issues concerning abortion because "if a woman is educated, she will decide for herself—no abortion" (Marjanović 2009). Whereas this NGO denied any involvement with the poster campaign, its first public activities included the launch of the Macedonian-language website "AbortionNO," which had an abundance of similarly upsetting imagery, and the allocation of awards for the so-called "protection of the right of the unborn child" to prominent anti-choice religious and lay public figures. Revita has received financial support both from the government and the local municipality where it was registered and where VMRO-DPMNE also controlled the lion's share of political power. Revita's founder and president was also a member of that party (J. J. 2009; Jordanovska 2013; Miškovska Kajevska 2000; Pepovska 2009).

At the same time, the government increased the price of abortion in the state gynecological clinics, conducted a media campaign promoting giving birth to a third child, and introduced financial benefits for women with three or more children. In addition, it announced a contract-award procedure for the production of videos on the consequences of abortion. The videos they were looking for were not meant to offer impartial information but were to praise motherhood, promote giving birth, and discourage abortion. That announcement also contained Christian terms and implicitly suggested that the videos should depict women who had chosen abortion as child murderers (Acevska 2009; *Dnevnik* 2009; HERA 2009; Koalicija 2009a; *Vest* 2009).

Political parties, human rights and women's NGOs, intellectuals, journalists, and medical professionals all spoke against these misleading efforts and the lack of transparency regarding the rumored plans for a restrictive law on pregnancy termination. The pro-choice advocates also objected to the government-sanctioned intrusion of the Macedonian Orthodox Church in the state's constitutionally guaranteed secularism and in women's freedom of choice regarding childbirth, and underlined the detrimental consequences—for women in particular—of the stigmatization and criminalization of abortion. They called for the protection of women's sexual and reproductive rights, safe, legal, and affordable abortion, broad access to quality contraceptives, and education on their use (Helsinški 2010; Jovanovska 2009; Koalicija 2009b; Kolozova 2008; Lj. B. 2009; Sapunov et al. 2009).

All these appeals fell on deaf ears. In 2010 and 2011, several anti-choice videos and advertisements appeared in the media as part of a governmental campaign with the slogan: "Choose life. You have the right to a choice. A campaign to explain the consequences of abortion." Already the slogan made it clear that the campaign was not intended to neutrally present the pros and cons of giving birth or having an abortion. Using deceptive data, fear mongering, and highly moralistic discourse, the campaign did not promote making well-considered choices, but aimed to impose a specific choice—giving birth—and stigmatize those who would choose or had chosen otherwise. This time, too, a fervent debate followed, with the pro-choice advocates asking the government anew whether it was preparing the ground for a restrictive abortion law. The latter again denied this and stated that the only goal of the campaign was to educate the public on the harmful consequences of abortion—an explanation which largely overlapped with that of Revita (HERA and ZGOM 2011; Jovanovska 2011; Pandevska 2011; Popovska 2011; Stojanovski 2011).

## A Controversial Procedure, A Controversial Law

In October 2012, in his speech on the occasion of a Macedonian national holiday, the prime minister (and VMRO-DPMNE's leader) dismissed the struggle for women's rights and women's political and economic participation as societally irrelevant and belonging to the same corpus of "distorted values" as same-sex marriages and adoptions by same-sex couples. Without referring to the legal regulation of abortion, he called for addressing the low birth rate, which would require three or four children per family and a respect for "traditional" family values. With the exception of his speech, which pointedly expressed his and his party's opposition to gender and sexual equality, as well as to the freedom of choice regarding childbirth, the year 2012 did not bring other significant abortion-related developments. This proved, however, to be the calm before the storm.

On Easter 2013, a high official of the Macedonian Orthodox Church said that if the Macedonian nation and church were to be preserved, women always had to

opt for giving birth. Just a couple of weeks later, the government—represented by the Ministry of Health—submitted draft law on pregnancy termination to parliament. The law was due to be passed in a summary procedure, which allocates less time to parliamentary debate and to the collection of input from the public. Echoing the rationale given in 2009, the government spoke of the need to modernize the law from 1976 by adjusting it to the current healthcare system and to the current curative methods and principles. The request for a summary procedure was justified by stating that the law in question was not complex or extensive. Whereas such a justification was in line with the rules of procedure of the Macedonian Parliament, the contents of the draft law would reveal that the request for a summary procedure and its justification were an undemocratic smoke screen that served to curtail criticism and prevent larger debates and protests by masking the substantial changes (Duvnjak 2016; *MKD* 2013; Vlada 2012, 2013a).

Though not criminalizing abortion, the draft law subtly, albeit drastically, restricted access to the intervention by bureaucratizing, complicating, and prolonging the procedure, and by introducing high fines and imprisonment for medical professionals who disobeyed the new rules. Different from the stipulations of the 1976 law, a woman seeking abortion[4] was supposed to submit a written request for the procedure (including the findings of an already undertaken ultrasound examination), attend compulsory counseling on contraception, the benefits of giving birth, and the risks of abortion, and would only after a successive mandatory waiting period of three days be allowed to undergo the intervention. Moreover, if the woman was married, her husband had to be informed of the intervention in advance. Besides violating women's right to self-determination and privacy as guaranteed by the Law on Protection of Patients' Rights (Služben vesnik 82/2008), the government attempted to introduce the stipulation on the compulsory provision of information to the husband through a legal back door. More precisely, it was not explicitly stated in the section outlining the procedure on pregnancy termination. It could only be inferred from the section on fines, as one of them was intended for medical professionals who would fail to inform the husband. Nothing was said on the contents of the mandatory counseling besides that the Minister of Health would specify those contents in a separate bylaw.

So, although the legislator portrayed the draft law as simple, it was exactly the opposite. The law was complex both due to the complexity of the issue it dealt with—or, in fact, failed to deal with—and due to the many ambiguities and inconsistencies it contained. Furthermore, it was bound to have extensive consequences for women dealing with an unwanted pregnancy and increase the number of unsafe illegal abortions, given its restrictive character and the context in which it was to be applied: a considerably conservative and impoverished country without comprehensive sexual education or affordable quality contraceptives, and with an understaffed, overburdened, and not always easily accessible deteriorating public healthcare system (Association 2016; HERA et al. 2016; Gaber-Damjanovska 2016; Vlada 2013a).

So, whereas the government had never announced—and in the past even denied—that it was working on a new abortion law, all of a sudden it submitted one to parliament and rushed the procedure. Pro-choice advocates expressed their outrage, and there were public protests in front of parliament as well. Members of the European Parliament—one should keep in mind Macedonia's status as an EU-candidate country since 2005—and international NGOs sent letters of concern to the Macedonian authorities. The pro-choice challengers demanded that the draft law be withdrawn and subjected to a broad consultative process. They criticized the government's lack of transparency, blatant interference with the freedom of choice regarding childbirth, and disregard for the international documents which Macedonia had ratified, such as the UN Convention on the Elimination of All Forms of Discrimination against Women (ratified in 1994) and the Convention for the Protection of Human Rights and Fundamental Freedoms (ratified in 1997).

The mandatory waiting period, which undermined women's agency and made the intervention riskier, was seen as particularly problematic. Another huge cause for concern was the introduction of compulsory counseling. The draft law did not specify which current curative standards were to be followed, and law's opposers doubted their supposed modern and evidence-based character. An important reason for this distrust was the law's noncompliance with the World Health Organization (2012) guidelines on safe abortion, which clearly discourage any delays and other barriers in the provision of this medical service. The discourse of the governmental campaigns did not leave much space for optimism either. Aside from the already mentioned explicitly anti-abortion "Choose Life" campaign, the campaigns for the promotion of family values and multi-child families also contained a more implicit discouragement of pregnancy termination. They proclaimed, for example, that the only way to achieve self-fulfillment and create a meaningful personal legacy was by marrying and having many children. In addition, some of these videos underlined their message with a religious statement: "By creating new life, we are closer to God" (HERA et al. 2016; Mnogudetni 2014; M. V. 2013; Najčevska 2013; NVO Infocentar 2015; Rizvanoviḱ 2013; Simonoviḱ 2013; Vankovska 2013).

The public hearing about the draft law, which was organized by the Parliamentary Committee on Health in early June 2013, proved to be only a pro forma event. Just like his (female) fellow party members from the ruling VMRO-DPMNE, the Minister of Health showed no intention of listening to the objections or backing down. He repeatedly denied that the law was restrictive in any way and defended the introduction of mandatory counseling by saying that women had a right to be informed. All the while, he propagated false information, claiming that the proposed law was almost identical to the previous one and even more liberal than the Dutch one. Moreover, he resorted to discriminatory and phobic discourse to delegitimize the pro-choice NGO resistance. Referring to the fact that some of those NGOs also worked on LGBT rights, the minister said that it

was not to be expected that he would agree with organizations whose views he did not share or respect (*A1on* 2013; Helsinški 2013, 2014; Komisija za zdravstvo 2013; Jovanovska-Veljanovska 2013).

Parliament passed the law on 10 June 2013, only 20 days after it had received the first draft. Apart from the deletion of the implicit stipulation on the compulsory prior notification of the husband—an important change made thanks to some (female) parliamentarians from the ruling parties—the other modifications to the draft law were cosmetic. The law still restricted and complicated access to abortion. In the final discussion, the law's proponents maintained that the law was liberal and did not violate any women's right. At the same time, they did not fail to mention the benefits of giving birth and the dangers of undergoing an abortion, and accused the parliamentarians from the non-ruling parties for not contributing to a constructive dialogue, but creating unnecessary tensions instead. In protest against the contents of the draft law, the procedure, and the tone of the preceding debates, an overwhelming majority of the latter parliamentarians was absent from this discussion and the ensuing vote. Their decision did not affect the outcome, though: The law was passed with all its loopholes and contradictions (Marušić 2013; Mladenovska 2013; Sobranie 2013a; Vlada 2013b).

## A Continuous Disregard for the Dissenting Views

Afterwards, the law was sent to the president for final approval. Various NGOs and citizens wrote asking him to exercise his right not to sign the decree and return the law to Parliament for additional discussion. HERA, one of these NGOs and main forces behind the pro-choice mobilization, was invited to the president's office to elaborate its concerns. This invitation, too, turned to be pro forma. Not only did the president sign the decree, but when HERA criticized his move, his cabinet responded that the new law contained the same provisions as the preceding one and did not in any way hinder women's freedom of choice regarding pregnancy termination. This formulation echoed that of the VMRO-DPMNE and showed that even the head of the state, who had won the presidential elections as that party's candidate, chose to spread untrue information, fully ignoring the contrasting views and contributing to the deterioration of the position of women in the country (HERA 2013a, 2013b; Miškovska Kajevska 2013; *PlusInfo* 2013; Služben vesnik 87/2013).

In September 2013, using the only remaining democratic procedure to alter the law, which by then had already become effective, a legal scholar and four NGOs filed an initiative with the Constitutional Court for a procedure reviewing the law's constitutionality. The signatories pointed out that, *inter alia*, the requirement to submit a written request, the mandatory counseling, and the waiting period were incompatible with the constitutionally guaranteed freedom of choice regarding childbirth. In addition, they argued, given that those provisions did not exist for any other medical intervention, they represented a discrimination against

women. The provisions decreased women's control over their own bodies and increased that of the state. The law's imprecisions, internal contradictions, and collisions with the international treaties Macedonia was supposed to respect were also noted.

This initiative did not bear fruit either. All but one of the constitutional judges declared not to consider the law problematic and fully rejected the initiative. It is striking that it took the court one year to decide on the initiative, especially since it rejected it almost unanimously. The judges' justification of the choice not to review the constitutionality of any of the disputed stipulations replicated VMRO-DPMNE's defense of the law, stating that the law served to protect the health and wellbeing of women and did not infringe on their agency, dignity, or freedom of choice regarding childbirth. This replication was not coincidental. As later developments would confirm (see the last part of this chapter), the Constitutional Court was just one of the institutions of the Macedonian state which the ruling coalition managed to turn into its auxiliaries by exercising unlawful pressure. The dissenting judge, in her separate opinion, outlined why some of the law's provisions were unconstitutional and stated that the signatories had rightfully submitted such an initiative (Gaber-Damjanovska 2016; Ivanovski 2016; Ristova-Asterud 2014; Ristova-Asterud et al. 2013).

On 10 October 2014, two days after the court's decision, the bylaw on mandatory pre-abortion counseling appeared in the Official Gazette of the Republic of Macedonia, even though the Minister of Health had been obliged to prepare it by 24 June 2014 (i.e. within a year after the law came into force). As the pro-choice advocates had feared, the counseling, the contents of which had not yet been previously disclosed, was not intended to help women make a well-considered choice, but to dissuade them from having an abortion. Contrary to the previous statements of the Minister of Health and his fellow party members, the bylaw revealed that the required ultrasound examination was not just a precautionary measure ensuring that the abortion would not be additionally risky. The doctor had to show the woman a dynamic ultrasound image of the embryo/fetus, describe it to her, and turn the sound on so that she could hear its heartbeat.[5] Moreover, the doctor was supposed to inform the woman about the potential benefits of maintaining the pregnancy and all short-term and long-term (psychological) health consequences of the intervention, as well as tell her that she could withdraw her abortion request. There were no stipulations on providing information on the consequences of giving birth to an unwanted child (Ristova-Asterud 2015; Služben vesnik 148/2014).

The supplementary regulations thus amplified the constitutional violation the abortion law already presented. Yet the fact that they were promulgated only after the Constitutional Court had rejected the initiative for reviewing the law's constitutionality meant that the court had been unable to take them into consideration when making its decision. This telling chronological order enabled the government to deter criticism by referring to the court's pronouncement that the law was

fully in line with the constitution. Another significant point of concern is that even when the bylaw was published, the contents of the form that the woman requesting an abortion would have to fill out—which the proponents of the law claimed to be no more than a formality—were not made public. Following the Law on Free Access to Information of Public Importance (Služben vesnik 13/2006), the Ministry of Health is obliged to provide this information, but the related queries have remained unanswered. The public thus could not check whether the form further infringed the (constitutionally guaranteed) rights of the abortion seeker.

The bylaw proved once more how deceitful VMRO-DPMNE's (contradictory) claims that the new abortion regulations did not differ from the old ones or only modernized them were.[6] Even before the bylaw was published, soon after the abortion law became effective, new government-commissioned videos appeared in the media. These videos—which ended with the same message as that of the 2010/2011 campaign: "Choose life. You have the right to a choice"—showed that VMRO-DPMNE planned to go much further in instilling its profound anti-choice orientation. Particularly problematic was a video in which a smiling medical professional congratulated a man on a successful abortion, and told him that he and his partner "killed a healthy baby which could have become a wonderful boy or a girl" (Kampanji 2015. See also: Cvetkovska 2013).

In reaction to a complaint by parliamentarians from VMRO-DPMNE's largest rival party, the Social Democratic Union of Macedonia (SDSM), the Broadcasting Council established that the video in question breached some stipulations of the Law on Broadcasting Activity (e.g. prohibition of misleading information and endangerment of human dignity). Nevertheless, the government was allowed to broadcast that video between midnight and 05:00. During the rest of the day, only a corrected version of the video was permitted: one that would not suggest that an abortion which had been performed in a medical institution was murder. The government responded with a press release in which it portrayed itself as the wronged party and referred to this—in fact very mild—ruling as a form of censorship which had been imposed by the abortion advocates from SDSM and NGOs funded by billionaire George Soros.[7]

Subsequently, the video was altered in a mocking manner: The word *killed* was bleeped, a text stating that the Broadcasting Council had censored the contents was superimposed, and an anti-choice statement was added towards the end. Two versions contained quotes of Mother Teresa, and one version featured a line by Ronald Reagan. The statements did not explicitly mention the words *kill* or *murder*, but implied them and suggested that people only opted for abortion out of selfishness. HERA criticized these alterations and asked the Broadcasting Council to ban the video, but the Council remained silent. A few months later, HERA and five other NGOs filed a complaint with the Commission for Protection Against Discrimination regarding the contents of the "censored" videos. Yet the Commission did not find the videos in any way disturbing or discriminatory (*Falanga* 2013; Komisija za zaštita 2014; *Radio MOF* 2013; Sovet 2013).

It is quite revealing that Mother Teresa was quoted. As she was born in the capital Skopje, she enjoys a particularly positive reception in the country. The authorities have additionally stimulated this reputation, for instance by naming a university, a gynecological hospital, and the main public health clinical centre after her. In addition, plaques with supposed quotes of hers have been placed on prominent locations—including state institutions—in Skopje's city center. A case in point is the statement: "The greatest threat to world peace is abortion!!!" The visible placement of such a misleading and stigmatizing anti-choice message was an additional clear indicator of the advancing official endangerment of women's dignity and freedom of choice regarding childbirth in Macedonia (Vaseva 2014).

## De-Democratization Disguised as Democracy

In February 2015, the leader of SDSM revealed that the state intelligence service had illegally wiretapped around 1% of the country's population, i.e. around 20,000 people of various political affiliations, including (prominent) members of the ruling coalition. After receiving the recordings of those intercepted phone, e-mail, and text communications, he publicly aired some of them. The recordings exposed the large extent of the ruling parties' abuse of power, that of VMRO-DPMNE in particular: mass forgery and sabotage of the electoral process, including the electoral register, violent threats to people lest they vote for another party, use of physical violence against opponents, blackmail, extortion, corruption, and extensive control of the media, judiciary, police, and other state institutions (Senior Experts' Group 2015). Therefore, using Tilly's (2007, 20) categorization of regimes' public politics, Macedonia was a "high-capacity undemocratic" state, with "[l]ittle public voice except as elicited by the state [and] extensive involvement of state security forces in any public politics" (2007, 20), which "permit[ted] rulers to block or undermine democratisation" (2007, 184).

In a state with such a high capacity for non-democracy, restricting the freedom of choice regarding childbirth is therefore emblematic of a much larger restriction of people's freedom of choice which the governments dominated and led by VMRO-DPMNE have progressively undertaken between 2006 and 2017.[8] In other words, this party's anti-choice orientation not only concerned abortion but also all human rights and liberties, and all segments of democratic engagement within the state. As Sylvia Walby (2015, 112) observes: "Democracy involves political contestation [between] political actors ranging from those in civil society projects to those involved in designing and executing governmental programmes." Consequently, and applied to the case of Macedonia, when the ruling parties systematically discourage contestation by, for example, threatening citizens that they will lose their jobs if they engage in political dissent or if they do not join these parties' counter-protests (Senior Experts' Group 2015), there is a suspension of democracy.

The analogy between VMRO-DPMNE's attitude towards the freedom of choice regarding childbirth and the freedom of choice regarding political beliefs

can be also observed if we compare the discourse used in the government-commissioned videos addressing abortion with the discourse used in the party's election campaign in late 2016. For instance, whereas the motto of the abortion videos was "You have the right to a choice," the electoral campaign featured the motto "You know what is better!" (*Republika* 2016), and the main campaign video told the viewer: "[Y]ou will not allow somebody else to tell you what you should dream of. You tell yourself: 'This is my life and I decide about it'" (vmrodpmne macedonia 2016). On both occasions, the impression was created that, in line with the Constitution, individual agency was supported and citizens were encouraged to decide for themselves. In practice, however, citizens were pressured to make one particular choice—one that was not necessarily in accordance with their own beliefs, but with the VMRO-DPMNE's agenda.

In his analysis of the origins of the (post-)Yugoslav wars, Chip Gagnon (2004) studies the mobilizations and demobilizations the ruling elites in Croatia and Serbia carried out in order to remain in power. Through the use of media propaganda and violence, people were simultaneously demobilized as heterogeneous citizens of Yugoslavia and mobilized as homogenous members of ethnic collectives. Put differently, people were forcibly discouraged from making one choice and equally forcibly encouraged to make another. In a similar manner, looking at the situation in Macedonia critically, one can speak of a government-run demobilization of people as heterogeneous political agents and their simultaneous mobilization as homogenous supporters of the parties in power. The parallel also extends to the delegitimization of opponents because of their suggested foreign-funded allegiance to an inimical agenda: "Anyone who questioned [the ruling parties] was demonized as being in league with the enemy" (Gagnon 2004, 179). In Macedonia, as I mentioned, this demonization concerned the NGOs which publicly criticized the politics of the ruling coalition. Regardless of whether they have ever been financially supported by Soros' Open Society Foundations, we are defamed as *mala fide* recipients of those allegedly dubious funds and accused of destroying the institutions of the Macedonian state.

It is thus no exaggeration to consider that an undeclared "state of exception" existed in Macedonia, i.e. a "diminution of democracy during declared crises [and] suspension of the juridical order by political decree" (Walby 2015, 117). Although the VMRO-DPMNE-led governments have never declared such an emergency, they acted as if they had. Such an undeclared state of exception included a "bypassing [of] the usual procedures" (117), which was well observable in the area of legislation. For example, there has been a significant increase in the percentage of laws—from 30,8% in 2013 to 70% in 2016—which were passed through a summary procedure like the abortion law (Sobranie 2013b, 2016).

VMRO-DPMNE and its coalition partners needed only 20 days to pass a law with far-reaching consequences for women. The numerous objections to the law by pro-choice medical and legal professionals, NGO activists, public figures, and ordinary citizens were simply disregarded and often readily discarded as being

put forward by adherents of suspect foreign agendas. There was no factual or substantial engagement with the problematic provisions of the law, not even with those that directly collided with the constitution. Misleadingly, the abortion law and the procedure it stipulated were repetitively praised as protecting women and allowing them to make a free informed choice. The institutional mechanisms of the Macedonian state, which are supposed to safeguard against constitutional breaches and/or infringements of human rights and dignities, thus failed to perform their task.

Taking into account the pervasive power abuse by the ruling parties—which was not only confirmed by the contents of the intercepted wiretap communications, but also by the very act of illegal wiretapping—the ease, speed, and arrogance with which the access to abortion was restricted and the anti-choice discourse was installed are not surprising. Nonetheless, they are important indicators of the danger that undemocratic developments pose to (women's) human rights and liberties. When people risk being threatened, blackmailed, or made redundant because of criticizing the official politics, they will be more likely to consent to worrisome practices. This will be even more often the case in countries such as Macedonia, where the standard of living is low, job opportunities are scarce and often dependent on one's allegiance to the ruling parties, and the partisan courts do not provide fair procedures.

The Macedonian example shows that such developments can take place in apparent constitutional democracies, i.e. in supposedly democratic institutions, during presumably democratic procedures, and with the alleged goal of protection and advancement of those very rights and liberties. This case demonstrates further that solid provisions for the women's freedom of choice regarding childbirth can be disassembled in a very short time, even when the provided justification hardly corresponds to the reality. The mechanisms enabling this in Macedonia all had to do with suspension or weakening of democracy and consisted of: disinformation strategies about planned governmental actions, unlawful use of procedures that silenced civil society, hijacking of other parts of the *trias politica* (the Constitutional Court), alliances with religious authorities (the Macedonian Orthodox Church), and governmental campaigns demobilizing people and delegitimizing opponents. The linear progression of the development of democracy is thus not guaranteed.

These experiences do not take away the fact that even in de-democratizing or undemocratic societies the authorities can come up with progressive provisions. Anti-choice governments and tendencies do not absolutely preclude the introduction of pro-choice stipulations. Such was the case in socialist Yugoslavia with the constitutional sanctioning of the freedom of choice regarding childbirth and its conceptualization as a human right. Ambivalences like this one call for a comparative exploration of the conditions which are conducive to progressive gender legislation in one undemocratic setting and those which are not conducive to it in another. For example, how was it possible that Yugoslavia further liberalized the access to safe abortion in 1974, unlike Macedonia which severely restricted

it in 2013? What role was played, thereby, by the religious leaders whose political power, while being negligible during socialism, significantly increased during VMRO-DPMNE's rule? What was the influence of medical professionals, and that of female politicians and activists? Whereas I cannot offer here a solution to this important puzzle, by illuminating some of its components I would like to suggest a direction for further research efforts, by no means limited to the (post-) Yugoslav region. A thorough insight in the many facets of the struggle for a *de facto* freedom of choice regarding childbirth would give us—the advocates of gender equality—an even better idea not only of the situation of women (especially those dealing with an unwanted pregnancy) in the given context, but also of the obstacles and assistance which might be encountered while aiming for this equality.

## Notes

1 I only analyzed media items in Macedonian, which is the country's official language and the native language of its largest ethnic community and, generally speaking, the politically dominant one. Due to my unfortunate unfamiliarity with Albanian—the native language of Macedonia's second-largest ethnic community—the media items in that language were omitted from the analysis. Given the ethnic segregation in Macedonia, the media in Macedonian do not report much on the Albanian ethnic community, including its religious leaders (the Albanians in Macedonia are mostly of Islamic faith, unlike the ethnic-Macedonians' foremost affiliation with Orthodox Christianity). This means that the role of the Islamic clergy in this matter remains unscrutinized here.
2 The acronym in Macedonian stands for "Internal Macedonian Revolutionary Organization—Democratic Party for Macedonian National Unity." This party's statute clearly points to the narrow relation between the party and the Macedonian Orthodox Church: Should the former cease to exist, all its possessions would become a property of the latter (VMRO-DPMNE 2004).
3 Ethnic segregation in Macedonia is *inter alia* manifested in, and maintained by, the formation of political parties predominantly along ethnic lines. Consequently, each composition of parliament and government since 1991 has been a mixture of the senior ethnic-Macedonian and the junior ethnic-Albanian political parties. Quite interestingly, although the anti-choice and pro-natalist discourses and policies of VMRO-DPMNE have always contained a lot of anti-Albanian content, its ethnic-Albanian coalition partners—DPA (Democratic Party of Albanians) and, later, DUI (Democratic Union for Integration)—have typically refrained from protesting against that content and at times even defended those discourses and policies as if they were shared by all ruling parties.
4 With some exceptions in case of rape-related pregnancies, health-related concerns, minors, and women with limited or no capacity to exercise their rights.
5 Besides jeopardising the freedom of choice and being ethically problematic, this requirement is additionally perfidious because it wrongly suggests the existence of a (audible) heartbeat from the beginning of the pregnancy.
6 This was not the only instance when the government used the discourse of improvement to mask the (intended) introduction of a discriminatory or otherwise harmful policy. For example, a proposed set of constitutional changes, which included a constitutional definition of marriage as a union solely between a man and a woman, was presented as bringing new quality and higher standards to the country (Miškovska Kajevska 2016).
7 VMRO-DPMNE has repeatedly tried to delegitimize the NGO resistance by portraying the activists as Soros-funded traitors and spies, i.e. enemies of the state.

In December 2016, the party's leader (and former prime minister) even stated that the party would exercise tighter control of NGOs in Macedonia and fight for the country's "de**soros**oization" [sic] (VMRO-DPMNE 2016, emphasis added). Paul Stubbs (2013) notes similar behaviour by the authorities in Croatia and Serbia in the 1990s vis-à-vis critical NGOs.

8 When following the parliamentary elections in December 2016, VMRO-DPMNE did not manage to form a government, SDSM—as the second largest winner—was supposed to receive the mandate. After months of VMRO-DPMNE-led obstructions, including the refusal of the head of the state to give the mandate to the leader of SDSM, the latter formed a government in May 2017. The most unsettling part of VMRO-DPMNE's unwillingness to accept its defeat took place in April 2017, when its supporters stormed the Macedonian Parliament and (severely) injured several parliamentarians from SDSM and the ethnic-Albanian political parties (see e.g. *The Economist*, 2017).

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