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NEVER

AGAIN

BY ROBERTA BRANDES GRATZ

THIS WOMAN WAS THE VICTIM OF A CRIMINAL ABORTION. HER BODY WAS PHOTOGRAPHED EXACTLY AS IT WAS FOUND BY POLICE IN A BLOODY AND BARREN MOTEL ROOM; EXACTLY AS IT HAD BEEN ABANDONED THERE BY AN...

. . . unskilled, profiteering abortionist. Becoming frightened when "something went wrong," he left her to die alone.

The photograph is just one bit of evidence in the files of the Connecticut medical examiner who determined the technical cause of her death: an air embolism resulting from the unskilled surgical procedure. But this visible evidence of butchery has come to symbolize far more than an individual case with an individual cause. Because various abortion-law repeal and reform groups have used this photograph as one answer to the magnified fetus photographs so often displayed by antiabortion forces, this individual woman has come to represent the thousands of women who have been maimed or murdered by a society that denied them safe and legal abortions.

In January, the Supreme Court partially rewarded the long and courageous fight for women's right to choose by ruling that the state laws restricting early abortion were unconstitutional. (For the scope of this historic decision, see "How the Abortion Laws Happened," on page 48.) The proper implementation of this ruling will mean much less suffering in the future. But the woman in this photograph cannot be brought back to life, nor can the many, many women whose lives have been lost or tragically damaged in the past.

We must not forget. Now that a part of the battle is over, it is important to honor its victims and heroines.

Moreover, the Supreme Court victory will not be complete until dignified and safe abortions are available to all who seek them, poor women as well as those who can afford the current inflated price; until we have defeated the ingenious maneuverings that are already being tried to forestall compliance; until women will no longer be made to feel guilty by condescending doctors; until all state laws pertaining to abortion are wiped off the books, and abortion is no longer treated differently from other medical matters.

But that is still a long way off. For the time being, we must deal with the questions raised by the Supreme Court decision. For example, to what extent will health codes limit where abortion may be performed after the first 12 weeks—in hospitals only, or in clinics and doctors' offices as well? And what will happen to the doctors and nurses across the country who either have been jailed or had their medical licenses revoked for performing abortions?

And what about the costs for abortions? Can they truly be made free while the rest of the health system is so inequitable? The Supreme Court has given the states the option of specifying that only doctors may perform abortions. This comes at a time of increasing use of paramedics and midwives in birth deliveries and other areas of medicine. If only doctors may perform abortions, it will be more difficult to keep the cost down.

Clearly, a large part of the judicial question has been resolved, but the regulatory, economic, and ideological issues are a long way from being resolved.

The whole abortion debate has always been as much emotional as legal. For the patriarchal structure to give up control of women, especially the most fundamental control of women's bodies as the means of production, means the loss of an emotional and actual sense of superiority. (Indeed, the opposition to the new situation is so strong that some abortion foes are trying the only remaining legal tactic: a Constitutional amendment specifically against abortion.) The situation has been illogical from the start: a surrealistic nightmare of rhetoric in which everything appears in the reverse, or out of proportion, or upside down.

Politicians quaked before the shrill outcries of the vocal Right-to-Life groups, and ignored the fact that a 1972 Gallup poll showed 64 percent of the general population and 56 percent of the Catholic population to be in favor of a woman's right to choose. Those in favor of repealing or reforming repressive abortion laws were accused of advocating abortion when, in fact, they were really advocating an individual woman's freedom to decide for or against.

Antiabortion officials stood up before male-dominated legislatures and displayed bottled fetuses and wept for life, but they ignored the growing children who are starved, abandoned, and variously abused. (There were also brave men, a few of them in Congress or the state legislatures, who risked their political careers to support women's right. They are to be recognized and rewarded for their stand.) Often, the most vocal advocates of the unborn were and are the same legislators who vote against welfare programs and school lunch appropriations for children already born. They wept for the sanctity of life but shed no tears for the children and adults we have killed in Indochina. They ignored the fact that women have never advocated abortion as a form of birth control, that most women who seek abortions are those who already have children, and that the decision to have an abortion is never made lightly.

Indeed, these contradictions continue. Even after the Supreme Court decision, resistance and statements of outrage continue—as if the objecting groups were trying to compensate for their small number and for their humiliating defeat.

What makes it all even less logical is that neither the resistant legislators nor the Right-to-Lifers ever asked the women who were undergoing illegal abortions what they were thinking. Liberal male legislators who work among the poor, the black, the youth, and the elderly learning about "their needs," rarely asked women about their need for abortion. Though they rarely tell these other constituents that their needs are unconscionable or immoral, they did and do imply as much to women.

They continue to visit veterans' centers, factories, and child-care centers, but do they visit hospitals where women who have had illegal abortions fight for their lives? Do they care about knitting-needle techniques, past or present; about other barbarisms that desperate women might resort to? Certainly, the danger

of self-destruction in the well-publicized and just-as-illegal drug scene has been an area of far more concern.

In a way, legislators were shielded from confronting the gruesome consequences of restrictive laws: though regularly treated to horrifying displays—bottled fetuses, magnified photographs of aborted fetuses, and the like—they were rarely shown photographs such as the one on page 44. Freedom-of-choice groups all refrained from duplicating such "gutter tactics." They chose instead to fight irrationality with rationality, ignorance with fact, misrepresentation with truth; a noble motive, though one that resulted in obscuring women's real suffering.

But then New York's liberal law was saved from repeal only by Governor Nelson Rockefeller's veto. The Michigan referendum on abortion was defeated and nearly buried by the Nixon landslide. The Catholic Church and other conservative forces poured a fortune into the highly visible Right-to-Life campaigns. And thousands of abortions were performed daily, more or less safely on the women who could afford them, and very unsafely on the poor.

Finally, the pro-choice groups were ready to take the gloves off, to fight fire with fire. It is one of the many ironies of the abortion fight that just when abortion defenders were beginning to unveil the gruesome photos of butchered abortion victims, deformed fetuses, and battered babies, the Supreme Court intervened.

Dr. Barbara Roberts, who works on a volunteer basis at Pre-Term, Inc., a nonprofit abortion clinic in Washington, D.C., has many first-hand stories of women whose suffering was never reported.

Dr. Roberts recalls that, in 1967 when she was a medical student at Miami's Jackson Memorial Hospital, "a woman was brought into the emergency room in shock, practically dead with a black mass coming out of her vagina. We didn't know what it was until we got her to surgery. She had had an illegal abortion, and her uterus was perforated in several places. Through one of the perforations had come several feet of small bowels, which then worked their way out through the vagina and were actually hanging out between her legs. This was a woman who had already had children and who couldn't get a legal abortion. She had to have a hysterectomy, but there was a time when we didn't think she would survive at all."

On another occasion at the same hospital, Dr. Roberts, a nonpracticing Catholic herself, overheard two Catholic doctors discussing a patient who had requested a therapeutic abortion. The patient, a chronic alcoholic with four children, had rheumatic heart disease. She was brought into the hospital with an infection of the heart valves. She was also in the early stages of pregnancy, and a conference of hospital officials was scheduled to consider a therapeutic abortion.

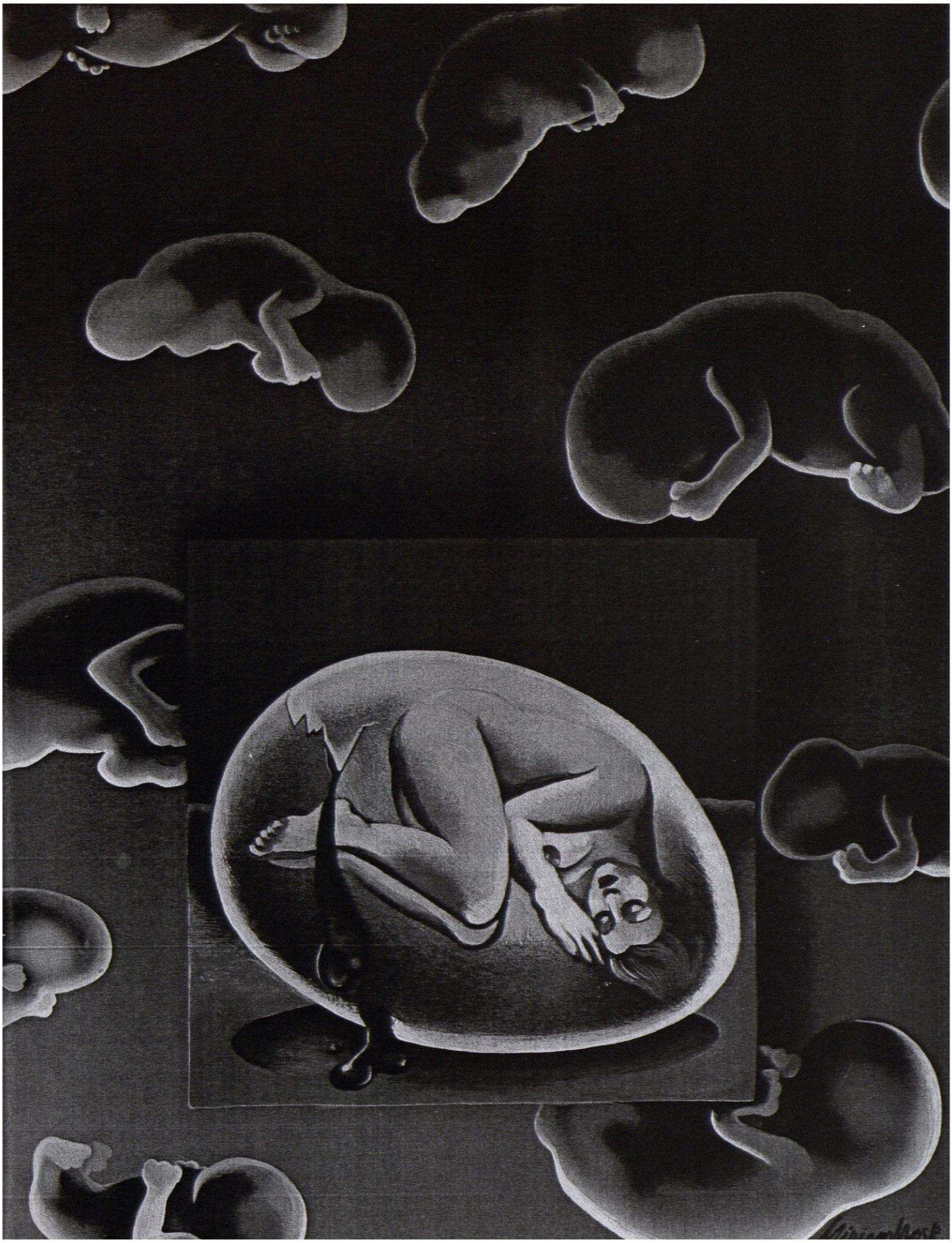
"The two doctors I overheard," Dr. Roberts recalls, "were plotting to make sure the abortion request was presented before a mainly Catholic group. I couldn't find out the details at the time, but a few months later when I was no longer with the hospital, a friend told me that the abortion had been denied—and that the woman had died of heart failure in her sixth or seventh month of pregnancy. This woman was actually murdered because of other people's religious convictions."

To Dr. Roberts, these are the real horror stories. About the horror stories of the Right-to-Lifers, she says: "A fetus doesn't experience pain. Pain is a learned response." And, she adds, "antiabortion groups often claim to be displaying an aborted fetus when, in fact, it is a stillborn or an eight-month fetus; in other words, a much more developed growth.

"The real point is that a fetus is part of a woman's body until it is born," Dr. Roberts says. "Antiabortion laws give fetuses rights that living people don't enjoy. No human's right to life includes the use of another human being's body and life-support systems against that individual's will."

The belief in fetal rights and the state's right to regulate the production of humans has resulted in much unnecessary anguish for the following women:

- The 47-year-old grandmother who discovered she was pregnant three weeks before her second child's wedding. Raising children was not something she had ever looked upon lightly. She had given it her all, and now she simply did not have the strength to start again.
- There was the middle-aged mother whose own doctor told her to stop taking the Pill for health reasons and then refused to abort her resultant pregnancy.
- The mother of five who was told she had a 50-50 chance to survive her sixth pregnancy.
- The 14-year-old who doesn't want to be a mother while still a child.
- The Catholic mother of two, soon-to-be-divorced but presently pregnant. In spite of a religious upbringing that deeply prejudiced her against divorce, she decided that the church could not impose permanent unhappiness upon her. Now she is forced into another battle of principle. While the church may care more for her unborn fetus, she now feels she must care more about her own life and the children she already has.
- The 34-year-old mother of a 6-year-old boy and a 5-year-old girl. A widow, she was about to remarry when she became pregnant. She was going to marry the father of the child. "We both wanted the baby," she says, "but I just couldn't very well say to my kids: 'Well, kiddies, in seven months you're going to have a baby sister or brother'—a new father and a new baby would be too much at once. And that's not the way to start any marriage."
- The pregnant mother of a mildly retarded toddler who is told that her child's chances for normal growth would be severely jeopardized by the entry of a second child into the family.
- Then there are the unmarried college students and the young working-women who have no desire to take the shotgun approach to marriage, and the scores of married women who are not ready to start a family, or who already have more children than they can handle, or who would face dire



economic hardship were there another mouth to feed.

All these are real cases, and all these women are still suffering the effects of the past.

But now there is Cindy, one of the lucky ones. Cindy is 18 and lives in a blue-collar suburb in New York, one of the few states to have liberalized its abortion law before the Supreme Court ruling. Last spring, two months before high school graduation, Cindy discovered she was pregnant. It had been her first experience with sex.

Cindy loves children. She worked in summer camp jobs, and as a babysitter to save money for a future education as a nursery school teacher. But she says simply, "I'm just too young to be a mother, and I won't fall into the trap my mother did. She married at eighteen and never left her hometown and kitchen."

There was no way, Cindy believes, that she could have told her parents of her condition. "They barely understand why I wear blue jeans and want to go to college."

So without a word to them, Cindy contacted a nearby Planned Parenthood office and was given the name and number of a clinic. She phoned, made an appointment ("no questions asked," she adds gratefully), and was told the fee would be $150.

At 9:30 the next morning, she went to the clinic. By 12:30, she was on her way home feeling great. "Everyone was so nice there I couldn't believe it," Cindy recalls. "They congratulated me when I arrived at having the courage to do it, explained in full what would be done [the aspirator technique], and asked me if I wanted a local or total anesthetic. I chose local.

"I didn't have to wait more than a few minutes. After it was over—it went very quickly—they let me rest for a couple of hours in a very pleasant recovery room. There was another girl in there with me, a public school teacher, and we talked about how wonderful everyone had been."

Amazing, the contrast between Cindy's experience and that woman in the Connecticut motel room; the difference between a law that gives women a free choice and one that restricts the course of women's lives. It's unlikely that any of the women described here *wanted* to have an abortion, or that they looked upon the operation lightly. Regardless of what Right-to-Lifers argued or what male legislators chose to believe, women have rarely advocated abortion. They have never said, "It's the form of birth control we choose." Instead, the message has been free choice—that if and when a woman finds herself in a position where abortion is the plausible option to a diminished life, then she and she alone should decide her own fate.

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HOW ABORTION LAWS HAPPENED

JIMMYE KIMMEY

Until a U.S. Supreme Court decision last January 22, every state in the Union had a history of laws prescribing under what circumstances and conditions abortions could and could not be performed. We were so accustomed to those laws that they seemed to have existed since time immemorial. But the fact is that, until 170 years ago, abortion was a personal and not a legal decision.

Our understanding of the common-law right of abortion and of the unconstitutionality of restrictive abortion laws derives largely from the pioneering work done by Professor Cyril Means of the New York Law School. Here, based largely on his research, is a chronological rundown of court and legislative events that transformed abortion from a choice to a crime-and back again.

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Two 14th-century English cases established the common-law right to terminate pregnancy at any time. The *Twinslayer's Case* involved a woman who was pregnant with twins. She was so severely beaten by a man that she miscarried. One twin was born dead and the other died of injuries two days later. The man was indicted for murder, pleaded not guilty, and was released by the judges because they refused to call either killing a crime.

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The second case, the *Abortionist's Case,* involved the intentional intrauterine killing of a fetus. The accused was freed on the grounds that no baptismal name was in the indictment and that it could not be proved whether the fetus had been killed by the abortionist or had died of natural causes shortly before he acted.

These two grounds—lack of a baptismal name and difficulty-of-proof—were the fundamental reasons why abortion was not a common-law crime. However, the victim's lack of a baptismal name did not prevent the common law from punishing the murder of non-Christians, so this reason need not be taken too seriously. The difficulty-of-proof argument is more credible since it is no more possible now than in the 14th century to prove that the fetus was still alive *at the moment of intervention.*

Another interesting feature about these 14th-century cases is especially important today. The justices who consistently refused to regard abortion as criminal were all Catholic, and they were aware of the fact that ecclesiastical courts of the medieval church punished abortion as a spiri-


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