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## Some Comments on Abortion Discourse

### Abstract

The article presents selected problems relevant for the contentious issue of abortion and the related discourses indicating that one of the characteristic features of abortion discourse is its mediatization. The author aims to characterize the constraints on abortion discourses and the varied environments in which the different types of such discourses emerge. Abortion discourses are sociolinguistically diverse and may exhibit different styles and modes of expression. Although they share the scope of the subject matter involved as in all cases they are centred on abortion-related problems, the field of discourse in each case is defined by the nature of the communicative situation in which a particular discourse is embedded. All abortion discourses are underlined by particular assumptions concerning the nature of human life and its beginning, as well as the issues of the dignity and liberty of the human person. The author suggests that what really hampers abortion discourses and prevents their participants from reaching a consensus is the fact that people who engage in such disputes are faced with the incommensurability of the values which translate into decisive factors and the final arguments used by interacting discussants. Another problem is posed by the fact that the two extreme positions in the debate are formulated with the use of different styles and registers, which results in the clash of asymmetric discourses. Finally, it is not insignificant that subjectively important values are much varied and that they must coexist with two main sets or “families” of abortion-oriented fundamental values present in the polarised camps.

1.1. Over the last twenty years, in more developed countries, there has been a growing public debate concerning abortion motivated by reasons other than purely medical. Abortion of that kind performed in such countries can have varied motivations, among which the most significant factor active in relevant decision-making processes include: advancement in medical science, a relatively easy access to medical service, welfare, higher career and social aspirations shared by women, as well as the resulting changes in the axiological system which involves a modification of the hierarchy in the scale of values. Abortion discourse, together with discourses of euthanasia, *in vitro* fertilization, planning the child’s gender, or medical experiments, including cloning of human beings, are all related to one of the most fundamental problems in contemporary societies: is

abortion admissible? This problem involves many contentious issues, but also myths, stereotypes, superstitions, ideologies and prejudices, each one of which alone could form a basis for extensive analysis.<sup>1</sup>

1.2. The term “discourse” is ambiguous and can often itself provide grounds for discussion and scientific research. In the present text, the very meaning of the word “discourse” is not in the centre of attention; it is enough to approach the notion following the general terminological convention present in communication. Thus, it is accepted that discourse relates to a public communicative act, a socio-linguistic event,<sup>2</sup> within which relevant participants pose their arguments in a free (i.e. unconstrained) and honest way with the aim of reaching an understanding (successful communication) and a consensus. The attribute of being public is, in turn, understood as standing in opposition to the possibility of a private discourse, i.e. a discussion, or a monologue, conducted for one’s private use.<sup>3</sup>

A public communicative event is an event whose scope is wider than that of a circle of one’s family and friends; as a result, such an event can influence people who do not know each other directly, and who will often not even actively participate in the event in question. However, there is a potential for such participation and a potential to form a reversible, reciprocal relation of the “I—you” type. In such contexts, it is the discourse participants’ aim to present their personal views so that their point could be understood, accepted, and, potentially, adopted by other participants in the discourse event; it is also among their aims that a general consensus should be achieved with regard to the issue being discussed, or that at least the arguments which have been verbalised during the debate should be understood by all participants. Discourse should integrate people and serve the aim of social cohabitation.<sup>4</sup> It is in this sense that we can also refer to the discourse on the contentious issue of abortion.

Discourse conceived of in the above-mentioned way may be contrasted with an inner monologue. The contrast is further strengthened by the presence of an irreversible “I—you” relation (as defined by M. Zirk-Sadowski<sup>5</sup>); however, this feature does not affect the fact that a monologue is also social in nature and has its origin in social life. For the purposes of the present paper it is accepted that a monologue is performed by the speaker and for the speaker and facilitates the “integration of ideas”, verbalisation of one’s arguments, and the decision-making process. In this sense we can refer to an “inner monologue on abortion”, which will lead to a decision concerning the abortion

<sup>1</sup> Cf. e.g. J.M. Bocheński *Sto zabobonów* [Eng. *A Hundred Superstitions*], Kraków 1981; R. Barthes, *Mit i znak. Eseje* [a selection of essays from *Mythologies*], Warszawa 1970; C.G. Jung, *Archetypy i symbole. Pisma wybrane* [Eng. *Archetypes and Symbols: Selected Texts*], Warszawa 1981; T. Biernat, *Mit polityczny* [Eng. *The Political Myth*], Warszawa 1989.

<sup>2</sup> Cf. e.g. T. Gizbert-Studnicki, *Język prawny z perspektywy socjolingwistycznej* [Eng. *Legal Language in a Sociolinguistic Perspective*], Warszawa/Kraków 1986; M. Zirk-Sadowski, *Prawo a uczestniczenie w kulturze* [Eng. *The law and participation in culture*], Łódź 1998, p. 73; K. Pleszka, *Communicative Approach To Legal Policy – Possibilities and Limitations*, in: *Politics of Law and Legal Policy. Between Modern and Post-Modern Jurisprudence*, Wolters Kluwer Polska 2008, p. 217 *et passim*.

<sup>3</sup> M. Zirk-Sadowski says: “a dialogue is a series of speech acts which instantiates the “I—you” relation and such a relation is reversible (convertible). [...] A dialogue can be contrasted with a monologue, which is primarily characterised by the fact that its coherence is limited to one unit of speech, and that the “I—you” relation is not reversible” (*Prawo a uczestniczenie...*, p. 77, translated by I. Witczak-Plisiecka).

<sup>4</sup> Discourse is a form of social interaction, in the process of which shared symbols and meanings are being construed; it allows to work out a consensus, cf. e.g. M. Zirk-Sadowski, *Wprowadzenie do filozofii prawa* [Eng. *Introduction to the philosophy of law*], Zakamycze 2000, chapter 7;

<sup>5</sup> Cf. note 3.

issue. It is assumed here that such a monologue is performed in order to form a decision whether to continue or to terminate pregnancy.

1.3. The terms “pregnancy”, “a pregnant woman”,<sup>6</sup> as well as their equivalents in different languages, make reference to a woman’s physical condition, her “otherness”, and would not be directly associated with the unborn child and the child’s condition.<sup>7</sup> In turn, formulaic phrases such as “to be expecting”, “an expectant” or “expecting a baby”, “be with child”, “expanding family”, etc. refer to the social world and family. Such uses of language, often shared by different natural languages, reveal our natural tendency to perceive pregnancy as either a physiological state or a state related to a woman’s family and her social position, but they do not indicate any “humanity” of the embryo or foetus.<sup>8</sup>

1.4. The word abortion (Latin *abortus*,<sup>9</sup> *abortio*), in turn, means termination of pregnancy in the sense of “removal”, and describes a pregnant woman as a person who “loses”; however, the term does not directly refer to the embryo or foetus, only to the woman. In Polish common medical discourse there is a distinction between natural miscarriage – which takes place not later than in the 22nd week of gestation; any later termination is called premature delivery – and induced termination of pregnancy, commonly known as abortion.

Abortion is a deliberate termination of pregnancy induced by external intervention, which leads to the death of the embryo or foetus.<sup>10</sup> There is thus one important criterion which distinguishes between spontaneous and induced abortion; in the case of natural abortion, the embryo or foetus is first dead and then removed, while induced abortion is always undertaken in the context of a living embryo or foetus.

Abortion can be perceived in many different ways. First of all, it may be approached either as a private matter, or a public issue, then also either as a woman’s problem or a problem independent of gender issues. These varied perspectives gave rise to different judgments, which are commented on below.

1.5. The conventions mentioned above lead us to assume that abortion discourse means a public debate concerning the admissibility of abortion in general, or in particular cases. In world abortion discourse, which has been also gaining in popularity in Poland since the 1990s, there appeared two main movements established more firmly in the 1960s. Following rich literature on the subject the movements became to be known as the *pro life* and the *pro choice*.<sup>11</sup> The *pro life* position asserts the right to live, marks an

<sup>6</sup> In Polish, the expression “kobieta ciężarna” and “kobieta brzemienna”, which mean “a pregnant woman”, are semantically related to “bearing a burden”.

<sup>7</sup> According to a dictionary definition, pregnancy is “a woman’s or a female mammal’s condition which begins at the moment of conception and terminates with giving birth” – *Mały słownik języka polskiego* [Eng. *A Concise Dictionary of the Polish Language*], Warszawa: PWN 1993, p. 93; in other languages, e.g. *grossesse – etat d’une femme enceinte, enceinte (d’une femme), qui est en etat de grossesse, elle est enceinte de trois mois, pregnancy, gravidanza, gestazione, diventare gravida, restare incinta*.

<sup>8</sup> On the contrary, as, for instance in the expression: *developpement du produit de la fecundation*.

<sup>9</sup> *Abortus* – “an embryo/foetus which was prematurely aborted, not alive; from *aboriri*”, which means “to disappear”, “to be removed” – W. Kopaliński, *Słownik wyrazów obcych i zwrotów obcojęzycznych z almanachem* [Eng. *Dictionary of foreign words and foreign expressions*], Warszawa 2000, 25th ed., p. 16.

<sup>10</sup> Cf. e.g. M. Stoppard, *Kobieta. Wszystko o...* [Eng. *Woman’s Body: A Manual for Life*] Warszawa 1995, pp. 157, 183; *Domowa Encyklopedia Medyczna* [Eng. *Home Encyclopaedia of Medicine*], Ossolineum 1991, p. 29.

<sup>11</sup> Cf. e.g. R. Paradowski, *Pro choice i pro life – rozbieżne dyskursy* [Eng. *Pro choice and pro life – different discourses*], Racjonalista.pl on Facebook, published on 21 December 2006; cf. references within; two conflicting positions: P. Singer, *Etyka praktyczna* [Eng. *Practical ethics*], 2nd ed., Warszawa 2007; E. Picker, *Godność człowieka a życie ludzkie*, [Ger. *Menschenwürde und Menschenleben*, translated by J. Merecki], Warszawa 2007.

anti-abortion stance, and points to a *nasciturus*'s right to come to the world, following a strong belief that a human being has the right to live from the moment of conception to his or her natural death. This view is usually associated with a belief that the problem of abortion is a public issue and that any person who carried out an abortion must be held formally responsible for the act.

The other position advocates the right of "choice"; in other words, it advocates people's right to personal liberty and privacy, which includes a woman's right to abortion. It is claimed that a pregnant woman has the right to decide whether or not she should give birth to a baby and that this choice is a private matter of any woman. It is further claimed that abortion should not be penalised as an embryo or foetus is a **part** of the mother's body, and not an independent human being.

There are different strands within the two above-mentioned positions. The *pro choice* group are mainly positioned within the liberal movement, including feminist movements, which, when in its extreme form, should be treated as separate. The *pro choice* movement may also take form of lay and ecological action.<sup>12</sup> The *pro life* movement is generally manifested as a religious position, however, it may also take form of a lay and ecological stance. Opinions such as indicated above appear mainly around the two main movements and are defined by relevant accepted axiological scales,<sup>13</sup> as well as by many other premises which make up their "base" and define "the point of departure".<sup>14</sup> Now, after over twenty years of discussions related to abortion in Poland, there is a clear polarization in the expressed opinions, while the debate itself has been constantly growing hotter and hotter.<sup>15</sup> Abortion is discussed widely and often with a lot of emotional involvement. It is strengthened with the use of both explicit and hidden persuasive strategies and non-standard rhetorical figures.<sup>16</sup>

<sup>12</sup> Cf. e.g. *15 argumentów na rzecz dopuszczalności przerywania ciąży* [Eng. *15 arguments for the admissibility of abortion*] which belong to various *pro choice* movements, including the argument that abortion is in agreement with nature, the argument concerning its being in agreement with culture and reason, the argument related to overpopulation, but also the arguments related to the quality of life, to the woman's personal liberty and dignity, the argument referring to theories and practices found in the European Union and in the Old Testament, arguments related to the fate of unwanted children, to the woman's mental condition, the argument referring to acts against drawing satisfaction from one's sexual life, and referring to the characteristics of the politicians who are against abortion – text commissioned by the Association for the Quality and Dignity of Human Life [Stowarzyszenie Na Rzecz Jakości i Godności Ludzkiego Życia], Racionalista.pl on Facebook, published on 5 April 2007.

<sup>13</sup> On the ethical dispute between two renowned philosophers: P. Singer and E. Piker – *vide* M. Szymczyk, *Singer pokonany?* [Eng. *Singer defeated?*], *Diametros*, 1008/15, pp. 94-96; the author rightly indicates that it is futile to conduct discussions between opponents who come from different paradigms, i.e. accept different fundamental premises, *viz.* the paradigm of sanctity of human life and its protection from the moment of fertilization to the moment of natural death, as against the utilitarian paradigm whose aim is to prevent pain and suffering wherever it is possible.

<sup>14</sup> Cf. R. Paradowski, *Pro choice...*; the author believes that the abortion debate is focused on the concept of humanity on the one hand, and on the other hand on a person's (especially on women's) ethical competence to decide what is good and what is evil. He claims that the *pro life* position ascribes a special value to the former issue, while the *pro choice* position concentrates on the latter. In my opinion, the contentious issue concerning the beginning of human life is even more fundamental as it is only after the concept of humanity and human life is defined that it is possible to proceed and discuss the ethical aspects of admissibility of the right to kill a man and to theorise about the circumstances in which such an act can be justified.

<sup>15</sup> In Poland and in other countries there are regular Marches for Life and Family; there are also the so-called *manifas* that gather supporters of abortion-related liberty. There are also rallies in front of medical clinics where women can undergo abortion, but at the same time there are mobile clinics ("abortion boats") which provide abortions in off-shore waters. Sometimes doctors and other medical personnel who engage in abortion practices are attacked. Two opposing camps are severely antagonized and show little or no personal respect using contentious cases of private people, such as the case of a young girl from Lublin in 2008 or the case of Alicja Tysiąc in Poland in their intrusive and ideologically loaded campaigns both on the *pro life* and the *pro choice* side.

<sup>16</sup> "The third world war has already been in progress for a long time and still takes its toll. Over the last ten years it consumed nearly a billion victims, counting just the babies killed by abortion. The memory of Holocaust should inspire

2.1. The term “abortion discourse” is itself underdetermined, as it is possible to indicate many such discourses. Among abortion discourses there are: medical discourse, biological discourse, philosophical discourse, including ethical, as well as political, economical, sociological and legal aspects, and also legal and philosophical discourse. The definition depends on who, and with what aims, engages in a particular type of argumentation. Such discourses are carried out in the media, in churches, in surgeries, in ministerial and medical offices, in pharmacies, during Parliamentary sessions, academic seminars, and conferences. They are sociolinguistically differentiated by their style, as well as by the use of different modes of discourse. Although the subject matter which is involved is always that of abortion, in each case, the field of discourse is defined by the scope of the communicative situation in which the discourse in question is embedded. Thus, we may expect a different *meritum* for abortion discourses found during confession, in a gynaecologist’s surgery, and in a quiet philosopher’s room. The discourses are differentiated with regard to the situation in which they happen, they are asymmetrical in relation to one another and, following M.A.K. Halliday’s concepts, they can be recognized as language varieties defined as registers.<sup>17</sup> Abortion discourses, as other types of discourse, are carried out according to the norms accepted for specific communicative situations and with the use of specific terminology and type of argumentation, which will also be characteristic of particular situational settings, for instance with the use of academic, political, or religious, etc. register. However, each of the types of discourse, as mentioned above, will be oriented, either explicitly and positively, or by rejection, towards three basic values: human life, dignity of the human being, and personal freedom of an individual.

2.2. The problem of admissibility of abortion is often underlined with a very basic, but usually non-verbalised and only implicitly present issue of the definition of human life and its beginning, which is in fact the definition of the quality of “humanity”.<sup>18</sup> Each person has an inalienable right to life, which is itself perceived as being so valuable that in selected bioethical systems it is defined in terms of sanctity – and such systems also include non-religious ones. Relevant literature focused on the issue is immense, and includes works which range from antiquity, e.g. analyses presenting the topic of

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Christian people to shoe more care of the lives of the unborn”, said a British bishop on the day when Holocaust was to be, online Forum Aborcja [Abortion Forum]; On 11 April 2012 at 16:00 on the same Abortion Forum I located the following comment: “I have a question. My parents want to perform an abortion – I cannot see why they do not want me. I do not take it against them, but I would like to know: will I feel any pain? Ah, certainly you are going to feel pain ... first, they are going to suck out your limbs, then they are going to crash your head [...]. Unfortunately, your mummy believes that you do not yet have your hand, legs, your head, and that you do not at all look like a human being, but that you are a cluster of cells and that you look more as a jelly [...]”; as reported in *Gazeta Wyborcza* on 9 January 2012, Pope Benedict XVI said during the New Year’s meeting with diplomats that liberal values, including the liberal right to abortion, threatens humanity and the human race; M. Środa spoke for *Wirtualna Polska* [wp.pl] in an interview **Who defends life?**, 9 March 2009; in the context of the military industry going on strike she said: “Television coverage on the industry whose function is to kill already born people who are alive received no commentary from the defenders of life. We saw neither Gowin, the M.P. who is so sensitive with regard to the value of life that he is not able to sleep hearing cries of the foetuses being murdered, nor were we able to see Terlikowski, a great Catholic activist whose biography is marked with acts aimed at the protection of innocent embryos; there were no manifestations by Młodzież Wszechpolska (or by any other nationalist group of young people) that would be impetuous as usual as its activity is mainly induced by feminists who defend women’s rights, and not military industry that defends the right to draw profit from killing people.”

<sup>17</sup> Cf. M.A.K. Halliday, *The Users and Uses of Language*, in: *Readings in Sociology of Language*, The Hague–Paris 1968, pp. 139–169.

<sup>18</sup> Cf. R. Paradowski, *Pro choice...*

abortion in the frame of particular ethical conceptions, including those of Hippocrates, through Catholic social teaching, including Christian personalism, to modern studies. All abortion discourses are based, typically implicitly, on an assumption concerning the beginning of a human being's life. It is with reference to this premise, and on its basis, even when the assumption has not been verbalised explicitly, that participants in a discourse formulate their argumentation strategies.<sup>19</sup>

The premise concerning the beginning of a person's life<sup>20</sup> may have its origin in different sources, for instance, it may be related to scientific or metaphysical, mythological or ideological issues. Frequently, the question of the beginning of a human being's life is accompanied with more detailed and specialist questions. On the one hand, such questions can be biological and physiological, or neurophysiologic in nature, as for instance the issue of being able to sense pain on the part of the embryo or foetus.<sup>21</sup> On the other hand, they can be based on psychological and philosophical problems, such as the most contentious issue of the existence of a human being as a person defined in psychological and philosophical sense.<sup>22</sup> Both lay and religious ideas concerning the beginning of a person's life offer a wide array, a *spectrum* of "possibilities" with regard to the problem: they may point to the moment of conception, different phases of embryonic and foetal development, the moment of birth, and even later time. Selected approaches explicitly differentiate life processes in terms of purely biological existence of an embryo or

<sup>19</sup> As L. Kostro and M. Gajewska indicate on p. 5 of their article *New anthropology emerges in the Catholic church in the context of scientific advancements* [available online at: [bacon.umcs.lublin.pl/lukasik/konferencja](http://bacon.umcs.lublin.pl/lukasik/konferencja)]: "However, it is not that all people realize that and define the human being (person) on the basis of just one discipline. Nowadays, for example, many theorists refer to the so-called genetic definition of the human being. This induces a serious methodological misunderstanding. The ability to define a person does not fall within the scope of the methodological competences of genetics and exceeds its methodological means. It is not possible to define the human being using genetics methods although its achievements must be taken into consideration in scientific anthropology. The human being as such is not an object of research in genetics science. Despite the fact, we may be faced with the following definition: 'A person is exhaustively defined by the human genotype, the fact of belonging to the human race'. According to that definition, the fact of having a human genotype functions as a criterion active in the recognition of whether an entity is a human being or not. Despite its apparent soundness, such a definition is more philosophical than genetic in nature as genetics itself is not concerned with defining the human being, even though it does assert that, for instance, a human zygote contains a complete set of human genes, i.e. a human genotype. Possession of human genes does not decide on its own whether or not the entity in question is a human being. Applying the genetics definitional criteria, we would have to accept that every living human cell is a human being, for instance, we would have to accept that any white blood cell of human blood is a human being as it does possess a complete human genotype."

<sup>20</sup> L. Kostro, M. Gajewska, *New anthropology...*, p. 10: "We agree (and the Church also accepts that) that the termination of the bioelectric activity of the brain should be recognized as the moment of death of a person. The termination of such activity means that the person died and even though there are other life processes which are still going on in the body, e.g. beating of the heart, it is permitted to retrieve organs for transplantation. Why shouldn't we assume that the beginning of a human being's life is also marked by the initiation of bioelectric activity of the brain? This happens in the eighth week of pregnancy, i.e. at the end of the second month, and, in other words, around the 50th day of life."

<sup>21</sup> It is assumed that the foetus does not feel pain until the third trimester of pregnancy because of the earlier partial underdevelopment of its nervous system; Wikipedia (Polish entry on foetal pain) informs that "In 2010 the reports commissioned by the British Department of Health state that before the end of the seventh month of pregnancy the foetus is in a constant state of unconsciousness resembling sleep or anaesthesia, and that it is evident that the neural connections in the cerebral cortex are undeveloped, and as most neurosurgeons believe that the cerebral cortex is necessary for pain perception, it can be concluded that the foetus cannot feel any pain prior to that development phase". Earlier review report based on research conducted by scientists from the University of California in San Francisco, and published in 2005 in the Journal of the American Medical Association (JAMA), offered a similar opinion and concluded in a meta-analysis of data from dozens of current medical reports and studies concerning foetal nociception that it was not likely that foetuses could feel any pain prior to the third trimester of pregnancy. There is an emerging consensus among developmental neurobiologists that the establishment of thalamocortical connections (at about 26 weeks) is a critical event with regard to the foetal perception of pain. Because pain can involve sensory, emotional and cognitive factors, it may be impossible to know exactly when painful experiences are perceived."

<sup>22</sup> In the philosophical approach, cf. the opinions voiced within both Christian and non-Christian personalism; cf. also numerous works in the field of humanistic and social philosophy.



a human foetus (seen as a constellation of human cells), and in terms of a human person's life, ascribing to such life an additional value.<sup>23</sup> Within the latter approach, there is a clear shift of the main point in the discussion from the strict biological and physical orientation towards a more philosophical and psychological one: from the human being as a species towards the human being as a person.<sup>24</sup> Following the distinction, there are related theoretical proposals concerning human personality; there are proposals that not every "person" has a "personality", or that not every "human being" is a "person".<sup>25</sup>

It has also been suggested that the quality of being a person is a gradable value and that there are different identifiable "levels" of being a person.<sup>26</sup> Theoretical concepts of personality and those of a human person or a human being are used in the abortion discourse in order to juxtapose the mother's and the foetus's being a person. Following this perspective, the concepts within the *pro choice* approach advertise the view that the life of a foetus/an embryo, as a non-person entity, is not subject to (i.e. does not require) protection in the sense that is granted to human beings. Consequently, the proponents of this approach do not treat abortion (although this is dependent on the stage of pregnancy, usually not more advanced than the twelfth week) as a forbidden act, i.e. an act against human life and health. The proponents of the psychological and personal definitional criteria for human life use this conception to argue for the *pro choice* stance in abortion discourse. In contrast, other conceptions, usually within the *pro life* fundamentalist approach, accept the "zero/one" starting point of human life, whose value is invariably worthy of protection from the very moment of conception. In consequence, any acts aimed at the termination of pregnancy is seen as both reprehensible and criminal. Within such an approach, the foetus in a woman's womb is recognized as a human being, while the value of the foetus's life is equalled with the value of human life.

It can be seen in this context that the very expression "life", and even more "human life", is controversial, underdetermined, and vague.

2.3. Another issue related to the problem of abortion is that of human dignity and a person's right to a dignified life. This problem is primarily philosophical in nature; it has been subject to discussion since antiquity and has retained its relevance until the present moment.<sup>27</sup> However, it finds its most practical definition in the legal, social,

<sup>23</sup> Cf. e.g. P. Singer, *Etyka...*

<sup>24</sup> Cf. M.A. Krapiec, *Człowiek jako...*

<sup>25</sup> On the concept of a human person – personality as put forward by Dietrich von Hildebrand, a phenomenologist – vide K. Stachewicz, *Być osobą – być osobowością. Uwagi na marginesie koncepcji Dietricha von Hildebranda* [Eng. *Being oneself – being a person. Comments on the margin of Dietrich von Hildebrand's ideas*], available online at: <http://www.tezeusz.pl/cms/tz/index.php?id=2176>.

<sup>26</sup> The theories of personality and the levels of personality have been in the centre of interest for many renowned psychologists, such as S. Freud, E.H. Erikson, C.G. Jung, K. Horney, H. Murray, E.R. Gurthie, J. Dollard, H.J. Eysenck, and G.W. Allport (the Five Factor Model), E. Berne (transactional analysis; TA), et al.

<sup>27</sup> Cf. M. Sadowski, *Godność człowieka – podstawa aksjologiczna państwa i prawa* [Eng. *Dignity of the human person – an axiological foundation for the state and the legal system*], available online at: <http://www.bibliotekacyfrowa.pl/Content/21952/002.pdf> and the references within, e.g. F.J. Mazurek, *Godność osoby ludzkiej jako wartość absolutna* [Eng. *Dignity of the human person as an absolute value*], *Rocznik Nauk Społecznych*, Lublin 1993, p. 266; M.A. Krapiec, *Ja – człowiek. Zarys antropologii filozoficznej* [Eng. *I – a Man: An outline of philosophical anthropology*], Lublin 1974, p. 54; J. Maritain, *Humanizm integralny* [Eng. *Integral Humanism*], Kraków 1967, p. 64; R. Rorty, *Human Rights*, in: *Truth and Progress, Papers*, Vol. 3, Cambridge 1998, p. 183; A. Redelbach, *Prawa naturalne – prawa człowieka – wymiar sprawiedliwości. Polacy wobec Europejskiej Konwencji Praw Człowieka* [Eng. *Natural Law – Human Rights – Administration of Justice: Polish people and the European Convention of Human Rights*], Toruń 2000, pp. 78–79; J. Raz, *Autorytet prawa. Eseje o prawie i moralności* [Eng. *The Authority of the Law: Essays on Law and Morality*], Warszawa 2000, p. 211; M. Środa, *Idea godności w kulturze i etyce* [Eng. *The concept of dignity in ethics and culture*], Warszawa 1993, p. 6.

economic, and psychic spheres, whose analysis goes beyond the scope of the present paper. In general, human dignity may be understood in many different ways, first of all in a philosophical approach, it is seen as an attribute of every human being, an attribute which is both inherent and inalienable for every person. Human dignity may also be understood as a human being's personal feature, i.e. a personal ethical trait.<sup>28</sup> Naturally, abortion discourses are focused on *dignitas hominis* as a term from the field of philosophical anthropology. It is in this context that a harsh dispute has continued with regard to the scope of the meaning of the concept, and especially with regard to its reference, i.e. to what kind of subjects it may be related when it is accepted that the term should be treated as an attribute of a person or a human being. It seems that the answer to the question must always be formulated on the basis of a definition of a person and that of human life as human dignity is always secondary with regard to the issues. It should also be recognized as a major achievement in the development of social and legal reality and science that human dignity is by definition an object protected by law, both in international law and in particular national legal systems, irrespective of the type of the legal culture involved.<sup>29</sup>

In the context of abortion, human dignity, i.e. the dignity of a person, is granted special and fundamental a value, being an argument in the abortion dispute. Within the *pro life* approach, human dignity is recognized as a person's, i.e. *nasciturus*'s, attribute, which finds its expression in the person's inalienable right to life and his or her right to be born. Proponents of the *pro choice* orientation, in turn, would either deny that an unborn entity has such an attribute, or put the pregnant woman's dignity over that of her yet unborn offspring, referring to various dimensions of dignity perceived in this way.

2.4. Freedom is an issue directly related to dignity.<sup>30</sup> Human dignity has a freedom-related dimension. A free man is endowed with the right to decide about him- or herself, about the course of his or her life, and about his or her body; a human being has an inalienable right to self-determination. A person's freedom is recognized as a fundamental value within all liberal movements, and it is related to nearly all spheres of human life. Following Isaiah Berlin, in the social and political dimensions we may refer to positive and negative liberty, i.e. the freedom "towards" something, and the liberty "from" something. Positive liberty includes the freedom of choice, the freedom to assembly, the freedom of speech, religion, etc. (as granted in democratic states), while negative liberty includes freedom from coercion and oppression, and the lack of the state's intervention in a citizen's private sphere, etc. (being a basis for conservative

<sup>28</sup> Cf. G. Grzybek, *Etyka, rozwój, wychowanie* [Eng. *Ethics, Development and Education*], Bielsko-Biała: ATH 2007, p. 10.

<sup>29</sup> Cf. e.g. the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10 December 1948 whose preamble reads as follows: "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world [...]; the Charter of Fundamental Rights of the European Union adopted by the Treaty of Lisbon of 13 December 2007 which entered into force on 1 December 2009 asserts in its preamble: "Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity [...]"; The Constitution of the Republic of Poland of 2 April 1997, states in Article 30: "The inherent and inalienable dignity of the person shall constitute a source of freedoms and rights of persons and citizens. It shall be inviolable. The respect and protection thereof shall be the obligation of public authorities."

<sup>30</sup> The values of dignity and freedom are usually cited together and the tradition of such an approach dates back to Renaissance humanism; in his famous *Oratio de hominis dignitate* [Eng. *Oration on the dignity of Man*], IFiS PAN, 2010, being a humanistic manifesto, Giovanni Pico della Mirandola (1463 -1494) claimed that a person's greatness and dignity are defined by his freedom of choice, his free will.



liberalism).<sup>31</sup> Negative freedom conceived of in this way was recognized by Berlin as true liberty, while the democratic approach was seen as posing a real threat to true liberty. As B. Sygulaska-Polanowska claims “However, in the course of its historical evolution, the idea of positive freedom has departed from the idea of negative freedom. The fact that the former accepted a kind of metaphysical split of personality led to the situation in which the ‘freedom to something’ was identified with the apotheosis of authority [...]. Berlin’s essay is *de facto* a dramatic call to protect negative liberty, which, being inherent in any act of choosing, is a guarantee for preserving the humane values.”<sup>32</sup> However, freedom must also be constrained in order to respect other people’s needs and the necessity to secure social order. In accordance with J.S. Mill’s philosophy, personal freedom is limited by the liberty of others; its boundaries mark areas of possible harm done to other people. This conception can be easily used to form a powerful argument in anti-abortion disputes.

The freedom to perform abortion is an interesting issue for proponents of liberalism in its many forms. It is of interest in the field of political liberalism due to the necessity to provide legal regulations with regard to abortion, and it is also of interest to social liberalism, and especially ethical and cultural liberalism, through its concentration on the problem of the value of personal self-determination as well as the value of freedom from the state’s intervention into citizens’ (i.e. legal subjects’) private lives. Divagations on such issues are often correlated with the affirmation of feminist values, which include the fundamental issue of the instantiation of not just formal, but also practical and real gender equality, which would secure the freedom of making personal choices and the freedom of self-determination (which is especially important for the second world feminist movement<sup>33</sup> and the fifth wave of the movement in Poland). Feminism, being women’s ideology,<sup>34</sup> in an evident way relates to the question of abortion<sup>35</sup>; significantly, women are perceived as being more “corporeal”<sup>36</sup> than men are. Liberalism, as well as

<sup>31</sup> Cf. I. Berlin, *Cztery eseje o wolności* [Eng. *Four Essays on Liberty*], H. Hardy (ed.), Warszawa 1994; I. Berlin, *Dwie koncepcje wolności* [Eng. *Two concepts of liberty*], transl. by D. Grinberg, in: J. Jedlicki (ed.), *Dwie koncepcje wolności i inne eseje* [Eng. *Two Concepts of Liberty and Other Essays*], Warszawa 1991; B. Polanowska-Sygulaska, *Filozofia wolności Isaiaha Berlina* [Eng. *Isaiah Berlin’s Philosophy of Liberty*], Kraków 1998; B. Polanowska-Sygulaska, *Pluralizm wartości i jego implikacje w filozofii prawa* [Eng. *Pluralism of Values and its Implications for the Philosophy of Law*], Kraków 2008, p. 71ff; D. Wiktor, *Wolność: Isaiaha Berlina głos w dyskusji* [Eng. *Liberty: Isaiah Berlin’s voice in the discussion*], available online at: <http://www.racjonalista.pl/kk.php/s,2343>; .

<sup>32</sup> B. Sygulaska-Polanowska, *Pluralizm wartości...*, p. 72.

<sup>33</sup> The beginning of the *second wave feminism* is identified with the publication of *Feminine Mystique* by Betty Friedan in 1963.

<sup>34</sup> Vide e.g. R. Putnam Tong, *Mysł feministyczna. Wprowadzenie* [Eng. *Feminist Thought: An Introduction*], Warszawa: PWN 2002; K. Ślęczka, *Feminizm. Ideologie i koncepcje społeczne współczesnego feminizmu* [Eng. *Feminism: Ideologies and Concepts in Contemporary Feminism*], Katowice: Książnica 1999.

<sup>35</sup> A famous American feminist and a proponent of birth control, abortion and eugenics, Margaret Sanger (called the Angel of Death by her opponents), in 1921 founded the American Birth Control League, which became notorious as an organization that would support the extermination of people who did not “fit in” and as an organization that would promote the idea of racial purity. After World War II, the League was renamed as the International Planned Parenthood Federation to avoid negative associations with the Nazi ideology; M. Sanger was also an animator and a propagator of the contraceptive pill in the United States, as well as of the free practice of abortion, which was in agreement with the idea of the liberation of women.

<sup>36</sup> Cf. E. Hyży, *Kobieta, ciało, tożsamość. Teorie podmiotu w filozofii feministycznej końca XX wieku* [Eng. *The woman, the body and identity: The theories of the subject in feminist philosophy at the end of the twentieth century*], Kraków 2003, p. 7 – *corporeal feminism* as a special feminist movement; a feminist theologian, M. Zuber suggested the following in her blog on 22 June 2008, <http://she-who-is.blogspot.com/2008/06/koniec-z-dualizmem.html>: “The philosophical devaluation of the body has significant political consequences, especially for women, as they have always been and still are defined as being more “corporeal” than men. Such ascription of hyper-corporeality to women, which is itself deeply rooted in the more fundamental mind and body dualism, is linked to other forms of duality, that between form and matter, activity and passivity, reason and emotion, and nature and culture. In association with these categorical

liberal feminism which was propagated and developed by Betty Friedan, who in 1966 acted as the founder of the famous and influential National Organization for Women (NOW), has always supported women's claims with regard to gender equality in the legal and social sphere; it emphasized women's right to freedom, their right to pursue professional careers, their right to equal remuneration with men, and, above all, the movement has always recognized liberty as the main value in the pantheon of all liberal values.<sup>37</sup>

2.5. Next to the abovementioned abortion-oriented problems there is another issue which itself is rarely explicitly verbalized in abortion debates, but whose practical significance in inner monologues centered on abortion should not be underestimated. This is the eugenics-oriented thread in discourses related to the termination of pregnancy. The term "eugenics" (from Greek *eugenes*, i.e. "well born") comes from Francis Galton and nowadays holds clearly negative connotations with most pejorative associations. Eugenics has had a long history, dating back to antiquity, but for some time was forgotten and then rediscovered at the end of the nineteenth century along with Thomas Malthus's ideas related to selective breeding of human beings and in the context of the fear that the world was to become overpopulated. In a formal perspective, the long history of eugenics in the political, ideological, and philosophical dimension<sup>38</sup> seems to have already been closed in Europe, especially in the context of the termination of the Swedish eugenics project in the second half of the 1970s.<sup>39</sup> In the United States, where in the first half of the twentieth century eugenics used to be promoted and practiced,<sup>40</sup> it is now claimed by many observers that the principles of crypto-eugenics are still applied under the label of conscious motherhood and family planning programs. In a global perspective, eugenics still continues to be an issue at different places.<sup>41</sup> In Poland, eugenics ideology was still present in the first part of the twentieth century. Since 1922, there existed the Polish Eugenics Association [*Polskie Towarzystwo Eugeniczne*], which gathered its enthusiasts and propagators, including Tadeusz Boy-Żeleński, Ludwik Krzywicki, and Oskar Bielawski. However, in Poland the eugenics movement had never been particularly influential, and after World War II, having been disgraced, has not been openly present or advertised in a formal way.<sup>42</sup> There are however opinions

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dichotomies, the hierarchy of the male/female dichotomy had been strengthened and was able to influence the situation in which women, not just because of their femininity, were treated as intellectually and socially (practically) disabled." Then she says, "the years-long dialogue between feminists resulted in the emergence of many subject-oriented theories, including corporeal feminism, which provides a common label for many feminist conceptions that refer to the widely understood postmodernist tradition".

<sup>37</sup> Cf. Z. Rau, *Liberalizm. Zarys myśli politycznej XIX i XX wieku* [Eng. *Liberalism: An Outline of the Political Thought in the 19<sup>th</sup> and the 20<sup>th</sup> centuries.*], Warszawa 2000; Z. Rau, *Zapomniana wolność* [Eng. *The Forgotten Liberty*], Warszawa 2008.

<sup>38</sup> Cf. an interesting article by K. Marulewska, *Eugenika w świetle idei postępu. Rozważania wokół fundamentów filozoficznych* [Eng. *Eugenics in the light of the concept of progress: Divagations concerning the foundations of philosophy*], *Dialogi Polityczne* 2008/10, pp. 63–83, available online at: [http://www.dialogi.umk.pl/archiwum/10/05\\_marulewska.pdf](http://www.dialogi.umk.pl/archiwum/10/05_marulewska.pdf).

<sup>39</sup> The Swedish program aimed at sterilizing "unwanted" people, whose aim was to secure "racial hygiene", was launched "under the auspices" of the welfare state in 1936 and terminated 40 years later. The program was publicly exposed in 1997 by a Polish journalist who lived in Sweden, Maciej Zaremba Bielawski. The program was also realized in the US, Third Reich and in Japan – Cf. M. Zaremba Bielawski, *Higienści. Z dziejów eugeniki* [Eng. *Hygienists: The history of eugenics*], Wydawnictwo Czarne 2011.

<sup>40</sup> Cf. note 38.

<sup>41</sup> For instance, contemporary China, with its party- and government-oriented demographic policies provides a relevant example.

<sup>42</sup> The case of a mentally retarded patient, Wioletta Woźniak from the village of Szamotuly in Poland, which was well documented in the media, should be treated as a crypto-eugenic practice. In 2009, after she gave birth to a baby, doctors sterilized her without her consent or even knowledge, motivating their act by the fact that "she was unable to cope with the children that she already had".

that some openly advertised beliefs and views, such as those associated with advertising conscious motherhood and prenatal tests, or those associated with scientific programs such as the Human Genome Project, or programs related to genetic modification of human beings, should be recognized as crypto-eugenics phenomena.<sup>43</sup>

In the contemporary world, the advancements in science, including medical science and technology, allow researchers to obtain information about the possible problems in the development of a foetus at quite early stages of pregnancy. Prenatal testing, which makes it possible to diagnose selected medical problems at such early stages of the foetus' development, is done partly with the aim to cure them if there is a medical solution, even though this may not always be possible either because of the problem involved or because medical science is not able to cope with the diagnosed defect or dysfunction. Diagnosed incurable impairment of the foetus often becomes an essential factor in the decision-making process with regard to the termination of pregnancy. In such contexts, people from the *pro life* circle have the tendency to assess the decision to perform abortion as taken with an eugenics-oriented position, where eugenics is perceived as negative eugenics whose aim is to eliminate less valuable or "worse" entities. This perspective is documented in their choice of arguments as exhibited in various internet discussion forums, where abortion performed in such contexts is often compared with the practice of eliminating people who were mentally ill or physically disabled as performed by the Nazis during World War II. However, in reality, there may be other reasons leading to the decision to perform abortion in the context of diagnosed developmental malformations of the foetus. In particular, such reasons may be related to the issue of the value of the dignity of human life, and the intention not to induce the situation of incurable pain and mental suffering. Such reasons may also be related to the parents' need to feel comfortable and to their ambitions. In Poland abortion law is defined in Article 4a.1.2 of the Act of 7 January 1993 on family planning, protection of the human foetus and the circumstances in which termination of pregnancy is allowed if prenatal testing indicates the possibility of severe and incurable malformation of the foetus. In relevant literature it has been emphasised that the legislative decision to permit the termination of pregnancy in Poland in accordance with the above-mentioned Act shows that the Polish legal system is axiologically inconsistent as the decision conflicts with constitutional values as revealed in the decisions of the Polish Constitutional Tribunal. As O. Nawrot indicates: "In other words, **the Polish legislator decided that the life of a conceived baby whose quality cannot meet certain standards has a value which is different from the value ascribed to the life of a conceived baby who is free from the identified defects**"<sup>44</sup> [emphasis added].

2.6. There appears another question whether abortion discourses are in various aspects gender-oriented. In particular, whether the position taken with regard to the abortion issue depends on the biological sex, and, additionally, whether it is dependent on the

<sup>43</sup> O. Nawrot, in: *Demokratyczne państwo prawa wobec rozwoju biologii i medycyny* [Eng. *The democratic lawful state and advancements in biology and medical science*], Forum Prawnicze, 2012/2, pp. 26–27 – lists examples of selective positive eugenics applied in the world, where advancements in medical science are used to satisfy commissioned procreation or in order to eliminate imperfect embryos with developmental flaws. As he says "The ability to choose a healthy embryo that possesses some desirable qualities and features, such as the preferable sex, hair colour, possible future height, must undoubtedly and univocally be classified as an act affecting the dignity of the human person and one that positions the human person as an object."

<sup>44</sup> O. Nawrot, *Demokratyczne...* p. 29.

perception of a woman's cultural and social role, and whether both genders have equal "rights" to put forward their opinions with regard to abortion.

The answer to the first of the questions posed above could be provided on the basis of relevant empirical studies. The second question is more significantly axiologically loaded, but it is also a philosophical issue. It seems that all possible answers must be associated with the perspective in which abortion is seen as a woman's private matter and where it is related to the issue of her liberty and self-determination, which are all detached from the questions of morality, public order, and a woman's place and the social and cultural role which is ascribed to her. Following this perspective, abortion as a woman's private matter is associated with the belief that a *nasciturus* should not be recognized as an individual, a human being. Instead, a *nasciturus* is perceived as a part of the woman's body, even though in origin the part is not entirely hers. It follows that the part is a form of life with regard to which she can make decisions without at the same time violating any norms or principles, whether legal, moral, or social in nature. If this perspective is adopted, I believe, only women can be recognized as subjects eligible to make decisions on abortion. The situation is cognate to that of plastic surgery or other medical treatments that they would undergo. Thus, with such premises, it would be impossible for a man to institute proceedings against his female partner if she underwent abortion without taking into consideration his opinion on the matter or against his will. It seems that this is exactly the way in which the problem is perceived by the people from the *pro choice* circles and by the people with the female gender-oriented abortion discourse stance. Feminist literature is in this context an example of the discourse practiced by and for women, also about women and their rights, freedom of choice; it is mainly gender-oriented discourse.

In contrast, when it is accepted that the foetus/embryo is an independent being (a person), abortion discourse tends not to "have" gender and embracing the moral and the legal sphere, it turns to be a public issue. The legal and ethical competences<sup>45</sup> to reject abortion (as having recognized that a *nasciturus* is a person, only this orientation can be accepted) are granted in the same degree to both women and men. In such contexts, women's problems and their rights are pushed to the background, while the issues related to the conceived baby and his or her rights are foregrounded in the field of discourse.

2.7. Contemporary abortion discourses are characterized by their mediatization, which also influences their character. Firstly, thanks to the fact that media are easily accessible, abortion-related issues have become well known and received social significance. Secondly, while the problems are received by many audiences, across different social groups, the discussions are often carried out on less sophisticated levels, with simple argumentation of a binary character, and sometimes even much simplified or banal. We may even risk the opinion that a specific media language register related to abortion has been developed. Thirdly, the immense public interest and involvement in the abortion debate, which was present at a certain stage of the public discussion resulted in the situation in which many governmental and non-governmental organizations were founded, which would either professionally or on the voluntary work basis engage in abortion debates and the related activities. Such organizations consume significant

<sup>45</sup> Cf. note 14.

social means, but at the same time activate whole groups of people and contribute to forming a civic society. Fourthly, the mediatization of abortion discourses, in numerous social and political circles, has played a major role in exposing the problems of women's civil rights, and in some cases gave women an actual impulse to a fight for respect of their rights (cf. Alicja Tysi c's case). At the same time, activities carried by such organizations attract attention to the problem of respecting unborn children's rights; they help to raise people's awareness and knowledge with regard to prenatal life of a human being. In this way, the media, *nolens volens*, fulfil the need to spread the word about the legal regulations and about the fundamental human rights and civil liberties. Fifthly, the present stage of mediatization of abortion discourses, which relies on the availability of easy and common access to information and its transmission, results in promoting the picture of the relevant discourse as being brutal and harsh and in organising various kinds of social acts and actions. On the one hand there are feminist manifestations, such as the annual Warsaw *Manifa* in Poland, on the other there are rallies in front of gynaecologist hospitals where abortion can be performed; both sides remain in severe conflict.<sup>46</sup>

3.1. Inner abortion monologue, reinforced with argumentation formulated in the course of public discussions, facilitates the process of abortion-oriented decision-making.

3.2. Abortion monologues are focused on issues which include values recognized as significant in the context of pregnancy, abortion and its consequences, and the problem of responsibility for the decision.

Values which play a major role in such situations are on the one hand related to generally accepted principles, ideology, and beliefs, but on the other hand they are relative to the situated context, particularised and subjectively essential for the decision-maker.

The former group comprise the above-mentioned fundamental values, such as human life, its dignity and human liberty. In the course of a relevant monologue, the thinking subject will first of all accept the premise (usually without being aware of it, and at least without verbalising it) related to the status of the foetus'/embryo's life as a human being (a child) or a person, *viz.*: does the moment of conception mark the beginning of life, or is it that life begins later, and if so, when? It seems that this moment of reflection may determine the further course of the decision-making process. Another basic value in the decision-making process is that of the woman's herself, including her life and health in extreme situations when these are in danger because of her pregnancy. In Poland, such dilemmas were widely exposed in the media in two extreme cases known as Alicja Tysi c's case and Agata Mr z's case.<sup>47</sup> The most extreme choices are related

<sup>46</sup> There are many well-advertised activities initiated by both the proponents and the opponents of abortion; the latter group has also been actively assembled in the Polish Parliament; the activists organize exhibitions, produce drastic anti-abortion films, such as the famous *Silent Scream*, narrated by an American obstetrician, B. Nathanson, in which an abortion is presented via ultrasound, etc.

<sup>47</sup> In 2000, Alicja Tysi c was not granted the permission to undergo abortion which she motivated with her medical condition, mainly her short-sightedness. Her pregnancy involved the risk of worsening her short-sightedness or even inducing blindness. Tomasz Terlikowski, a journalist, accused her of being "morally disgusting" and likened her conduct to that of the Nazi criminal, Adolf Eichmann, as reported in the media on 25 April 2012; Agata Mr z, who was the member of the Polish volleyball team and twice the European champion, fought with leukaemia for several years. At some point, she decided to postpone a bone marrow transplant, which might have saved her life, because she learned she was going to be a mother. Eventually, she died on 4 June 2008, just two months after her daughter was born.



to the actual juxtaposition and assessment of the value of the mother's and the foetus'/embryo's life or health: Whose life is of greater value? Other values can give rise to equally difficult choices, for instance related to evaluating human dignity and freedom as against the value of a person's life. The problems which are foregrounded in such contexts translate into the question whether the considered values, along with all other values that would be relevant for abortion debates, could be arranged on a scale according to their significance, or according to some other systematic criterion. This, in turn, invites the notoriously contentious issue (both with regard to its meaning and existence) of the possibility of in/commensurability of values. The phenomenon of in/commensurability was discovered in literature in the process of the development of the conceptions of social liberalism and ethical pluralism<sup>48</sup> and was well domesticated in humanities, such as ethics, political science, and philosophy of law. The most general question posed in relation to the phenomenon of incommensurability of values is whether values can be compared in such a way that it is possible to arrange them in a hierarchical structure according to a criterion, i.e. a feature, degree of significance, degree of intensity, or the level of preciousness. In other words, the question is whether one value can be assessed and "weighted" in relation to other values. It is possible, for example, to establish which value is more worthy of protection: the life of an unborn child or the life of the mother?; being born at all or leading a dignified life?, etc. There are people who believe that incommensurability of values is a real phenomenon, and there are others who deny that the very phenomenon even exists.<sup>49</sup> There emerges a question whether our acceptance of the thesis of incommensurability of values must lead to difficult ideological, axiological, and legal consequences, and first of all whether it induces methodological problems with regard to how rational choices can be made, whether such choices are possible at all, and whether they can be inter-subjectively justified; whether they can be judged in a rational perspective.<sup>50</sup> Joseph Raz, while arguing in favour of incommensurability of values, noticed a phenomenon of constitutional incommensurability, which is important in a social, a legal, and a moral perspective. This means an axiological situation in which there is not only a lack of a common criterion that could be used to classify a set of values, but in fact any attempt at comparing the values in question must be rejected

<sup>48</sup> Cf. M. Zirk-Sadowski, *Rozumienie ocen w języku prawnym* [Eng. *The Understanding of Assessment in legal Language*], Łódź 1984; A. Chmielewski, *Niewspółmierność, nieprzekładalność, konflikt. Relatywizm we współczesnej filozofii analitycznej* [Eng. *Incommensurability, Untranslatability, Conflict: Relativism in Contemporary Analytic Philosophy*], Wrocław 1997; B. Sygulska-Polanowska, *Pluralizm wartości i jego implikacje w filozofii prawa* [Eng. *Pluralism of Values and its Implications for the Philosophy of Law*], Kraków 2008; S. Wojtczak, *O niewspółmierności wartości i jej konsekwencjach dla stosowania prawa* [Eng. *On the Incommensurability of Values and its Consequences in Legal Practice*], Łódź 2010.

<sup>49</sup> Cf. A. Chmielewski, *Niewspółmierność...*, pp. 60ff; according to D. Zienkiewicz, *Niewspółmierność teorii naukowych* [Eng. *Incommensurability of scientific theories*], available online at: [http://www.zut.edu.pl/fileadmin/pliki/human/Do\\_pobrania/Publikacje/Niewspolmiernosc\\_teorii\\_naukowych\\_-\\_Dariusz\\_Zienkiewicz.doc](http://www.zut.edu.pl/fileadmin/pliki/human/Do_pobrania/Publikacje/Niewspolmiernosc_teorii_naukowych_-_Dariusz_Zienkiewicz.doc): "Summarising this short outline of the history of commensurability, it must be concluded that despite the fact that the idea was becoming more and more precise in the twentieth century, it still remains far from being exemplified in a satisfactory way. On the other hand, all attempts aimed at compromising the idea of incommensurability that have appeared so far and have been shaped in many different forms, such as: reference to empirical data from the history of science (Bilikiewicz), reference to its possible impact on epistemology (Bilikiewicz), questioning the soundness of the very concept (Davidson), and rejection of the problem (Rorty), do not appear trustworthy. We are thus left with the belief that the category of incommensurability still remains as a challenge for philosophers of science."; Cf. also S. Wojtczak, *O niewspółmierności...*, part I.

<sup>50</sup> Cf. S. Wojtczak, *O niewspółmierności...*, p. 173.



as it is believed that such comparisons are not admissible by principle, that they would be disgraceful and would affect the commonly accepted legal, social, and moral order.<sup>51</sup>

In turn, there are a great many values that are important for particular subjects. Such values may be significantly varied in their character and may be arranged in different configurations. They may include issues such as having children, but also remaining without offspring, living in matrimony or being single, having high social status, the person's professional position, his or her private, social, family, and economic status.

Among the values important in subjective contexts there are also those connected with the time and circumstances of conception, in particular in contexts when conception was a result of a crime, such as rape or incest, or happened when the future mother is a very young person.

Subjectively important values are centered, generally, on the welfare of the pregnant woman: the woman's health, her comfort, her peace of mind, prosperity, or some general welfare, which is definitive in her feeling satisfied with her life.<sup>52</sup>

Subjectively important values, together with the fundamental values that have been accepted in a particular situation, form "classes of values". At one end of the spectrum there is a class of values associated with the *pro life* ideology, and on the other end there is a class associated with the *pro choice* ideology. I believe that, in principle, these two classes of values cannot be successfully compared, i.e. they are incommensurable. However, it is worth noting that abortion discourses are not in fact aimed at taxonomies and at building scalar hierarchies of fundamental values and "goods", such as human life, dignity, or freedom, on which they are focused. Participants in abortion discourses usually enter relevant discussions with well defined views and axiological beliefs, which they want to propagate among others (which does not seem to take place). It is a quite another and a contentious issue how they form such views and beliefs, and this problem often becomes subject to scientific research in various fields of study.<sup>53</sup> It has thus been accepted by the author of the present paper that abortion discourses initiated in the context of the two above-mentioned classes of values, i.e. the *pro life* and the *pro choice* perspective, are not able to lead their participants towards any consensus because particular fundamental values present in both approaches are incommensurable.<sup>54</sup> This may indeed be one of the main reasons why the rule of the conscience clause has been accepted in relation to medical professionals, mainly doctors, but lately also pharmacists associated in the Polish Catholic Pharmacists Association [*Stowarzyszenie Katolickich Farmaceutów Polskich*].

In contrast, it may be accepted that within one class, the values are composed so that they form a relatively coherent set of "goods", which do not exhibit any incompatibility and present an ordered scalar hierarchy in a subjective perspective.<sup>55</sup> This, in my

<sup>51</sup> Cf. J. Raz, *Morality of Freedom*, Oxford: Clarendon Press 1986, p. 340ff.; B. Polanowska-Sygulska, *Pluralizm wartości...*, pp. 107–110, 266ff.; S. Wojtczak, *O niewspółmierności...*, pp. 131–173.

<sup>52</sup> SWB: *subjective well-being* is a concept derived from positive psychology and means a person's cognitive and emotional assessment of his or her life, which includes that person's experience of positive emotional states and a low level of negative feelings or mood and a high level of satisfaction with his or her life; Cf. E. Diener, S. Oishi, R.E. Lukas, *Subjective Well-Being: The Science of Happiness and Life Satisfaction*, in: *Oxford Handbook of Positive Psychology*, C.R. Snyder, S.J. Lopez (eds), 2nd ed., Oxford University Press 2009, chapter 17.

<sup>53</sup> The problem is discussed in philosophy, ethics, methodology, psychology, and sociology.

<sup>54</sup> Cf. A. MacIntyre, *Dziedzictwo cnoty. Studium z teorii moralności*, [Eng. *After Virtue*.], translated by A. Chmielewski, Warsaw 1996, pp. 30ff.; A. Chmielewski, *Niewspółmierność...*, pp. 73ff.

<sup>55</sup> For instance, in Catholic ethics human life in any form and condition, from the moment of conception to natural death, is recognized as the supreme value. As a result, all remaining values within the *pro life* approach are subordinated to this supreme value. In contrast, liberal views admit that personal liberty can be established as the fundamental value to which all other values are subordinated.

opinion, enables a subjectively rational decision with regard to abortion and such a decision will also be inter-subjectively acceptable in the context of its relevant class of values. The same decision, however, in the light of the other class of values, may be judged as not only irrational, but even incomprehensible and, naturally, as unacceptable.

In conclusion, I believe that it is the phenomenon of incommensurability of values that functions as a real obstacle for participants in abortion discourses and that prevents such participants from reaching a consensus. Firstly, fundamental arguments used by participants in abortion-oriented social interactions are formulated in relation to incommensurable values, and, secondly, there is a kind of asymmetry between such discourses, which is manifested in the fact that they are conducted with the use of different linguistic registers. In addition, subjectively recognized values, which appear along with fundamental values in both “families”, are not insignificant.

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