

# **Crip washing:**

## **Undermining the civil liberties in the name of Disability Rights in Contemporary Spain**

Melania MOSCOSO PÉREZ

Universidad del País Vasco (UPV-EHU)

My purpose in this paper is to reflect on the perverse use of the “language of rights.” To do so I will analyze how the discourse of the Disability Rights Movement is being used by the Government of *Partido Popular*, the conservative party in Spain, to dismantle the young -and still precarious when compared to the French or German- Spanish welfare system.

My reflection will be focused on the abortion law reformation recently undertaken by Spanish Minister of Justice Alberto Ruiz Gallardón. I will argue that he is using the disability rights to undermine civil liberties in Spain. I will propose that this use is “Cripwashing.” I am using cripwashing with the same meaning that the CLAGS website<sup>1</sup> gives for *pinkwashing*: “using right protections for one group [in this case people with disabilities] to

\* I’m grateful to my colleagues of CCHS-CSIC the Rosana Triviño, David Rodríguez-Arias and Ricardo Dorado. David and Rosana provided me with insights and bibliographical suggestions. And Ricardo helped me out with my precarious English. Patxi Lanceros, Txetxu Ausín y Maria José Guerra Palmero was very supportive with my original idea and encouraged me to make a research article out of it.

<sup>1</sup> The Center for Lesbian and Gay Studies (CLAGS) of the City University of New York. 2012. *Homonationalism and Pinkwashing. A Gathering of Scholars and Activists*. New York. Available at: [http://web.gc.cuny.edu/clags/pages/conferences/homo\\_info.html](http://web.gc.cuny.edu/clags/pages/conferences/homo_info.html) [Accessed 19 Nov 2012]

conceal rights and abuses to other people.” I will follow the lead of Jasbir Puar in *Citation and Censorship: the Politics of Talking about the sexual politics of Israel*, and I want to explore how not only women, but specially homosexuals [and one might add, in Mariano Rajoy’s Government the rights of people with disabilities] have become the symbols of civilizational aptitude.”<sup>2</sup>

### **I Disability in Spain: from family protection and Church charity, to a welfare state**

With more than 47 million people, Spain is now a young democracy with a somewhat precarious welfare system when compared to France or Germany. Still, the Spanish Public National Health System was ranked seventh best in the world by the World Health Organization in 2000, and according the Newsweek ranking of “Best World Countries,” Spain is rated third in health matters<sup>3</sup>. Contrary to what is being said from the *Partido Popular*, sustainability is one of the strengths of Spanish Health Care, which only takes 8.5% of Spain’s GDP, compared to the 9% of the average in the OECD, and the 16.7% of the US<sup>4</sup>. This allows providing universal healthcare with no co-pay except on prescription drugs, as is warranted in the Spanish Constitution of 1978, Article 43. The Spanish Constitution recognizes the right to health protection for every citizen and requires the public authorities to create a “universal, general, and free national health system that guaranteed equal access to preventive, curative and rehabilitative services”<sup>5</sup>. Therefore, coverage has been granted to anyone, even undocumented migrants, until recently<sup>6</sup>. One of the major accomplishments of the Spanish Health Care system is an extended network of primary care centers: one primary care center is located within fifteen minutes of every citizen<sup>7</sup>.

In this situation, people with disabilities have easy access to health care within the general care system and without the need of specific regulations, such as the ADA. Additionally, Article 49 of the Spanish Constitution establishes that public authorities shall carry out a policy of preventive care, treatment, rehabilitation and integration for People with Disabilities, providing them with the specialized care and ensuring them the rights granted to any other Spanish citizens<sup>8</sup>. However, public authorities have failed to provide the integration

<sup>2</sup> Puar, Jasbir, "Citation and censorship: The politics of talking about the sexual politics of Israel," *Feminist legal studies* 19, no. 2 (2011);. See also Puar, Jasbir, *Terrorist assemblages: Homonationalism in queer times*, Duke University Press Books, 2007).for an in depth analysis of the use of gay rights to justify imperial practices.

<sup>3</sup> Kiepl, Thomas, Clarkson, Adam, 2010. Interactive Infographic of the World's Best Countries. *Newsweek* 15 Aug 2010. Available at: <http://www.thedailybeast.com/newsweek/2010/08/15/interactive-infographic-of-the-worlds-best-countries.html> [Accessed 19 Nov 2012]

<sup>4</sup> Borkan John., "Renewing primary care: lessons learned from the Spanish health care system," *Health Affairs* 29, no. 8 (2010). :1433 [Accessed 26 Oct 2012]. Also see: Triviño, Rosana “Religious Minorities and Justice in Health Care: The Current Situation in Spain” in *Cambridge Quarterly of Healthcare Ethics* (2013): 1-7.

<sup>5</sup> Constitución Española.1978, Art. 43rd. Available at: [http://www.lamoncloa.gob.es/NR/rdonlyres/79FF2885-8DFA-4348-8450-04610A9267F0/0/constitucion\\_ES.pdf](http://www.lamoncloa.gob.es/NR/rdonlyres/79FF2885-8DFA-4348-8450-04610A9267F0/0/constitucion_ES.pdf) [Accessed 22 Oct 2012]

<sup>6</sup> See the Royal Decree Law 16/2012 dated April 20<sup>th</sup> on urgent measures to warrant the sustainability of National Health System, restricting health care for undocumented migrants to the treatment of Medical emergency or accident until medical discharge, Pregnancy and delivery related care or underage undocumented population. <http://www.boe.es/boe/dias/2012/04/24/pdfs/BOE-A-2012-5403.pdf>

<sup>7</sup> See Borkan op.cit.,1433

<sup>8</sup> “The public authorities shall carry out a policy of preventive care, treatment, rehabilitation and integration of the physically, sensorially and mentally handicapped by giving them the specialized care they require, and

measures in the social domain with the same degree of success as in the Health Care realm. With more than 3.8 million people, people with disabilities comprise 9.8 % of the Spanish population.<sup>9</sup> Unemployment among them is massive; forty points above the population average. Notoriously in 2012, 40% of the population between 18-30 years were unemployed. Regarding living arrangements, the vast majority live in family households, while 21% live on their own, and 14% live in institutionalized settings<sup>10</sup>.

The oldest disability association of Spain is the ONCE, which stands for National Association for Blind People in Spain. Founded in 1938 by the Francoist side during the Spanish Civil war, it was centered in selling lottery as a way to provide its associates with some kind of financial support. Still the largest disability association in the country, it set the model for the rest of the associations in Spain providing services within the charity system. Since the 1960s many condition-specific associations have appeared, more often promoted by families of children with disabilities than by the disabled people themselves, being the primary role of the person with disabilities to be a service receiver with little chance of decision-making in the association. Their role is basically that of a consumer<sup>11</sup>. Their activity revolves around providing services for their associates and their families and competing with other associations to get funding from public administrations in an environment of increased budgetary restrictions. Instead of promoting self-advocacy or empowerment for their users, they are assistance-centered and can be patronizing in the sense that they treat disabled people as service consumers and do not foster further initiative to personal autonomy or political endeavor.

During Franco's Regime, disability-related associations run by the Catholic Church received most, if not all, of the public funding appointed for such purposes, which explains why charity was so pervasive in the associative realm. Institutions run by nuns and spare time clubs based in local churches were typical during the 39 years of dictatorship<sup>12</sup>.

Even though Catholicism is no longer the official religion of the nation as it was during Franco's dictatorship, some degree of paternalism still pervades disability-related associations.

Despite major advancements produced by the Constitution of 1978, Spain retains some hindrances when it comes to the social perception of disability. Since the Constitution of 1978 Spain has undergone a dramatic improvement in the public services provided to its population. Even though social services are not on par with the remarkable quality of healthcare, the community-based social services network manages to provide some kind of attention to people with disabilities living in urban areas. The close-knit family system, along with the reluctance of Spaniards to change their place of residence, makes community-based social service networks very efficient. They assure that no person with a disability is left unattended or out of reach from the Administration.

affording them special protection for the enjoyment of the rights granted by this Part to all citizens.” See Constitución Española Op.cit

<sup>9</sup> Instituto Nacional de Estadística (INE). Encuesta de Población Activa y de la Base Estatal de Personas con Discapacidad. Año 2008. Available at: <http://www.ine.es/prensa/np635.pdf> [Accessed 5 Sept 2012]

<sup>10</sup> Instituto Nacional de Estadística (INE). Op.cit <http://www.ine.es/revistas/cifrae/1009.pdf> [Accessed 4 Sept 2012]

<sup>11</sup> Díaz Velázquez, Eduardo "El asociacionismo en el ámbito de la discapacidad. Un análisis crítico," *Intersticios. Revista sociológica de pensamiento crítico* 2, no. 2,2008.p.186

<sup>12</sup> According to Foucault, Franco “exercised the right of death and life with great savagery, was the bloodiest of all dictators, wielded an absolute right of life and death over forty years.” Foucault, Michel "*Society Must Be Defended*": *Lectures At The College De France, 1975-1976* New York , Picador, p.248

With the aim of providing services to the families of people with disabilities, the LISMI (Ley de integración Social del Minusválido) passed in 1982. The LISMI did not regard people with disabilities as right-holders, nor did it address the underlying causes that made their lives unbearable. People with disabilities were considered as nothing but service receivers from public administrations. The assistance spirit of this law encountered strong resistance from several organizations. For instance, the Catalonia-based *Asociació Pro Persones Subnormals* submitted a letter in 1983 to the King, stressing that “the cognitively disabled is not only a full person but a fully-fledged citizen who has got the very same fundamental rights as any other citizen, that are summarized in living with dignity”<sup>13</sup>. Subsequent demonstrations in downtown Barcelona taking place the motto “This is everybody’s issue: no more discrimination,” emerged as political activism around disability.

The protest spirit developed further along in the decade of the eighties, and many associations understood that if they wanted to have some political strength they had to remain as independent from the Administration as possible<sup>14</sup>. It was not until the 1990s that the FVI which stands for *Foro de Vida Independiente* started. The FVI is a virtual community of Spanish-speaking disabled people who struggle against discrimination. Within the general philosophy of *Independent Living* they actively fight against oppression through writings that can be accessed on their website and through public appearances. The appearance of *Foro de Vida Independiente* in 2001 was a definite milestone towards the politization of disability in Spain.

## II Reactions to the dismantling of welfare system in Spain: popular and that of the Disability Rights Movement

After eight years of the Social Democratic Party government, Mariano Rajoy’s *Partido Popular*, the conservative party, won the 2011 Spanish elections with an absolute majority. Amidst the hardships of the European debt crisis by being hit hard with unemployment, Spain is now facing severe restrictions on social protection benefits that came along with democracy. *Partido Popular* rose retirement age from 65 to 67, and cut unemployment protection benefits on the grounds of reducing State deficit.

More importantly, the restrictions have left without resources the *Ley de la Dependencia*, that regulated Independent living programs through personal assistants<sup>15</sup> for disabled people, and left aside the social security coverage orthotics<sup>16</sup> and dietary complements many of us need. As the government insisted on injecting large quantities of public money into Spanish banks in debt while the unemployment subsidies were restricted, popular discontent grew all over the country. In the spring of 2011 a virtual platform under the name of *Democracia Real Ya* called for a massive demonstration at Madrid’s Puerta del Sol on May 15<sup>th</sup>: the

<sup>13</sup> Planella, Jordi; Moyano, Soledad and Pié, Asun "Activismo y lucha encarnada por los derechos de la personas en situación de las personas en situación de dependencia en España.: 1960-2010," *Intersticios. Revista sociológica de pensamiento crítico* 6, no. 2.55

<sup>14</sup> *Ibid.*, 57

<sup>15</sup> On the restrictions for Personal Assistants in the Regional Governments under the *Partido Popular* such as the Autonomous Community of Valencia See del Burgo, Pedro, 2012. Nos quitan los asistentes que son nuestros pies y nuestras manos. *El Mercantil Valenciano*. 5 Oct 2012. Available at <http://www.levante-emv.com/comunitat-valenciana/2012/10/05/quitan-asistentes-son-pies-manos/941616.html> [Last Accessed 10 Jan 2013]

<sup>16</sup> The orthotics and dietary complements were left outside of the coverage of the social Security under the Royal Decree Law 16/2012 dated April 20<sup>th</sup> ..

demonstration was massive with over 50,000 people in Madrid alone and an estimated 130,000 all over the country. As the demonstrations formed strong camps, the new government tried to discredit them as anti-establishment or radical leftists, attempted to stop the demonstrators by forbidding calls to demonstrate through the Internet, and gave the demonstrators exemplary punishments.

Not only did the *Partido Popular* criminalize the pacifist protesters who gathered in Madrid's Puerta del Sol, and other squares all over Spain against the bailout, they also launched an offensive strike against civil liberties that included social network monitoring, prohibition to make demonstration calls, and restrictions in the use of public space. In an attempt to save face in front of voters, the *Partido Popular* discredited the mobilizations as being promoted by radical anti-establishment protesters. The Sol mobilizations were compared with *kale borroka*, which is the Basque name for urban riots organized by Basque independents, some of them akin to the terrorist group ETA.

Unfortunately for the government, foreclosure executions, rising unemployment rates triumphed over the government's attempt to manipulate public opinion, discrediting the demonstrations as urban riots organized by ETA supporters. In fact, the M15 movement that expanded beyond Spain's borders, played havoc in their attempts.

As their economic measures proved detrimental, and their electoral promises went unfulfilled, the government turned to their most conservative supporters akin to Catholic Church. In the middle of the austerity politics, Madrid's regional government, also led by the *Partido Popular*, spent large amounts of money in hosting over a million<sup>17</sup> of young visitors coming from all over the world to attend the events of the World Youth Day, 2011. The celebration of this Catholic Church gathering did not go uncontested. On August 17<sup>th</sup>, a march from Tirso de Molina to the Puerta del Sol was violently repressed with police charges: over 15,000 demonstrators called by the association *Europa Laica* were protesting against having so much taxpayer money being spent on a confessional celebration. Even though the demonstration was authorized, 11 people were injured as a result of police charges. Reports alleging police brutality were filed in the Provincial Courts and are still awaiting resolution.

As the economic forecast for Spain worsened, the government attempted to entice Catholic supporters. Similarly in the 2004 US election when the Republican Party proposed referendums to ban gay marriage, the *Partido Popular* tried to acquire support from their religious social base. In the name of "family values"<sup>18</sup>, the Spanish Minister of Justice announced the Abortion Law reform that would forbid abortions based on congenital malformations.

<sup>17</sup> The official budget for the WYD 2011 was 50 million euros, but according to some estimations much more was spent. According to *Europa Laica* the 61 private sponsors of the WYD will have a tax relief of the 80%. See for more information: <http://www.laicismo.org/detalle.php?pk=8642>

<sup>18</sup> I follow Nancy Fraser on the analysis of the 2004 US election. See. Fraser, Nancy "Mapping the Feminist Imagination: From Redistribution to Recognition to Representation," *Constellations* 12, no. 3 (2005)., The parallelism between both American Republican party and the *Partido Popular* is however mine.

### III Abortion law and the rights of people with disabilities

In an interview given to the conservative newspaper *La Razón* on July 20<sup>th</sup>, exactly seven months after the election night that gave the *Partido Popular* the victory over the Socialist Party, Spain Minister of Justice Alberto Ruiz-Gallardón announced the upcoming reform of Sexual and Reproductive Health and Voluntary Termination of Pregnancy Law, in force since 2010. This law passed by the former socialist government of José Luis Rodríguez-Zapatero in 2010, allowed the voluntary termination of pregnancy with no restrictions until the first 14 weeks of pregnancy, provided the woman had already given her written consent and had had at least three days of reflection. The Spanish National Health Service would cover the procedure for all women willing to terminate their pregnancies within the 14 weeks, and in the case the unborn had any congenital disease, up to 22 weeks. In the interview, Ruiz-Gallardón stated “I do not understand why the unborn are unprotected, permitting them to be aborted, because of the fact that they have some kind of handicap or deformity. It seems to me ethically unconceivable we have lived so long with this legislation and I think that the same level of protection that is given to an unborn child without any type of handicap or deformity should be given to those that are verified as lacking some of the abilities that other unborn children have”<sup>19</sup>. According to the Sexual and Reproductive Health and Voluntary Termination of Pregnancy reform, Gallardón is planning the only legitimate reason allowing abortion would be the psychological impact on the mother’s health. It is not clear which period will be stipulated to allow abortion; nor it is clear how the psychological impact on the mother will be assessed.

Reactions followed, and on August 26<sup>th</sup>, Agustín Matía stated in an interview that abortions based on birth defects should be banned<sup>20</sup>. Matía, president of *Federación Española de Personas con Síndrome de Down* (the largest association of Spain for people with DS and their families, comprising 83 associations nation-wide), reminded Gallardón’s opponents that abortion on the grounds of birth defects is prohibited by the UN Convention on the Rights of Persons with Disabilities of 2003. According with the 10<sup>th</sup> article of this Convention Spain, having signed this convention on May 30<sup>th</sup>, 2007, is committed to ensure the right to life of people with disabilities on equal basis to others. Furthermore, Matía reminded that the Human Rights and Disability Report 2011 completed by the CERMI (*Comité Español de Representantes de Personas con Discapacidad*) requested the amendment of Article 15 in the Organic Act 2/2010 of March 3<sup>rd</sup> on Sexual and Reproductive Health and Voluntary Termination of Pregnancy, whose distinction for the limit for termination of pregnancy in the case of disability of the foetus is considered discriminatory<sup>21</sup>.

<sup>19</sup> *La Razón*, 20 July, 2012.

<sup>20</sup> In the original, Spanish Matía said: “tienen que suprimir el aborto por malformaciones. No es algo opinable”. See: <http://nosotrasdecidimos.org/down-espana-creo-que-hay-que-prohibir-aborto-por-malformaciones/>

<sup>21</sup> Comité Español de Representantes de Personas con Discapacidad (CERMI).2012.*Human Rights and Disability. Spain Report 2011*. Available at: [http://www.convenciondiscapacidad.es/Informes\\_new/III%20%20INFORME%20DDHH%202011%20eng.pdf](http://www.convenciondiscapacidad.es/Informes_new/III%20%20INFORME%20DDHH%202011%20eng.pdf)

The *Foro de Vida Independiente* initially supported the Spanish Minister of Justice position.. The *Foro de Vida Independiente* interpreted that the banning . of fetal malformation as a valid reason to abort meant that the Minister of Justice acknowledged that people with disabilities' life was worth the same as anyone else's<sup>22</sup>.

In a more nuanced way, Catalonia Activist Antonio Centeno posted in his blog<sup>23</sup> a lengthy piece under the title: *Aborto libre sí: Aborto eugenésico no* ("Yes to free abortion: no to eugenic abortion"). In it he stated that, while it might be true that the Minister of Justice was using the Disability Rights language to push forward his party's conservative agenda, most women's rights advocates were opposed to the prohibition to abort based on birth defects, than to the banning of free abortions during the first 14 weeks of pregnancy.

Even after noting that the Minister of Justice's reform on the Abortion Law came along with the maintenance of Criminal Code Article 156.2, that allows forced sterilization on people with disabilities declared to be incompetent in court, Centeno however goes on to say that some of the arguments supporting the reformation of the Organic Law on Sexual and Reproductive Health and Voluntary Termination of Pregnancy hit the mark when they mention the core idea of the Declaration of Human Rights, whose first article points out that "All human beings are born free and equal in dignity and rights". Centeno goes on stating that the birth defect as a reason for legal abortion underlies the idea that a baby with congenital diseases will be an undue psychological and financial burden to the mother, something which, being true in a scenery of massive budgetary restrictions as it is the case these days in Spain, places the responsibility of the decaying Welfare State in the unborn baby with disabilities and makes a "natural tragedy" out of a situation of sheer social injustice. Centeno also warns of the idea that most physicians opposing the restriction to the abortion law do so assuming that a life with a disability is a fate worse than death, a statement contested by the fact that many people with disabilities lead productive lives.

An example of this is the article of the Spanish neurosurgeon Javier Esparza<sup>24</sup> published in the newspaper *El País* on July 24<sup>th</sup>, who, after having treated children with congenital malformations such as Spina bifida and anencephalia, considers that these anomalies cause an enormous suffering to the families and to the kids themselves. Esparza states, "I'll summarize the vital prognosis and the life quality of these children: as a result from so many interventions, their stay in hospitals can be a very prolonged one, even, in some cases, reaching several years of hospitalization: proper schooling is therefore impossible. But, worst of all, these sanitary, social, familial, and the child's own efforts will end before the second decade, for most of these children will have passed away, since this malformation presents numerous late and difficult to solve complications."<sup>25</sup>

<sup>22</sup>Palop, Maria Eugenia R: "¿Qué esconde la reforma de la ley del aborto? In *El diario.es* featured December 5<sup>th</sup>, 2012. [http://www.eldiario.es/zonacritica/esconde-reforma-ley-aborto\\_6\\_75652445.html](http://www.eldiario.es/zonacritica/esconde-reforma-ley-aborto_6_75652445.html)

<sup>23</sup> See Centeno, Antonio "Aborto Libre Sí. Aborto eugenésico No" *.El Blog de Antonio Centeno 3 August*. Available at: <http://antoniocenteno.blogspot.com.es/> [Last Accessed 17 Jan 2013]

<sup>24</sup> Esparza, Javier .2012.Nadie tiene derecho a obligar al sufrimiento. *El País 24 July*. Available at: [http://sociedad.elpais.com/sociedad/2012/07/24/actualidad/1343153808\\_906956.html](http://sociedad.elpais.com/sociedad/2012/07/24/actualidad/1343153808_906956.html) [Last Accessed 17 Jan 2013]

Finally, Centeno argues that allowing the termination of pregnancy on the basis of any feature of the unborn is a faulty way to protect women's rights, since many women with the very same conditions that those of the fetuses eligible for abortion under the basis of birth defects are being rendered as lives not worth living.

Arguments similar to those given by Romañach and Centeno have been given by Erik Parens and Adrienne Asch in *Prenatal Testing and Disability Rights*, and others like Eva Feder Kittay. However, unlike the American Disability Rights movement, forged in a common struggle with other progressive forces, such as LGTB and feminism, Spanish activist claims have found support in the disciplinary area of bioethics, in Spain strongly influenced by Catholic Church.

#### **IV Disability, catholic bioethics, and the legacies of predemocratic Spain**

According to the CERMI, there are significant infringements of Equality of Opportunities as the unemployment figures show for people with disabilities. The budgetary restrictions have left the independent living programs set in motion by the Social-democratic Party to be ineffective. Why are the Disability Rights activists so concerned with the unborn with disabilities, being that there are so many children and adults with disabilities facing difficulties? How did the Disability Rights Movement discourse in Spain come to be so in line with the conservative party agenda?

To answer this question requires some knowledge of Spain's recent history and the legacy of 39 years of National Catholicism in Spain. During its cultural hegemony in Franco's Regime, the Catholic Church gained control of many educational and sanitary institutions of the country.

This is the case for the *Universidad de Navarra*, a private pontifical university based in Pamplona and run by the Opus Dei. *Universidad de Navarra* is well known because of its University Hospital or *Clínica Universitaria* which was accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) in 2004 as reputedly one of the best clinical research centres of the country. The *Universidad de Navarra* is home to the first University Department on Bioethics, *Instituto de Bioética y deontología médica* (Institute of Bioethics and Medical Deontology) of the country. It was not, however, the first Catholic institution to show interest in these matters.

In 1976, Francesc Abel, a jesuit formed at Georgetown University, founded the *L'Institut Borja de Bioètica*, linked to the *Universitat Ramon Llull* in Barcelona. In 1987, another jesuit, Javier Gafo, created the *Cátedra de Bioética de la Universidad de Comillas*<sup>26</sup>

Since its inception, these religious institutes take part in public debates related to abortion, contraception, euthanasia, and lately, research on embryo stem cells. The *Instituto de Bioética y Deontología Médica* of the *Universidad de Navarra* sticks in its positions to the dogmas of the Catholic Church, while *L'Institut Borja de Bioètica and Cátedra de Bioética de la Universidad de Comillas* engage public debates with the civil society.

As María José Guerra Palmero suggests, in an attempt to compensate for the decline of their influence since the transition to democracy, the Catholic Church has increased its pressure on the Spanish democratic governments to prevent civil society from reaching

<sup>26</sup> See Guerra, Maria, José "Bioética en España: treinta años de interdisciplinariedad y controversias." (1975-2005) en María Teresa López de la Vieja, *Bioética, entre la medicina y la ética* (Salamanca: Ediciones Universidad de Salamanca, 2005).

democratic agreements on abortion and euthanasia<sup>27</sup>. And it is important to note that people who oppose the Sexual and Reproductive Health and Voluntary Termination of Pregnancy Law do it on the basis of eugenics.

This is the case of the magistrate of the Constitutional Court who will study the appeal by the *Partido Popular* to the aforementioned law. According to Andrés Ollero, a member of the Opus Dei, a Spanish Catholic organization well-known because of its conservative tendencies, when a woman decides to abort, she is committing a “war act against his own son or daughter”<sup>28</sup>. Ollero insisted, in an article of 2007<sup>29</sup>, that allowing the termination of pregnancy on the basis of birth defects opened the door to liberal eugenics. Some activists like Antonio Centeno go even further in this thesis and he writes in his blog that positions such as those that support the abortion based on birth defects on the grounds of undue suffering resemble those of the Nazi propaganda<sup>30</sup>. Ollero, who was a member of Parliament for the *Partido Popular* between 1983 and 2003, will be in charge of drawing up the sentence on the Amendments to the Sexual and Reproductive Health and Voluntary Termination of Pregnancy Law raised by the *Partido Popular*.

However, it is still unclear that those who choose to terminate the pregnancy of a foetus with congenital malformations do so spousing notions of racial hygiene similar as those held dear by the Nazi doctors. Moreover, there are some noteworthy differences between Nazi eugenics and the current law regulating voluntary termination of pregnancy in Spain. Unlike the Sexual and Reproductive Health and Voluntary Termination of Pregnancy Law, the *Gesetz zur Verhütung erbkranken Nachwuchses*, passed by the III Reich on July 14<sup>th</sup>, 1933, was a law that forced sterilization of children and adults with disabilities, and led to the *Aktion T4* euthanasia program that killed more than 70.000 people<sup>31</sup>.

In Spain, voluntary termination of pregnancy under the law 2/2010 of Sexual and Reproductive Health and Voluntary Termination of Pregnancy Law was allowed at free will until week 14, and was permitted under the privacy model for up to 22 weeks. There is nothing in the text of the law suggesting mandatory abortion when the foetus has congenital malformations, as the expression “eugenic abortion” might suggest. In fact, the preamble of the law mentions the 23<sup>rd</sup> article of the UN Convention on the Rights of Persons with Disabilities of 2003<sup>32</sup>.

<sup>27</sup> “The transition towards Democracy called forth other non-catholic points of view. Due to its loss of influence, the Catholic Church has increased its pressure on the different governments in order to guarantee, basically, its own presence in public education and the State financial support of confessional private education and to stop, as much as possible, the reaching of democratic consensus / agreements on abortion, euthanasia, or, more recently, research with embryo(nary) cells” Ibid.186

<sup>28</sup> Ollero, Andrés, “Los no nacidos no han ganado para sustos”. *El País* August 13.2012 Available at: [http://politica.elpais.com/politica/2012/08/13/actualidad/1344892603\\_108028.html](http://politica.elpais.com/politica/2012/08/13/actualidad/1344892603_108028.html) [Last Accessed 17 Jan 2013]

<sup>29</sup> Ollero, Andrés, “Los no nacidos no han ganado para sustos”. *El País* August 13.2012 Available at: [http://politica.elpais.com/politica/2012/08/13/actualidad/1344892603\\_108028.html](http://politica.elpais.com/politica/2012/08/13/actualidad/1344892603_108028.html) [Last Accessed 17 Jan 2013]

<sup>30</sup> See Antonio Centeno Op. cit.

<sup>31</sup> See, for the *Aktion T4* program G. Aly, P. Chroust, and C. Pross, *Cleansing the Fatherland: Nazi medicine and racial hygiene* (Johns Hopkins University Press, 1994).see: Snyder, Sharon Mitchell. David . “Eugenic Atlantic”. in Snyder, Sharon Mitchell. David . *Cultural locations of disability* (University of Chicago Press, 2006).There is an Spanish translation of the text by myself, available at request. Please contact me at: [Melania.moscoso@gmail.com](mailto:Melania.moscoso@gmail.com)

<sup>32</sup> Ley Orgánica 2/2010, de 3 de marzo, de salud sexual y reproductiva y de la interrupción voluntaria del embarazo. Available at : <http://www.boe.es/boe/dias/2010/03/04/pdfs/BOE-A-2010-3514.pdf>. [Accessed 10 Aug 2012]The text of the 23<sup>rd</sup> article in the UN Convention mentioned in the preamble says “The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access

This might help to explain the opposition of the current government to the Sexual and Reproductive Health and Voluntary Termination of Pregnancy Law of the former social-democratic government since the *Partido Popular* bias is in favor of the Catholic Church. However, why to oppose pregnancy termination in the name of Disability Rights?

One tentative answer might be that the Disability Rights Movement in the *Foro de Vida Independiente* has assumed the principles of independent living as they developed in the US. Undoubtedly more developed, the independent living movement in the States could have some influence in the American administration due to the presence of war veterans. The Spanish counterpart, *Foro de Vida independiente* has been held hostage by Spanish Catholic tradition. People with disabilities in Spain live with their families and have their health care provided by an efficient National Health System, just like those without disabilities. Now that the young Spanish welfare system is under attack, people with disabilities in Spain might start having the very same problems their American counterparts do with the added burden of the conservative Catholic tradition. Spain may become the place where neoliberalism and Catholic conservativeness go hand-in-hand, the country where people with disabilities and nondisabled people are being devoid of a functioning healthcare system in the name of disability rights.

Paraphrasing Nancy Fraser, one might say that in the case of Spain, Disability Rights claims dovetailed all too neatly with a hegemonic neoliberalism that wanted nothing more than to repress all memory of welfare state, that in Spain, unlike other countries of Europe, lasted only 35 years<sup>33</sup>.

to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;c) Persons with disabilities, including children, retain their fertility on an equal basis with others". See: . United Nations.2003. *Convention on the Rights of People with Disabilities* Available at: <http://www.un.org/disabilities/default.asp?id=283>

<sup>33</sup> See Fraser, N(2005) Mapping the Feminist imagination: From Redistribution to Recognition to Representation. in *Constellations* Vol.12, n° 3 p. 299