



“De-Dichotomizing Abortion Rights”

By Kirti Mitaliya

The Undergraduate Research Writing Conference

• 2020 •

Rutgers, The State University of New Jersey



RUTGERS
THE STATE UNIVERSITY
OF NEW JERSEY

De-Dichotomizing Abortion Rights

Kirti Mitaliya

Research in the Disciplines: Feminism for Everyone
Final Research Paper

Kirti Mitaliya
Professor Sara Perryman
Research in the Disciplines 01:355:201
5 May 2019

De-Dichotomizing Abortion Rights

ABSTRACT

This paper analyzes the extent to which women face difficulties in trying to receive abortions in the United States today. It will also analyze how access to abortion is limited through certain state legislation and regulatory policies from a legal framework, as well as how the dichotomous pro-life versus pro-choice camps have created complexities in abortion attitudes. Additionally, this paper will discuss how marginalized women face greater difficulties in accessing reproductive medical services. Finally, possible solutions to alleviate the current abortion rights debate will be suggested.

INTRODUCTION

In 1973, the Supreme Court legalized abortions in the United States in the landmark case of *Roe v. Wade* through the “right of privacy” conclusion established in Due Process Clause of the 14th Amendment. The essential ruling of *Roe v. Wade* is that “the liberty right of a pregnant woman to decide for herself whether or not to have an abortion outweighs the right of the fetus to life” (Medoff 159). In the highest presiding court in the country, with a 7 out of 9 justices voting in favor of legalization, this decision finally gave women the constitutional right to have an abortion. This was a triumphant yet long overdue victory for the feminist movement, which had been fighting for years for this right. However, this progress was relatively short lived, since the Supreme Court did not give women *unrestricted* access to abortions in its decision. The ruling of *Roe* was refined nearly 20 years later in another Supreme Court case, *Planned Parenthood v.*

Casey, where the Court ruled that states were permitted to implement restrictions on abortions as long as they did not create an “undue burden” on women’s rights (837). This “undue burden” standard was a largely ambiguous phrase used by the Court that referred to any law which intended to “place substantial obstacles in the path of a woman seeking an abortion before the fetus attains viability” (The Editors of Encyclopedia Britannica 1). Since the Supreme Court left considerable jurisdiction to the states, access to abortions diminished significantly across the country in pro-life states.

The fundamental controversy of abortion is rooted deeply between the extremely polarized pro-life and pro-choice camps. These two stances largely disagree in what constitutes a human life, whether abortion is morally right, and whether it should be a constitutionally guaranteed right. Pro-life supporters believe that a fetus is equivalent to a human being at the time of conception and should be given the same legal and moral rights as humans. Consistent with this view is their ardent belief that women should not terminate their pregnancies because it would essentially equate to killing a human being. A prominent pro-life group, Feminists for Life (FFL), was founded in 1973 by Patricia Goltz and Catherine Callaghan in Ohio. This group is known for advocating “pro-woman” arguments in opposition to abortion. According to Goltz, “Roe did not create any rights for women. The right to choose abortion was a "form of enslavement" that represented a "negation," rather than a fulfillment of the right to control one's own body” (Ziegler 239). Such antiabortion groups passionately advocate that abortion does not provide a sense of escape or freedom for the woman trying to terminate her pregnancy; rather, she will become trapped by the physical and psychological harms that result from the abortion procedure. This use of emotional reasoning appeals to an ethos common among pro-life supporters who contend that a woman will ultimately feel more guilt and pain if she chooses to

go through with an abortion. Even though she may be exercising her constitutional right to have an abortion, she will ultimately feel enslaved by the decision, not liberated. Conversely, pro-choice supporters believe that a woman has the right to have an abortion if she wants to, and that her life is a higher priority than that of the unborn fetus. Pro-choice contenders argue that all women should have the fundamental right to do what they want to with their bodies, and neither the state nor federal government should restrict them from exercising this constitutionally guaranteed right. Supreme Court Justice Blackmun wrote the majority opinion of *Roe v. Wade* and used the rationale of the Fourteenth Amendment to support the decision by stating that “depriv[ing] any person of...liberty...without due process of law” was unconstitutional (158). Thus, pro-choice supporters say that the government or states can’t possibly interfere with such a private and intimate personal decision; all women should be entitled to terminate their pregnancies if they choose to do so.

POLITICAL INFLUENCE

In the United States today, “major political parties have staked out conflicting political positions” and “abortion has become an important voting cue” (Jelen and Wilcox 298). Politicians run on platforms with promises of either extending reproductive rights for women or vowing to severely restrict them. American citizens are mobilized to elect officials whose missions are consistent with their ideals and beliefs, especially if they are personally affected by them. When running for president in 2016, Republican candidate Donald Trump vowed to appoint justices to the Supreme Court who would work towards making it harder for women to have access to abortions, asserting that overturning the ruling of *Roe v. Wade* “[would] happen automatically” once he was elected (Mangan 2). With Trump’s presidential term nearing its end, his promise to restrict abortion rights seems to have made significant headway. Since the

nomination and confirmation of Brett Kavanaugh to the Court in October 2018, there is now a conservative majority within the Supreme Court; this has led many Americans to fear that Trump's vision could become a frightening reality. However, most citizens do not agree with the Trump's intentions of reversing the *Roe* decision. A poll conducted in June of 2018 shows that around "67 percent of Americans do not support the court overturning *Roe v. Wade*" (Cha 1). However, regardless of public support, the Supreme Court does have the power to determine the future of abortion rights in our country. Currently, the Court has at least 20 cases waiting to be reviewed that have the potential to alter the ruling of *Roe*. Despite their differences, both the pro-life and pro-choice camps would agree that the future of abortion rights in America is extremely fragile and unpredictable.

CASE STUDIES: STATES RESTRICTING ACCESS

The right-to-abortion controversy has rapidly spread across the country, with states identifying themselves either as pro-life or pro-choice. States that are pro-life support the life of the unborn fetus and aim to heavily restrict access to abortions within state lines. Conversely, pro-choice states are considered "safe havens" for women trying to receive abortions, since they have considerably more access and allowance to such procedures. According to research and analysis of states' abortion laws, the most pro-life state in the United States is currently Mississippi with a State Restrictive Abortion Policy Score of 80 out of 100 (Medoff 163). Mississippi's politicians and lawmakers have implemented several strict abortion regulation laws that have made it virtually impossible for a woman to have an abortion. Currently in Mississippi, pro-life influence is so strong that there is only one remaining abortion clinic, the Jackson Women's Health Organization. Its owner, Diane Derzis asserts that "it doesn't make a difference if [abortion is] legal if it's inaccessible, and it's definitely inaccessible to many people" (Carlsen

et al. 3). Some of Mississippi's regulatory policies include lack of Medicaid coverage for abortions, mandatory counseling, need for multiple appointments, and required 18-72 hour waiting periods. All of these requirements must be fulfilled before a woman can move forward and receive an abortion. The process is intentionally designed to be long, obscure, and mentally draining, to compel women to change their minds. In early 2018, Mississippi passed a stringent law that banned abortions after 15 weeks. It was in effect for less than an hour before the Jackson Women's Health Organization challenged the ban and sued. This lawsuit also addressed several other restrictions imposed by the state that had made it increasingly difficult for women to have access to abortions in Mississippi. Several months later, a federal judge permanently blocked the law. Despite this block, it's clear that the vast majority of Mississippians align their views with pro-life groups who have largely succeeded in diminishing access to abortions; a single remaining abortion clinic in an area of almost 50,000 square miles is proof of this. Many other US countries such as Iowa, Mississippi, and Louisiana have tried to pass similar, strict regulations that make it near impossible for women to access abortion services. Texas is another prominent pro-life state that has made it a priority to significantly diminishing women's access to abortion services within its state lines. In April 2019, a Texas state legislature introduced a provision that would equate abortion to homicide and make it a crime punishable by the death penalty. Texas politicians that support this proposal justify their stance by claiming that since abortion is illegal, women who terminate their pregnancies should be treated as murderers by the law. The bill quickly failed to pass early stages of the legislative process, but if it were to have been implemented into law, then women "would be executed by the very people who claim to defend life" (Filipovic 3). Furthermore, this proposal would be a stark contradiction of what the pro-life platform stands for- life. Issuing the death penalty for a woman who has an abortion

would not be a “pro-life” effort whatsoever, since it would ultimately lead to a loss of life. Such bill proposals show the disturbingly terrifying ways that pro-life politicians aim to restrict access to abortion services, and how far they are willing to do to advocate their beliefs.

DOES A PARADOX OF LIFE EXIST?

An important criticism of the anti-abortion camp is made by pro-choice supporters who claim that a paradox of life exists within their counterpart’s arguments. The objection is that “states with the most restrictive abortion laws ignore the needs and welfare of infants and children after their birth” (Medoff 164). A notable study found that most pro-life states don’t provide any financial assistance to pregnant single women. Once an unemployed single woman has delivered her baby, she is essentially left to fend for herself and her child even if she is unable to. Even if she needs the state’s help to ensure that her baby is raised in the best possible environment, her and her infant’s needs are mostly left unaddressed. How can states that seem to care so much about the well-being of an unborn fetus justify their neglect of that same child after it has been born? Once the fetus leaves the womb, it officially enters the world, and needs much more help than it did when it was in its mother’s body. So, for states with such restrictive abortion laws to claim that they have the fetuses’ best interests at heart is ultimately disingenuous and inaccurate. Andrea Smith, a prominent feminist and activist, would agree and further Medoff’s argument by asserting that “what distinguishes the pro-life position is not so much a commitment to life... but rather a commitment to criminal justice interventions in reproductive justice issues” (123). Smith and Medoff believe that pro-life contenders don’t value the life of the fetus nearly as much as they claim they do; it is important to consider if there are ulterior motives of these parties. Perhaps they are more interested in pushing for legal action by

criminalizing abortion, rather than investing resources and financial resources to ensure the well-being of the fetus.

ROOTS OF THE EUGENICS MOVEMENT

A significant criticism of the pro-choice camp is its irrefutable ties to the Eugenics Movement of the early 1900s. The history of the birth control movement in America over the past 125 years demonstrates the longstanding tensions between empowering all women to take control of their fertility, and imposing limitations on personal fertility for certain women. Margaret Sanger, the founder of Planned Parenthood, was one of the leading proponents of birth control, and had tremendous influence for the future of reproductive freedom, family planning, and contraception during the early 1900s. Sanger promoted access to birth control for all women, but she primarily focused on educating and providing poor women, since upper-class women already had access to contraception. Despite her success with spreading education to hundreds of women, it is important to note that her efforts to empower said poor women also had ulterior motives tied to the Eugenics Movement. Eugenicists supported the idea of limiting population growth, especially among groups of people that are viewed as “undesirable,” which often targeted the poor, racial minorities, immigrants, and foreigners. As a result, involuntary sterilizations were commonly used during this era to further the eugenics’ agendas. The Supreme Court even showed its support for eugenicists in 1927 in *Buck v. Bell*, where it ruled that “it is better for all the world, if instead of waiting to execute degenerative offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind” (Powderly S10). After this ruling, 30 states passed laws that allowed involuntary sterilizations to be conducted, and the number of procedures performed within the United States surpassed 60,000. Similar to this phenomenon happening in the United States,

Smith discusses the significance of uninformed sterilizations overseas in developing countries such as Bangladesh and Vietnam, where contraception is used as an “instrument of population control” for women of color (Smith 131). While the United States participated in involuntary sterilizations about a century ago, it is a disturbing revelation that such procedures still happen today in third-world countries in large accounts. Smith provides a global perspective of the issue and how it affects the abortion rights debate, whereas Powderly provides a more specific example with her account of sterilizations in the United States, and its development in the sixty to seventy years it was a common phenomenon. Smith discusses the use of Norplant and Depo-Provera, which are hormonal contraceptives that are frequently promoted in communities of color and often without informed consent. Similarly, Powderly discusses the ways that poor women were marginalized throughout the birth control movement, since they typically only had access to withdrawal and rhythm as forms of contraception.

COMPLEXITIES IN ABORTION ATTITUDES

Through extensive media coverage and societal stigma, the abortion rights debate has been depicted as an ongoing, bitter rivalry that pits the pro-life group against the pro-choice camp in a quickly escalating, full-fledged war. As a result, it has forced many Americans to conform their attitudes on abortion to align themselves with one of the two front-lining groups. However, recent studies suggest that the line between the two polarized camps is not as clearly defined as most people perceive it to be; rather, it is very blurred. Attitudes towards abortion in our country are not as black and white as they are portrayed. In fact, a majority of Americans align their opinions in moderate, gray areas somewhere between the pro-life and pro-choice arguments. Two studies conducted by Kristen Jozkowski, Brandon Crawford, and Mary Hunt found that “people’s opinions regarding abortion access exist along a continuum, and that how a

person feels about women's access to abortion depends on contextual factors surrounding that woman's experience" (Crawford et al. 477). The data collected from participants of the studies computed an abortion complexity score, which could range from -6 to 6. Participants with a score of -6 were considered technically pro-life, and a score of 6 meant they were pro-choice. A score of 0 would indicate that an individual's opinions were minimally polarized, so they were the most conflicted since they did not clearly identify with either stance for abortion rights. These studies suggest that even though the media and society have a way of depicting abortion rights as a structured black or white issue, this is not the reality of the matter. Most people do not definitely fall within in the clear-cut pro-life/ pro-choice molds that have been created. So, the pressure to identify oneself as definitively pro-life or pro-choice can inaccurately skew the overall opinions of those individuals who believe that abortion access is situationally based. It is not necessary for pro-life supporters to always advocate restricting abortion access. As research has found, many specific circumstances lead people who are pro-life to support access for abortions. This substantiates the notion that it is neither helpful nor accurate to utilize such polarizing labels for abortion advocacy. Jozkowski, Crawford, and Hunt assert for the use of a "a measure that provides a range of options" as it will allow for "a more accurate assessment of people's conceptualizations regarding access to safe, legal abortion" (477). Similarly, Andrea Smith asserts that "rather than [attempting] to situate these respondents in pro-life or pro-choice camps, it is more useful to recognize the limitations of the prolife/pro-choice dichotomy for understanding the politics around reproductive justice" (Smith 120). Since most people's attitudes towards abortion are highly complex and contextually based, it is inaccurate and potentially even detrimental to "dichotomize" abortion beliefs and force individuals to define their complicated beliefs. It is imperative to consider the limitations of restricting abortion

opinions to only “pro-life” or “pro-choice.” Failing to recognize the disadvantages of dichotomization will have a drastically negative impact on abortion and its regulating laws, demoralize women seeking abortions, and further fracture our country’s reproductive health services.

MARGINALIZATION AND ITS EFFECTS

Considerable research has found that certain women of color with low socioeconomic status and education levels have the most difficult time accessing abortions. This is clearly an issue of the intersectionality of one’s identity, as Kimberlé Crenshaw argues in her paper, “Mapping the Margins.” Although Crenshaw’s discussion revolves largely around violence against women of color, her fundamental thesis about how women of color are affected differently is applicable to the abortion discussion. Crenshaw asserts that “identity politics... frequently conflates or ignores intra group differences” (Crenshaw 1). Her claim that women of different races and socioeconomic statuses are largely ignored or treated unfairly is substantiated by numerous studies that suggest that women of color are also marginalized when it comes to accessing reproductive rights. Andrea Smith attests that “the pro-life versus pro-choice paradigm is a model that marginalizes women of color, poor women, and women with disabilities” (120). She believes that the polarized pro-life versus pro-choice labels disproportionately target women of color and women from low socio-economic backgrounds. The pro-life ideology aims to criminalize abortion; however, Smith asserts that this goal is ultimately futile through her analysis of the anti-prison industrial complex. Incarceration of criminals does not do anything to alleviate societal problems and crimes. The same logical reasoning can be applied to the desire to criminalize abortion. Put simply, it won’t help reduce abortion rates, it will only force women to consider other potentially dangerous avenues to terminate their pregnancies. Unfortunately, the

pro-choice paradigm doesn't provide any hope for these disenfranchised women either, because "women are viewed as having reproductive choices if they can afford them or if they are deemed legitimate choice-makers" (Smith 128). The pro-choice camp inherently discriminates against poor women and does not actually ascribe any rights to them. Rather, the pro-choice group is only applicable to the women who can afford to have them. Perhaps it is more appropriate to revert to the camp's original name of the 1970s, pro-rights, because to truly have "choice," a woman must also have money and some status at the very least, which is almost representative of a "fine print" requirement. For a group that has advocated its inclusivity and acceptance towards all women time and time again, it is a shocking revelation that it still does not ascribe equal rights for all its supporters and adherents. Unfortunately, this is something that likely will not change in the near future, especially with the passage of federal legislation such as the Hyde Amendment, which prohibits the use of federal funding for abortion services. Women of low socioeconomic status have no other means of financing their reproductive medical needs besides relying on the government for support. With their financial support system taken away, these women have no way of receiving their much-needed abortions. How are poor women who can barely support themselves expected to be able to birth and raise a child? These policies have been designed specifically to target groups of women, and until they are reformed or repealed, hierarchies and obstacles will exist, and choices will continue to be unfairly distributed to all women. Rather than moving forwards as a society, such trends show a regression in our path to achieving equality for everyone. This is especially shameful for the feminist movement which claims to work tirelessly to elevate the status of all women, not just Caucasian women.

CONCLUSION

When considering the future of abortion laws, it is imperative to consider *all* women's needs and demands, no matter what their income or race is. Currently, the government and abortion groups seem to only address the voices of middle-class Caucasian women, and marginalizes women of color and those from low socioeconomic backgrounds. Whether or not these actions are intentional, implementing more fair and practical policies that don't disenfranchise certain women needs to become a political priority. States should be more active and providing for the infants, children, and women under their jurisdiction to ensure that they can flourish in the best possible environments, with the most resources they can be given. Rather than just neglect, perhaps greater financial assistance or adequate healthcare for the children and women would serve as better forms of aid and welfare. States should also make it a priority to spread equal access to medical services and contraception for all women. Both sides of the abortion rights spectrum must work together to achieve true equality for all women, regardless of their identity or their background.

Furthermore, in attempting to reconcile the controversy and polarization of the abortion rights debate, it is crucial to consider all perspectives, especially those that do not fit into the created molds of pro-life and pro-choice. Furthermore, we must consider the negative effects of dichotomizing and using polarizing labels to describe our beliefs and attitudes. While it may be construed as self-identifying, it can also potentially undermine the future of abortion rights. As human beings, we have a tendency to look at the world through a binary lens and divide things into just two groups. However, when we do this, we fail to acknowledge the fact that most people do not fit into just one of the two ascribed groups. Most individuals' attitudes towards abortion are more fluid than rigid, which proves that pressuring people to form polarized

opinions is ultimately futile and detrimental. The modern abortion rights debate has grown to become a hostile, demeaning, and patronizing war between supporters and opponents. Rather than focusing on the core foundation of the issue, it appears that both the pro-life and pro-choice camps simply want to “win the war.” It is crucial for us to take a step back, recognize the primary issue, and act accordingly, rather than rashly. The rhetoric of the abortion rights debate needs to be toned down significantly, and both the pro-life and pro-choice camps must agree to get off their high horses and meet in the middle. Without some willingness to compromise or at least acknowledge the opposing party’s views, the debate will further escalate into a meaningless waste of time, energy, and resources.

Works Cited

- Blackmun, Harry A, and Supreme Court of The United States. U.S. Reports: Roe v. Wade, 410 U.S. 113. 1972. Periodical. Retrieved from the Library of Congress, www.loc.gov/item/usrep410113/.
- Britannica, The Editors of Encyclopedia. "Planned Parenthood of Southeastern Pennsylvania v. Casey." *Encyclopedia Britannica*, Encyclopedia Britannica, Inc., 29 June 2016, www.britannica.com/event/Planned-Parenthood-of-Southeastern-Pennsylvania-v-Casey.
- Carlsen, Audrey, et al. "What It Takes to Get an Abortion in the Most Restrictive U.S. State." *The New York Times*, The New York Times, 20 July 2018, www.nytimes.com/interactive/2018/07/20/us/mississippi-abortion-restrictions.html.
- Cha, Ariana Eunjung. "At Least 20 Abortion Cases Are in the Pipeline to the Supreme Court. Any One Could Gut Roe v. Wade." *The Washington Post*, WP Company, 15 Feb. 2019, www.washingtonpost.com/health/2019/02/15/least-abortion-cases-are-steps-us-supreme-court-any-one-could-gut-roe-v-wade/.
- Crawford, B. L., Hunt, M. E., & Jozkowski, K. N. (2018). Complexity in attitudes toward abortion access: Results from two studies. *Sexuality Research & Social Policy*, 15(4), 464-482.
- Crenshaw, Kimberlé Williams. "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color." *Stanford Law Review*, vol. 43, no. 6, 1991, pp. 1241-1299.
- Jelen, Ted G., & Wilcox, Clyde. "Continuity and Change in Attitudes Toward Abortion: Poland and the United States." *Politics & Gender*, vol. 1, no. 2, 2005, pp. 297–317.
- Mangan, Dan. "Trump: I'll Appoint Supreme Court Justices to Overturn Roe v. Wade Abortion

Case.” *CNBC*, CNBC, 20 Oct. 2016, www.cnbc.com/2016/10/19/trump-ill-appoint-supreme-court-justices-to-overturn-roe-v-wade-abortion-case.html.

Medoff, Marshall. “Pro-Choice Versus Pro-Life: The Relationship Between State Abortion Policy and Child Well-Being in the United States.” *Health Care for Women International*, vol. 37, no. 2, Feb. 2016, pp. 158–169.

Thomas, Kenneth R. *Casey v. Planned Parenthood of Southeastern Pennsylvania: Pennsylvania Abortion Law to Be Reviewed by the Supreme Court*. [Washington, D.C.]: Congressional Research Service, Library of Congress, 1992. Print.

Powderly, Kathleen E. “Contraceptive Policy and Ethics Illustrations from American History.” *The Hastings Center Report*, vol. 25, no. 1, 1995, pp. S9–S11.

Smith, A. (2005). Beyond pro-choice versus pro-life: Women of color and reproductive justice. *NWSA Journal*, 17(1), 119-140.

Ziegler, Mary. “Women’s Rights on the Right: The History and Stakes of Modern Pro-Life Feminism.” *Berkeley Journal of Gender, Law & Justice*, vol. 28, no. 2, Oct. 2013, pp. 232–268.