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Women

Defend Abortion Rights!

- IV Online magazine - 2019 - IV533 - June 2019 -

Publication date: Monday 24 June 2019

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“If men could get pregnant, abortion would be a sacrament.” — Florynce Kennedy

The evangelical right believes it has the votes in the U.S. Supreme Court to enable state legislatures to outlaw abortion and no longer needs to settle for simply setting up roadblocks to reduce women’s access. Like much of the extreme right, it does not base its calculations on whether a majority supports this legal right, but on whether it has the power to impose its viewpoint. Eighteen states have laws severely restricting abortion if *Roe v. Wade* is overturned.

Despite the reality that one out of four women has an abortion at some point during her life, the right demonizes abortion providers and defines the procedure as murder. Today they are empowered by Trump, who nominates judicial candidates based on their opposition to abortion, eliminates funding for family planning programs that even mention abortion and plans to grant exemptions to employers who don’t want to cover contraceptive methods in their insurance policy. In their quest, anti-abortion activists have terrorized and firebombed clinics and murdered medical personnel. Now they believe they are within striking distance of shutting clinics and imprisoning doctors. Six state legislatures have passed bills that outlaw abortion before the woman may realize she is pregnant. The Georgia and Louisiana laws even criminalize women who dare obtain abortion.

Women have always relied on abortion

It was only with the rise of the medical profession in the post-Civil War period that state and federal laws restricted access to birth control and abortion. Most crucial was the passage of the federal Comstock Law of 1873, which labelled the circulation of this information obscene and banned it from the mail.

Abortion continued underground because women continued to seek knowledge and control over their bodies. They were aided by herbs they knew to be abortifacients, including cottonroot and savin taken from juniper bushes. For women who found a midwife or doctor willing to perform an abortion, and able to come up with the money, there was still a risk. In case of an emergency, the woman needed to go to a hospital, yet the hospital was obligated to report her abortion.

There was a loophole in anti-abortion laws, allowing abortion to save the life of the woman. This route to a legal abortion was only available to women with financial and networking resources.

By the early 1960s, as oral birth control was just being prescribed to married women, it was estimated that probably more than a million abortions were performed each year. The majority took place after the woman was 13 or more weeks pregnant and complications were more likely to occur, particularly when they were “illegal.” According to the Guttmacher Institute, there were almost 200 reported deaths from “back alley” abortions in 1965. The risk of dying was tied to race and class, with women of color three to four times more likely to die.

The Abortion Rights Movement Begins

The drive to broaden the definition of “therapeutic abortion” was initiated in 1961 by the legal and medical

professions. Proposed reforms allowed a licensed physician to perform an abortion for a woman who had medical health reasons or in cases of fetal defects, rape or incest. Within the decade more than a dozen states had reformed their abortion laws.

In 1961 Patricia Maginnis, a San Francisco medical technician, collected petitions to support a proposed California reform bill but quickly realized how limited it would be and established the Association to Repeal Abortion Laws (ARAL). Her organization and its newsletter provided a growing women's movement with an abolitionist perspective. Like the underground Jane Collective in Chicago, ARAL also helped women obtain abortions. By 1969 it had referred 12,000 women to trustworthy abortionists in Mexico, Japan and Sweden. Meanwhile the Jane Collective not only referred women to abortionists, but began performing them.

In 1970, when Betty Friedan called for women "to get out of the kitchen and into the streets" to celebrate the 50th anniversary of women's suffrage, local coalitions overwhelmingly raised demands of equal pay for equal work, affordable and available abortion on demand and free child care. These demands emphasized women's autonomy and government's responsibility to provide necessary services.

As women challenged restrictive abortion laws, they began a larger discussion about access to knowledge about their own bodies, particularly the range of reproductive issues from birth control methods, abortion, and sterilization abuse to child birth—and the discussion began from there. The first edition of the book *Our Bodies, Our Selves* summarizes these issues and stresses the centrality of self-knowledge.

Women's organizations brought class action suits against a range of state abortion laws. In 1970, when it was clear that the New York appeals court would rule the existing New York law void, the state legislature quickly passed a bill that allowed abortion through the 24th week of pregnancy. It had no residency restriction. Along with Washington, DC, women could have safe and legal abortions. By the end of the first year, a report found the majority of abortions were performed within the first 12 weeks of pregnancy and complications were rare. Safe and legal abortion became a reality. Three years later the U.S. Supreme Court issued the *Roe v. Wade* decision.

Throughout the late 1960s and 1970s the women's movement was built through testifying about one's experiences. It flourished through conferences, meetings, zap actions, demonstrations and public hearings. It was built through making demands on institutions—schools, colleges, medical boards, courts, legislatures, the media.

From Abortion to Broader Reproductive Rights

Although attempting to speak for all women, the women's movement developed a growing awareness that women from different social layers experienced sexism differently. Women in professions, poor women, lesbians, Black women, Chicanas, older women, women with disabilities encountered different restrictions. Some were denied basic rights while others were over protected.

This was revealed most clearly around sterilization. Poor women, particularly African-American and Puerto Rican women, were sterilized without their consent, and in some cases, even without their knowledge. But until the 1970s it was difficult to document the abuse. The most widely publicized case was the sterilization of two teenagers whose family received government benefits. In 1973 Alabama authorities had the mother sign for what she thought were routine inoculations and then arranged tubal ligation for her daughters. In the Los Angeles area several Mexican American women sued hospitals where they had given birth. Subsequently, they sought contraception, only to be informed that was unnecessary because they had been sterilized.

In New York City, where one-third of Puerto Rican women of child-bearing age had been sterilized, Dr. Helen Rodriguez-Trias publicized how the hierarchy in society was reproduced in medicine. While sterilization abuse was frequent for women of color, white women who requested sterilization to control their fertility had to meet stiff requirements.

The analysis of the dichotomy in women's access to health became a debate within the women's movement throughout the 1970s. But with the stark evidence of sterilization abuse, the radical end of the women's movement concluded that *the only way to support women's rights was to defend the rights of the most vulnerable*. This realization informed how women fought for the regulation of sterilization as well as for how the women's movement opposed passage of the Hyde Amendment.

In 1983 a conference of more than 1,500 African-American women at Spelman College gave birth to the National Black Women's Health Project. It stressed autonomous organization by women of color and how contraception and abortion must be seen within a wider context that includes access to services, freedom from violence and economic rights that leads to safe and healthy communities. This was to be the foremother for reproductive justice organizations among women of color.

The Limits of Roe v. Wade

Recently a number of articles examine how the Roe v. Wade decision was written on the basis that the Constitution implicitly guaranteed the right to privacy. This right was first developed by the U.S. Supreme Court in the 1965 *Griswold v. Connecticut* decision, when it ruled that a state's ban on the use of contraceptives violated the right to marital privacy. Now that conservative judges are challenging the constitutional right to privacy, commentators suggest that it would have been better had the decision been grounded on the 14th Amendment's equal protection clause.

Equal protection is not inferred, but guaranteed in Section 1 of the 14th amendment:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

I do not believe that shifting women's right to abortion to these grounds would make much difference given that several state legislatures have already pronounced that fetuses are persons. Had this route been taken, however, it might have changed public awareness of how the right-wing fight to control women's bodies sets the stage for an appointed representative of fetuses to sue the women carrying them!

The 1973 decision was written when abortion was already legal in New York, Hawaii and Washington, DC and as many state laws were about to be overturned. Rather than be without a law, the Supreme Court crafted a federal one. It divided a woman's pregnancy into three distinct periods and assigned a growing right of state intervention as the pregnancy progressed.

The reality is that when abortion is legal and accessible, women who decide they do not want to continue their pregnancy immediately schedule their procedure. Today more than 90% have first-trimester abortion; in fact 65% do so within eight weeks. But when there are a variety of obstacles in the way, women are forced to delay, escalating the cost and bringing with it the greater possibility of complication. Of course, some women do not face problems

until later in their pregnancy, and only then decide to terminate the fetus they had hoped to bear.

However *Roe v. Wade* asserts the government has certain rights over a woman's pregnancy. Despite its importance in making abortion available, the court has provided a framework that prevents some women from exercising their right to abortion. In fact, the federal government has passed two discriminatory laws that are considered "constitutional":

â€¢ In 1977 Congress passed the Hyde Amendment, which was then signed by President Jimmy Carter. Renewed annually, it prevents women who have Medicaid insurance from using that source to pay for an abortion. (Only 15 states provide alternative payments.) This means poor women are effectively denied their right.

â€¢ In 1993 Congress passed, and President Bill Clinton signed, a bill that prevents women, despite their medical need, from seeking an abortion in the last months of their pregnancy. While this law affects a very small number of abortions, the misnamed law (Partial Birth Abortion Law) disregards the need to terminate the pregnancy and misrepresents the medical needs of these women.

The women's movement protested against passage of the Hyde Amendment by confronting various politicians, holding demonstrations and supporting the court case that challenged it. We rejoiced when we won in the lower court but it was lost on appeal and we have never been able to overcome that defeat. Even while the majority of the country supports the legalization of abortion, this defeat illustrates how market-based notions of health care and racism are embedded in our society.

The Right Has Successfully Restricted Access to Abortion

Since 1973 states have passed more than 1,000 bills regulating or outlawing abortion. These include requiring providers to give inaccurate information about abortion, mandating that women undergo unnecessary testing, insisting on parental consent for teenage women, requiring doctors perform abortions even though other trained medical personnel are capable of doing so, demanding that clinics meet unnecessary standards and requiring waiting times between when a woman requests and abortion and when she can schedule the procedure, and outlawing the use of telemedicine in the case of abortion. *Although these regulations are justified as medically necessary, they are in fact political restrictions that the right lobbied to secure.*

In its 1992 decision, *Planned Parenthood v. Casey*, the Supreme Court established a standard that state laws should not place an "undue burden" on the procedure. However, many of the laws that have been passed both before and since clearly do so.

In 2016 the *Whole Women's Health v. Hellerstedt* decision clarified "undue burden" and set the standard that unless medically necessary, such limitations were a violation of women's reproductive rights. Yet this decision has not deterred right-wing legislators, who feel on a roll because of Trump's election.

Many are shocked to think that abortion might be deemed illegal once again. *Yet the reality is that abortion has never been available and accessible to all women.* Some states have only one or two clinics or hospitals that perform abortions. In fact *89% of all U.S. counties do not have abortion facilities, yet more than a third of all U.S. women of reproductive age live there!* The barriers are more than some women are able to overcome, yet despite the fact that Medicaid excludes paying for an abortion procedure, 2014 statistics posted on the Guttmacher Institute website show

that 48% of women living at or below the federal poverty obtained an abortion, as did women living at two times the poverty level. Since these women have less access to reliable birth control, they have a greater need for abortion and find a way to obtain one.

Women's Reproductive Rights and Health in Jeopardy

In surveying the range of reproductive rights, it's important to recognize that quality sex education, safe and effective birth control and maternal health are also in jeopardy.

While in most other countries the maternal death rate is falling, in the United States it is on the rise— in 2015 standing at 26.4 per 100,000 live births (Canada stands at 7.3). For the 2007-13 period, in the city I live in, Detroit, which is more than 80% African American, maternal mortality stands at 44.4 per 100,000. Black women have three times the mortality rate of white women. That is particularly true for those living at or below the poverty line and who lack consistent health care. Yet, even the elite African-American tennis superstar, Serena Williams, almost died from blood clots following the birth of her baby.

Wherever we look at the issues of women's reproductive health, we see that the campaign for reproductive justice that women have waged over the years has a long way to go. However, it's also important to remember there are now close to 50 million women who have had safe, legal abortions since the New York law was enacted in 1970. In most cases their friends and families accompanied them, and continue to support them.

The struggle begins with women's bodily autonomy. It means access to the social institutions that can provide women with health, education, meaningful work and a dignified life. We don't have to tie ourselves to a Supreme Court decision that may have widened the door of women's opportunities but failed to assert the truth of women's full humanity.

Will the U.S. Supreme Court allow right-wing, often gerrymandered and voter-suppressing state legislatures to outlaw abortion? In some ways, it never opened the door wide. The task is to fight for full control over our reproductive rights and demand the resources we need. That is dependent on the power of our experiences and the breadth of our movement as it defends the rights of all women.

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June 10, 2019

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