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# My Body, Not My Say: Regulation of Reproductive Freedom in America

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My Body, Not My Say:  
Regulation of Reproductive Freedom in America

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Ursinus College Summer Fellows  
Summer 2015

**Abstract**

Women's bodies have been legislated for years. Many people associate regulation beginning in 1973 when *Roe V. Wade* was decided, however legislation has affected women for much longer. These infringements on women's rights create a major roadblock in gender equality. During summer fellows I researched how the law regulates aspects of American's women's lives particularly in reproductive freedom (birth control, day-after pill, abortion, maternity discrimination). Conducting this research included thorough research of 48 pieces of congressional legislation from the 114<sup>th</sup> Congress that limit women's reproductive freedom through abortion bans, non-accessible health care, and cuts in federal spending towards Planned Parenthood. I also examined Supreme Court cases regarding reproductive freedom and studied the arguments on the constitutionality of abortion regulation. To conduct this research I also looked at many Supreme Court opinions on reproductive freedom, and found that many justices supported the infringement on women's rights to their respective bodies by preventing women from having abortions or having access to contraceptives. I found that today, society has become progressive in accepting various groups of people, such as minorities and same-sex couples but doesn't extend the same acceptance towards women's reproductive rights, as shown by continued legal restrictions on women's bodies. I argue that these regulations against women infringe on their ability to participate equally in society, limiting their rights as citizens.

## **I. Introduction**

Women's bodies have been legislated for years. The Supreme Court decided in *Muller v. Oregon* (1908) that women – unlike men – could not work more than ten hours a day since this could presumably jeopardize their health and reproductive ability. Until 1965, laws denied married women the right to use contraceptives and it was not until 1972 that unmarried women gained this right. Until *Roe V. Wade* (1973), state laws made it a felony for a woman to get an abortion. Through research on Supreme Court cases and contemporary congressional legislation, I have found that the law continues to regulate many aspects of American women's lives and restricts their reproductive freedom. There have been forty-eight pieces of legislation introduced in the 114<sup>th</sup> Congress (2015-2017) that limit women's reproductive freedom through abortion bans, non-accessible health care, and cuts in federal spending towards Planned Parenthood. In Supreme Court cases regarding reproductive freedom, many justices have supported the infringement of women's rights by restricting their access to safe and affordable abortions as well as their access to contraceptives. Despite the fact that American society has increasingly accepted expanded rights for minorities and same-sex couples, it remains deeply divided over women's reproductive rights, as shown by increasing legal restrictions on women's bodies. I argue that these regulations against women's reproductive freedom infringe on their ability to participate equally in society, limiting their rights as citizens.

## **II. Sexual Revolution**

Sexual behavior changed dramatically in the 1950s and 1960s as young people increasingly had sex outside of marriage. Odds were that women would have sex before they

reached age twenty.<sup>1</sup> In the 1950s, about 39 percent of unmarried girls had “gone all the way” before they were 20 years old. This increased to 68 percent by 1973.<sup>2</sup> This recent change in attitudes about sex came from a revolution in dating behavior that began in 1920. This change in dating behavior, along with the change in portrayals of sex in the media, led to the revolution. The change happened as teens, rather than their parents, started having control over their dating behavior. “Unlike their Victorian predecessors who courted on the front porch where their behavior could be closely monitored, the young people in the 1920s enjoyed a degree of privacy and mobility. As dating moved off the porch and into the community, parents were no longer present to set limits. Teens themselves began to determine what was appropriate sexual behavior and to enforce their own standards through peer pressure.”<sup>3</sup>

These dating changes also resulted in more people having sex before marriage at younger and younger ages. Ann Fessler, author of *The Girls Who Went Away: The Hidden History of Women Who Surrendered Children for Adoption in the Decades Before Roe V. Wade*, began comparing white, unmarried women who turned eighteen between 1956 and 1958 with those who did so between 1971 and 1973, and found that the percentage who had their first premarital sexual intercourse at age 15 quadrupled, from 1.3 percent to 5.6 percent. Those in the same cohort who had premarital sex before age twenty jumped from 33.3 percent to 65.6 percent.<sup>4</sup> As more young women began having sex, the number of premarital pregnancies also increased, especially since the revolution in sexual behavior preceded women’s access to birth control and sex education. “In the mid-1950s, about 40 percent of first births to girls age 15 to 19 were

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<sup>1</sup> Ann Fessler, *The Girls Who Went Away: The Hidden History of Women Who Surrendered Children for Adoption in the Decades before Roe v. Wade*. (New York: Penguin Press, 2006), 7

<sup>2</sup> Ibid.,29.

<sup>3</sup> Ibid.,30.

<sup>4</sup> Ibid.,32.

conceived out of wedlock. By 1971-74 the number of first births conceived outside of marriage to teenage girls had reached 60 percent”.<sup>5</sup>

The sexual revolution did not extend to attitudes toward pregnancy outside of marriage. Young unmarried women who got pregnant were shunned in their community. “The social stigma of being an unwed mother was so great that many families-especially middle class families felt it was simply unthinkable to have a daughter keep an illegitimate child. These women either married quickly or were sent away before their pregnancy could be detected by others in the community. Between 1945 and 1973, one and a half million babies were relinquished for nonfamily or unrelated adoptions.”<sup>6</sup>

Once private sexual behavior was made visible and public by pregnancy, it could not be denied. Given the social stigma of unwed pregnancy at the time, members of the community who wanted to be perceived as maintaining a higher moral standard had to refrain from association with a pregnant girl. Accepting her condition or helping her keep the child might be perceived as condoning her actions. Most members of society felt they must distance themselves in order to make their position clear.<sup>7</sup> These unplanned pregnancies were handled in a form similar to victim blaming. “In one of the strictest forms of banishment, high schools and most colleges required a pregnant girl to withdraw immediately. It was not until Title IX of 1972 that federally funded high schools and colleges, by law, could not expel a pregnant girl or teen mother”.<sup>8</sup>

Before women had access to reproductive rights, they would seek unsafe alternatives that were detrimental to their health. “The dynamic compelling consideration of abortion law reform is that criminalization of a practice that each year worldwide an estimated 20 million women

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<sup>5</sup> Ibid.,30

<sup>6</sup> Ibid.,8.

<sup>7</sup> Ibid., 72.

<sup>8</sup> Ibid.,72

seek in unsafe conditions denies their right to reproductive health in particular, and to respect for their human rights in general. The focus of concern arises, however, not just from the cumulative impact of 20 million cases, but from the risk posed to each individual woman”.<sup>9</sup>

### **III. History of Progression of Reproductive Rights**

The emotional turmoil and physical danger of unwanted pregnancy stemmed in large part from the fact that means of reproductive control for women were illegal or unavailable. In the 1950's, the only effective means of birth control-the pill and intrauterine device-were either unavailable or inaccessible to single women. The pill was available for the regulation of menstrual periods beginning in 1957 and was approved for contraceptive use by the FDA in 1960. The IUD became available in 1960.<sup>10</sup> The lack of effective means of birth control, especially at a time of loosening sexual norms, led to more and more women finding themselves unintentionally pregnant. In addition to not having adequate birth control, parents and schools feared that sex education would promote or encourage sexual relations and so they thought it was best to leave young people uninformed.<sup>11</sup> Even when both the pill and the IUD were introduced, they both posed safety concerns and were not generally considered safe until the 1970s.<sup>12</sup> Ultimately, even after contraceptives were regarded as safe, state laws and personal moral values prevented doctors in the 1960s from prescribing the pill.<sup>13</sup> Through this, women's reproductive rights have continued to face such legal and social restrictions.

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<sup>9</sup> Rebecca J Cook, and Bernard M. Dickens, *Human Rights Dynamics of Abortion Law Reform*. (2003), 559.

<sup>10</sup> Ann Fessler, *The Girls Who Went Away: The Hidden History of Women Who Surrendered Children for Adoption in the Decades before Roe v. Wade*. (New York: Penguin Press, 2006), 41.

<sup>11</sup> *Ibid.*, 8.

<sup>12</sup> *Ibid.*, 41.

<sup>13</sup> *Ibid.*, 41.

There have been major improvements and large setbacks in reproductive rights since the 1960s. As analyzed in the next section, abortion became legal and safer, although a series of legal decisions and governmental actions have eroded abortion rights and women's reproductive rights continue to face new restrictions. Between 2011 and 2013, states have enacted 205 new restrictions, more than there have been in the previous ten years. These restrictions are waiting periods, inaccurate scripts that doctors must read to patients (abortion causes breast cancer, mental illness, suicide), bans on state Medicaid payments, restrictions on insurance coverage, and parental notification and consent laws.<sup>14</sup> The government is finding ways to take money away from support centers. In Ohio, for example, lawmakers took money away from a welfare program for low-income families and reallocated it to crisis-pregnancy centers that are created to discourage pregnant women from having abortions. "These crisis centers rely on a paternalistic view on women seeking abortion as childlike, ignorant, and confused. It's worked well: there are now 2,500 such centers in the US. As of 2013, 13 states fund them directly. In 2011, Texas increased funding for CPCs while cutting family planning money by two-thirds. The money came from a budget for women's health".<sup>15</sup> This program gives money to embryos and fetuses instead of the actual living children.<sup>16</sup>

"Although abortion has been legal for four full decades, for many women in America it might as well not be. It is inaccessible-too far away, too expensive to pay for out of pocket, and too encumbered by restrictions and regulations and humiliations, many of which might not seem to be one of those "undue burdens" the Supreme Court has ruled are impermissible curbs on a woman's ability to terminate a pregnancy, but which, taken together, do place abortion out of

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<sup>14</sup> Katha Pollitt. *Pro Reclaiming Abortion as Good for Society*. (New York, New York: Picador, 2014), 24.

<sup>15</sup> *Ibid.*,35.

<sup>16</sup> *Ibid.*,24.



reach”.<sup>17</sup> The government also uses extensive regulations and rules to prevent abortion clinics from operating. Twenty-seven states have passed laws that demand expensive and unnecessary renovations and burdens of medical regulations to make clinics impossible to staff and operate. This results in at least 73 clinics closing between 2011 and 2013.<sup>18</sup> These regulations limit women’s accessibility to a safe abortion. Closing down clinics results in women having to travel extensive distances to find clinics willing to help them, which many women cannot afford to do. “In 2000, according to the Guttmacher Institute, around one-third of American women of reproductive age lived in states hostile to abortion rights. As of 2011, more than half of women lived in hostile states. In 2013, only one state, California, made abortion easier to obtain”.<sup>19</sup> These restrictions on women are not put on any other group of citizens. Currently, 38 states require parental approval for a minor to have an abortion and 33 states do not even cover abortions under Medicaid.<sup>20</sup> A right includes the freedom to use it in ways others find distressing or even wrong.<sup>21</sup> American society would not accept extensive restrictions on any other constitutional rights, as we do towards women’s reproductive rights.

#### **IV. Evolution of Supreme Court Cases**

The Supreme Court has ruled on the issue of reproductive freedom many times. The decisions come from various interpretations of the constitution, particularly with the bill of rights. An analysis of legal statues and court decisions relieves significant variation in progress and backtracking regarding reproductive rights.

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<sup>17</sup> Ibid.,25.

<sup>18</sup> Ibid.,25.

<sup>19</sup> Ibid.,25.

<sup>20</sup> Ibid.,26.

<sup>21</sup> Ibid.,38.

Buck V. Bell in 1927 held that in the case of mental instability, individuals could be sterilized in order to prevent their condition being carried down multiple generations. This was supposed to clear the human genes to produce a stronger human race. This law was for the “health of the patient and the better welfare of society”. Justice Holmes affirmed the value of a law like Virginia's in order to prevent the nation from "being swamped with incompetence . . . Three generations of imbeciles are enough”.<sup>22</sup>

Grisvold V. Connecticut in 1965 established a right to privacy within a marriage, even though this was not explicitly guaranteed in the bill of rights or the Constitution. This ruling was the basis of granting married women the right to use contraceptives. While this case made leeway for married women, unwed mothers still faced strict regulations.<sup>23</sup>

United States V. Vuitch in 1971 held, typical of anti-abortion laws in many states, criminalized abortions except in cases of danger to the mothers life or health. The court held that the abortion statute of the District of Columbia was constitutional. This ruling provided basis for all anti-abortion statutes to be deemed constitutional.<sup>24</sup>

Eisenstadt V. Baird in 1972 struck down a Massachusetts abortion law. Justice William J. Brennan, Jr. wrote, “It is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision to whether to bear or beget a child”.<sup>25</sup>

Roe V. Wade in 1973 is the most popular court case associated with reproductive freedom. Roe V. Wade held the right to personal privacy in the decision to have an abortion. The court decided that all abortion statutes that forbid abortions except in the case of a life saving

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<sup>22</sup> 274 U.S. 200 (1927)

<sup>23</sup> 381 U.S. 479 (1965)

<sup>24</sup> 402 U.S. 62 (1971)

<sup>25</sup> 405 US. 438 (1972)

procedure on behalf of the mother is unconstitutional based upon the right to privacy. Justice Rehnquist wrote in his dissent that the right to an abortion is not universally accepted and the right to privacy is thus not inherently involved in this case. Ultimately, this decision was a big step forward in granting women the right to make decisions about their bodies.<sup>26</sup>

Doe V. Bolton of 1973 was issued as a “companion” to Roe V. Wade, to issue a broad list of reasons abortion doctors may consider in determining whether an abortion is needed. These reasons were “all factors-physical, emotional, psychological, familial, and the woman’s age-relevant to the wellbeing of the patient”. This case created a broad health definition that became the standard for late-term abortions after viability.<sup>27</sup>

Bigelow V. Virginia in 1974 held that Virginia was not afforded First Amendment protection to criminalize the publication of commercial speech encouraging women to have abortions. This case held that the states should not have the right to prohibit an individual from exercising his or her First Amendment rights, especially when the message is regarding a legal practice in that place (such as an abortion).<sup>28</sup>

Bellotti V. Baird in 1979 argued that the rights of a (minor) woman to have an abortion must be balanced with the ability of her parents to make decisions for that minor. This contradicted with a previous decision by the Supreme Court that held a parental veto over a minor’s decision to terminate her pregnancy was unconstitutional. This decision wanted to balance the interests of the minor in terminating her pregnancy and her parents in having the ability to raise their offspring.<sup>29</sup>

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<sup>26</sup> 410 U.S. 113 (1973)

<sup>27</sup> 410 U.S. 179 (1973)

<sup>28</sup> 421 U.S. 809 (1975)

<sup>29</sup> 443 U.S. 622 (1979)

Harris V. McRae of 1980 argued that the constitutional freedoms provided in Roe V. Wade do not give access to public funds. This case argued that the Hyde Amendment (a legal provision that prevents the use of federal funds to have an abortion) does not have a governmental obstacle in preventing abortions but withholds funding in certain circumstances. The Court states that a woman's freedom of choice does not guarantee her a constitutional entitlement to financial resources. The dissent on this case argues that the Hyde Amendment's denial of funding for medically necessary abortions does intrude on a constitutionally protected choice. It coerces pregnant women to have children they would otherwise have elected not to have. By funding all the expenses for childbirth but none regarding terminating pregnancy, the government forces many women's hands into an offer they cannot afford to refuse. This violates the constitutional freedoms of Roe V. Wade by defining rights depending on a woman's financial status.<sup>30</sup>

City of Akron V. Akron Center for Reproductive Health of 1982 affirmed the Court's commitment to protecting a woman's reproductive rights. This case held that the City of Akron's ordinance violated the Constitution because it was intended to persuade women away from having abortions.<sup>31</sup>

Bolger V. Youngs Drug Products Corporation in 1983 held that the Respondent, Young's Drug Products Corp was protected under the First Amendment right to commercial speech to direct mailings to the public that advertise contraceptives. The Court held that because (1) it is meant to be an advertisement, (2) it references a particular product, and (3) there is an economic

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<sup>30</sup> 448 U.S. 297 (1980)

<sup>31</sup> 462. U.S. 416 (1983)

motivation for disseminating the material. If all of these attributes are present, then it is protected under the First Amendment of the United States Constitution.<sup>32</sup>

Tornburgh V. American College of Obstetricians and Gynecologists in 1985 held that the Pennsylvania requirements were attempts to prevent women from making the choice to have abortions. The Court held that “1) the "informed consent" and printed materials provisions unduly intruded upon the privacy of patients and physicians; 2) the reporting and viability determination provisions were designed to identify and deter women from having abortions through the threat of harassment; and 3) the post-viability care and second physician provisions unconstitutionally interfered with the health of the mother by increasing delays and medical risks”.<sup>33</sup>

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<sup>32</sup> 463 U.S. 60 (1983)

<sup>33</sup> 476 U.S. 747 (1986)

Webster V. Reproductive Health Services in 1989 was a controversial decision that held that Missouri was not required under Due Process to enter into the business of abortion. This Court allowed Missouri to prevent using state resources to provide accessible abortions of state residents. This decision allowed states to provide legislative jurisdiction in an area that was not usually permitted after Roe V. Wade.<sup>34</sup>

Hodgson V. Minnesota in 1990 found that a statute requiring the notification of both parents for a minor to have an abortion was unconstitutional. The Court held that notification of one parent and a 48-hour waiting period was sufficient.<sup>35</sup>

Rust V. Sullivan in 1990 was regarding the constitutionality of using funds to pay for family planning (Title X). The Court held that restrictions on funding regarding to abortion was constitutional.<sup>36</sup>

Planned Parenthood of Southeastern Pennsylvania V. Casey in 1991 reaffirmed Roe V. Wade and imposed a new standard to determine validity of abortion laws. This standard asked if the regulation has the purpose or effect of imposing an “undue burden”, which is defined as a “substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability”. It regarded a law that required informed consent and a 24 hour waiting period prior to abortions. Minors also were required to get parental permission to have abortions and married women had to notify their husbands before having abortions. The only undue-burden that failed was the husband notification requirement.<sup>37</sup>

Schenck V. Pro-Choice Network of Western New York in 1996 was an action filed by the Pro-Choice Network to prevent protestors to being in a specific distance of abortion facilities.

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<sup>34</sup> 492 U.S. 490 (1989)

<sup>35</sup> 497 U.S. 417 (1990)

<sup>36</sup> 500 U.S. 173 (1991)

<sup>37</sup> 505 U.S. 833 (1992)

The Court held that “fixed buffer zones” (allowing protestors to be vocally heard but preventing unlawful conduct such as spitting, blocking doors, attacking women seeking abortions) were constitutional. However, the Court refused to allow “floating buffer zones” that would require protestors to be at least 15 feet away from the people they wished to communicate with. The Court determined that “floating buffer zones” imposed on free speech too greatly.<sup>38</sup>

Mazurek V. Armstrong of 1997 argued regarding a law that only licensed physicians could perform abortions. This law was challenged by a group asserting that this created an undue burden on the mother because at the time only 1 physician in the state of Montana was able to perform an abortion. The Court held that there was no evidence of an unlawful motive on the part of the state legislature.<sup>39</sup>

Stenberg V. Carhart (Carhart I) of 2000 held that Nebraska’s statute of criminalizing partial birth abortions violates the Constitution because it produces an undue burden on the woman’s right to an abortion. Further, the Court found that the statute does not allow exceptions for cases of threatened health of the mother.<sup>40</sup>

Ayotte V. Planned Parenthood of Northern New England in 2005 held that requiring minors to get parental approval to have an abortion violates the constitutional right guaranteed in the Constitution. Planned Parenthood claimed that this created an undue burden on women. Justice O’Connor wrote that the statute would be unconstitutional when applied to the small percentage of minors that require an abortion to avert serious damage to their health.<sup>41</sup>

Gonzalez V. Carhart & Gonzales V. Planned Parenthood Federation of America, Inc. (Carhart II) of 2007 ruled that the Congress ban on partial-birth abortion was not constitutionally

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<sup>38</sup> 519 U.S. 357 (1997)

<sup>39</sup> 520 U.S. 968 (1997)

<sup>40</sup> 530 U.S. 914 (2000)

<sup>41</sup> 546 U.S. 320 (2006)

vague and did not impose an undue burden on the right to an abortion. The Court ruled the ban was not unconstitutional even without a provision to allow the partial-birth abortion in case of risk of harm to the mother.<sup>42</sup>

### **V: Legislation Introduced in the 114<sup>th</sup> Congress**

This Congressional session (Jan 2015-2017) has already introduced 48 pieces of legislation that regulate women's reproductive health. The language in many of these pieces of legislation is laced with patriarchal connotations that demonstrate women are not entitled to the full citizenship men have. These bills demonstrate that women have grown throughout the years but the law has not grown to be less controlling.

H.R. Res. 43: Disapproving the action of the District of Columbia Council in approving the Reproductive Health Non-Discrimination Amendment Act of 2014 amends the Human Rights Act of 1977 to protect individuals from discrimination by an employer, employment agency, or labor organization, based on an individual's or dependent's reproductive health decisions; and defines reproductive health decisions to include a decision by an employee, his or her dependent, or the employee's spouse related to the use or intended use of a particular drug, device, or medical service, including the use or intended use of contraception or fertility control or the planned or intended initiation or termination of a pregnancy.<sup>43</sup>

H.R. 453: Healthy Relationships Act of 2015 authorizes the Health Resources and Services Administration to award grants for qualified sexual risk avoidance education for youth and their parents.<sup>44</sup>

H.R. 1356: Women Veterans Access to Quality Care Act of 2015 / S. 471: Women

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<sup>42</sup> 550 U.S. 124 (2007)

<sup>43</sup> H.R. Res. 43, 114 Cong. (2015).

<sup>44</sup> H.R. 453, 114 Cong. (2015).



Veterans Access to Quality Care Act of 2015 directs the Department of Veterans Affairs (VA) to establish standards for female veteran care. This bill would demand that VA ensures that all female veterans have quality maternity care.<sup>45</sup>

S. 628: Improving Access to Maternity Care Act/ H.R. 1209: Improving Access to Maternity Care Act amends the Public Health Service Act to require the Health Resources and Services Administration to designate maternity care health professional shortage areas and review these designations at least annually.<sup>46</sup>

H.R. 492: Ultrasound Informed Consent Act amends the Public Health Service Act to require abortion providers, before a woman gives informed consent to any part of an abortion, to perform an obstetric ultrasound on the pregnant woman, and to provide a simultaneous explanation of what the ultrasound is depicting, display the ultrasound images so the woman may view them, and provide a complete medical description of the images, including the dimensions of the embryo or fetus, cardiac activity if present and visible, and the presence of external members and internal organs if present and viewable.<sup>47</sup>

H.R. 1462: Protecting Our Infants Act of 2015 / S. 799: Protecting Our Infants Act of 2015 would direct federal agencies to collect and disseminate strategies and best practices to prevent and treat maternal opioid use and abuse, as well as provide recommendations for diagnosing and treating babies suffering from withdrawal.<sup>48</sup>

S. 674: 21st Century Women's Health Act of 2015 would provide women with affordable access to comprehensive health care, including preventive services (such as contraception and breast cancer screenings), to improve maternal health, and to ensure that a woman has the same

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<sup>45</sup> H.R. 1356, 114 Cong. (2015).

<sup>46</sup> S. 628, 114 Cong. (2015). / H.R. 1209, 114 Cong. (2015).

<sup>47</sup> H.R. 492, 114 Cong. (2015).

<sup>48</sup> H.R.1462, 114 Cong. (2015). / S. 799, 114 Cong. (2015).

benefits and services no matter what part of the United States she lives in, all which is critical to improving the health and well-being of women, children, their families, society as a whole, and is an essential part of a woman's economic security and opportunity.<sup>49</sup>

S. 355: Teach Safe Relationships Act of 2015 amends the Elementary and Secondary Education Act of 1965 (ESEA) to authorize the Secretary of Education to award competitive four-year grants to local educational agencies (LEAs) to provide: (1) professional development to school administrators, teachers, and staff in safe relationship behavior education; and (2) educational programming and curricula for students regarding safe relationship behavior.<sup>50</sup>

H.R. 1708: Robin Danielson Feminine Hygiene Product Safety Act of 2015 would amend the Public Health Service Act to establish a program of research regarding the risks posed by the presence of dioxin, synthetic fibers, chemical fragrances, and other components of feminine hygiene products.<sup>51</sup>

H.R. 783: Zero Tolerance for FGM Act of 2015 requires the Department of Health and Human Services to report on the development and implementation of a strategy that: ensures individuals who encounter minors at risk of female genital mutilation (FGM) are fully prepared to take action to prevent the practice.<sup>52</sup>

S.J.Res. 10: A joint resolution disapproving the action of the District of Columbia Council in approving the Reproductive Health Non-Discrimination Amendment Act of 2014. This resolution disapproves the action of the District of Columbia Council in approving the Reproductive Health Non-Discrimination Amendment Act of 2014 (D.C. Act 20-593). The Act did not force insurers to provide abortion coverage if it went against their moral or religious

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<sup>49</sup> S. 674, 114 Cong. (2015).

<sup>50</sup> S. 355, 114 Cong. (2015).

<sup>51</sup> H.R. 1708, 114 Cong. (2015).

<sup>52</sup> H.R. 783, 114 Cong. (2015).

values.<sup>53</sup> H.R. 311: Adoption Promotion Act of 2015 amends the Public Health Service Act (PHSA) to direct the Department of Health and Human Services to ensure that pregnancy options counseling funded through training grants for family planning service program personnel includes adoption counseling and is provided by licensed social workers or counselors who have knowledge and experience in adoption practice.<sup>54</sup>

H.R. 919: CHIP Extension and Improvement Act of 2015 revises and extends through FY2019 at generally increased levels the program under title XXI (State Children's Health Insurance) (CHIP) of the Social Security Act (SSAct), and adjusts CHIP allotment requirements accordingly, including the rebasing and growth factor update rules for computing state allotments and makes appropriations for certain allotments.<sup>55</sup>

S. 469: Women Veterans and Families Health Services Act of 2015 directs the Secretary of Defense (DOD) to furnish fertility treatment and counseling, including through the use of assisted reproductive technology, to a spouse, partner, or gestational surrogate of a severely wounded, ill, or injured member of the Armed Forces who has an infertility condition incurred or aggravated while serving on active duty in the Armed Forces.<sup>56</sup>

H.R. 281: Every Child is a Blessing Act of 2014 prohibits recovery of damages in certain civil actions based on a claim that, but for the conduct of the defendant, a child, once conceived, would not or should not have been born.<sup>57</sup>

H.R. 57: Equal Rights and Access for the Women of South Sudan Act requires that activities carried out by the United States in South Sudan relating to governance, post-conflict

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<sup>53</sup> S.J. Res 10,114 Cong. (2015).

<sup>54</sup> H.R. 311,114 Cong. (2015).

<sup>55</sup> H.R. 919,114 Cong. (2015).

<sup>56</sup> S. 469,114 Cong. (2015).

<sup>57</sup> H.R. 281,114 Cong. (2015).

reconstruction and development, police and military training, and refugee relief and assistance support the human rights of women and their full political, social, and economic participation.<sup>58</sup>

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<sup>58</sup> H.R. 57,114 Cong. (2015).

S. 84: GEDI Act amends the Public Health Service Act to direct the Centers for Disease Control and Prevention (CDC) to develop a multisite gestational diabetes research project within the diabetes program of the CDC to expand and enhance surveillance data and public health research on gestational diabetes and requires the Department of Health and Human Services (HHS) to expand and intensify public health research on gestational diabetes.<sup>59</sup>

H.R. 1706: Real Education for Healthy Youth Act of 2015 provides for the overall health and well-being of young people, including the promotion of comprehensive sexual health and healthy relationships, the reduction of unintended pregnancy and sexually transmitted infections (STIs), including HIV, and the prevention of dating violence and sexual assault, and for other purposes.<sup>60</sup>

H.Res. 47: Supporting women's reproductive health care decisions. / S.Res. 37: A resolution supporting women's reproductive health care decisions expresses support for efforts to: ensure that women have access to the best available health care and information, including comprehensive, affordable insurance coverage and health care that fosters safe childbearing; ensure that women can make their own health care decisions; prohibit employers or government entities from interfering with reproductive health care services guaranteed by law; and guarantee the constitutionally protected right to safe, legal abortions.<sup>61</sup>

H.R. 2: Medicare Access and CHIP Reauthorization Act of 2015 amends title XVIII of the Social Security Act to repeal the Medicare sustainable growth rate and strengthen Medicare access by improving physician payments and making other improvements, to reauthorize the Children's Health Insurance Program, and for other purposes.<sup>62</sup>

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<sup>59</sup> S. 84,114 Cong. (2015).

<sup>60</sup> H.R. 1706,114 Cong. (2015).

<sup>61</sup> H.Res 47,114 Cong. (2015). / S.Res 37,114 Cong. (2015).

H.R. 453: Healthy Relationships Act of 2015 / S. 923: Healthy Relationships Act of 2015 amends the Public Health Service Act to authorize the Health Resources and Services Administration to award grants for qualified sexual risk avoidance education for youth and their parents. The unambiguous message that postponing sexual activity is the optimal sexual health behavior for youth must be the primary emphasis and context for each topic covered by the education.<sup>63</sup>

H.R. 217: Title X Abortion Provider Prohibition Act / S. 51: Title X Abortion Provider Prohibition Act amends the Public Health Service Act to prohibit the Department of Health and Human Service (HHS) from providing federal family planning assistance to an entity unless the entity certifies that, during the period of assistance, the entity will not perform, and will not provide funds to any other entity that performs, an abortion. Excludes an abortion where: (1) the pregnancy is the result of rape or incest; or (2) a physician certifies that the woman suffered from a physical disorder, injury, or illness that would place the woman in danger of death unless an abortion is performed, including a condition caused by or arising from the pregnancy. Excludes hospitals that do not provide funds to non-hospital entities that perform abortions. It also requires HHS to provide Congress annually: (1) information on grantees who performed abortions under the exceptions, and (2) a list of entities to which grant funds are made available.<sup>64</sup>

H.R. 610 amends title XIX of the Social Security Act to audit States to determine if such States used Medicaid funds in violation of the Hyde Amendment and other Federal prohibitions on funding for abortions, and for other purposes. This bill amends title XIX (Medicaid) of the Social

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<sup>62</sup> H.R. 2,114 Cong. (2015).

<sup>63</sup> H.R.453,114 Cong. (2015).

<sup>64</sup> H.R.217,114 Cong. (2015). / S.51,114 Cong. (2015).

Security Act to include as an activity under the Medicare Integrity Program an annual audit of payment claims under a state Medicaid plan to determine if any payments for family planning services and supplies violated federal law that restricts the use of funds under Medicaid for abortions.<sup>65</sup>

S. 358: Access to Contraception for Women Servicemembers and Dependents Act of 2015 / H.R. 742: Access to Contraception for Women Servicemembers and Dependents Act of 2015 expands the TRICARE health care program managed by the Department of Defense (DOD) to entitle additional female beneficiaries and dependents to care related to the prevention of pregnancy.<sup>66</sup>

H.R. 36: Pain-Capable Unborn Child Protection Act amends the federal criminal code to prohibit any person from performing or attempting to perform an abortion except in conformity with this Act's requirements. It also requires the physician to first determine the probable post-fertilization age of the unborn child. Prohibits an abortion from being performed if the probable post-fertilization age of the unborn child is 20 weeks or greater. Permits a physician to terminate a pregnancy under such an exception only in the manner that provides the best opportunity for the unborn child to survive. Requires a physician performing an abortion under an exception provided by this Act, if (in reasonable medical judgment) the pain-capable unborn child has the potential to survive outside the womb, to ensure that a second physician trained in neonatal resuscitation is present and prepared to provide care to the child. Requires, when a physician performs or attempts an abortion in accordance with this Act and the child is born alive

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<sup>65</sup> H.R.610,114 Cong. (2015).

<sup>66</sup> S.358,114 Cong. (2015). / H.R.742,114 Cong. (2015).

Requires the physician who intends to perform an abortion under one of this Act's exceptions to first obtain a signed informed consent authorization form, which shall be presented in person by the physician.<sup>67</sup>

H.R. 423: Newborn Care Improvement Act allows the Secretary of Veterans Affairs (VA) to provide the newborn child of a woman veteran who is receiving VA maternity care with post-delivery care services for 14 days after the child's birth if the veteran delivered the child in a VA facility or another facility with which VA has a contract for such services. (Currently, such care may not be provided for more than 7 days.)<sup>68</sup>

S. 746: Accelerating the End of Breast Cancer Act of 2015 / H.R. 1197: Accelerating the End of Breast Cancer Act of 2015 directs the President to establish the Commission to Accelerate the End of Breast Cancer to help end breast cancer by January 1, 2020. Directs the Commission to: (1) identify opportunities and ideas within government and the private sector that are key components in achieving the end of breast cancer and which have been overlooked, yet are ripe for collaboration and investment; (2) recommend projects to leverage such opportunities and ideas in the areas of the primary prevention of breast cancer and the causes and prevention of breast cancer metastasis; and (3) ensure that its activities are coordinated with, and do not duplicate the efforts of, programs and laboratories of other government agencies.<sup>69</sup>

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<sup>67</sup> H.R. 36,114 Cong. (2015).

<sup>68</sup> H.R.423,114 Cong. (2015).

<sup>69</sup> S.746,114 Cong. (2015). / H.R.1197,114 Cong. (2015).



H.R. 1372: Home Visiting Extension Act amends title V (Maternal and Child Health Services) of the Social Security Act to extend through FY2015 the Maternal, Infant, and Early Childhood Home Visiting programs.<sup>70</sup>

S. 91: Mobile Mammography Promotion Act of 2015 amends the Internal Revenue Code to exempt from the motor fuel excise tax fuel used in any highway vehicle designed exclusively to provide mobile mammography services.<sup>71</sup>

S. 78: Pregnant Women Health and Safety Act requires a person who performs an abortion to have admitting privileges at a local hospital and notify the patient of the location of the hospital where the patient can receive follow-up care by the person if complications arise.<sup>72</sup>

H.R. 448: Women's Health Protection Act of 2015 / S. 217: Women's Health Protection Act of 2015 prohibits any government from imposing on abortion services: a requirement that a medical professional perform specific tests or medical procedures.<sup>73</sup>

S. 221: Pregnancy Assistance Fund Expansion Act amends the Patient Protection and Affordable Care Act to authorize additional funding for FY2016-FY2019 for the Pregnancy Assistance Fund for grants to states to assist pregnant and parenting teens and women.<sup>74</sup>

S. 737: Ensuring Access to Primary Care for Women & Children Act amends title XIX (Medicaid) of the Social Security Act (SSAct) to require that the primary care services furnished in the two years after enactment of this Act by a physician with a primary specialty designation of family medicine, general internal medicine, or pediatric medicine be paid at a rate that is not

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<sup>70</sup> H.R.1372,114 Cong. (2015).

<sup>71</sup> S.91,114 Cong. (2015).

<sup>72</sup> S.78,114 Cong. (2015).

<sup>73</sup> H.R.448,114 Cong. (2015). / S.217,114 Cong. (2015).

<sup>74</sup> S.221,114 Cong. (2015).

less than 100% of the payment rate that applies under Medicare part B (Supplementary Medical Insurance), but only if the physician self-attests as being Board certified in those areas.<sup>75</sup>

S. 466: Quality Care for Moms and Babies Act amends title XI of the Social Security Act (SSAct) to direct the Secretary of Health and Human Services, as part of the pediatric quality measures program and the Medicaid Quality Measurement Program (MQMP), to review certain quality measures endorsed under the Medicare program under SSAct XVIII that relate to the care of childbearing women and newborns<sup>76</sup>

These legislative restrictions on women demonstrate a lack of strong progression towards reproductive freedom. Many of these bills provide a turnabout way for pro-life legislators to prevent women from having abortions or contraceptives by creating rules, regulations, and limitations on the availability of family planning services. These regulations provide a means to prevent women from achieving full constitutional authority over their own bodies without overturning Roe V. Wade.

## **VI: Conclusion**

The law continues to regulate many aspects of American women's lives and restricts their reproductive freedom. The forty-eight pieces of legislation introduced in the 114<sup>th</sup> Congress limit women's reproductive freedom through abortion bans, non-accessible health care, and cuts in federal spending towards Planned Parenthood. The Supreme Court cases supported the infringement of women's rights by restricting their access to safe and affordable abortions as well as their access to contraceptives. These regulations are all based upon an interpretation of the Constitution that allows for the rights of women to be sidetracked compared to the right of

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<sup>75</sup> S.737,114 Cong. (2015).

<sup>76</sup> S.466,114 Cong. (2015).

privacy, the right of information, and other human rights, which are used to validate the ability to limit women's reproductive freedom.

Despite the fact that American society has increasingly accepted expanded rights for minorities and same-sex couples, it remains deeply divided over women's reproductive rights, as shown by increasing legal restrictions on women's bodies. In society we have seen minorities become more accepted with affirmative action. Recently, the United States came together to fight for African Americans liberty by standing together to take down the Confederate flag. We have watched as many Americans rejoiced and celebrated as the Supreme Court ruled same-sex marriage legal in every state. The Catholic Church has even issued a statement accepting same-sex unions, yet it still considers contraceptives and abortions to be sins and cause for excommunication from the church. The rights of women as citizens have not been respected and have contrasted differently with the rights of other social groups. This is not just about fundamental beliefs as much as it reflects with deeply entrenched gender views on women's roles in society and a patriarchal sense of how women should and should not behave. The act of premarital sex is a sin for the women but the men are never held in the same shameful regard. Many people have strong views on how they should behave in terms of their religious convictions but now also demand that everyone should be covered by these views. Often, these views do not reflect religious convictions, but rather they represent the gender norms that were translated into religious texts in the past.

These regulations against women's reproductive freedom infringe on their ability to participate equally in society, limiting their rights as citizens. Women will never be fully equal in society if they do not have reproductive rights. Women cannot be full citizens if they cannot have the right to determine when and if they get pregnant. Women's full citizenship entails

having the ability to participate equally in society and having the right to personal choices about their own body. Women's roles have clearly grown in society in terms of the economy, politics, and the job market, yet reproductive rights have barely advanced over the years.

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