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The United States' Creation of Undue Burden on Abortion: A Breakage of a Constitutional Right

Abortion is the loss of a fetus through accidental or purposeful action. The common understanding of abortion for nonmedical personnel is the voluntary termination of a pregnancy. While under some controversy, the effects of abortion (whether limited or not) are shared throughout multiple disciplines. The purpose of this paper is to analyze the effects of abortion through sociology, psychology, legality, and philosophy.

The sociological controversy on abortion resides through many avenues. Abortion attitudes vary depending on race, religious background, personal morals, educational level, etc. Within the development and structure of society, people tend to divide. This paper will analyze differing views on abortions from society – showing trends and patterns residing through groups.

Within the paper, the psychological effects of abortion will be addressed. Specifically, this paper will focus on those who have undergone an abortion – and how their psychological health is affected through the procedure. Studies have tracked the psychological status and changes effected by abortions. Factors such as self-esteem, lotus of control, and anxiety are examined through these studies.

Philosophically, the defined 'beginning of life' dictates the limitations of abortion. Within the discussion lies in the specific properties a thing must have in order to have a right to

life. The working definition of life and the beginning of it continues to complicate the controversy of abortion.

Finally, this paper will discuss the legal factors effecting the availability of abortion in the United States. The legal approval of abortion has the power to limit or grant access of abortions. Legal, justifiable abortions are limited due to the concept of undue burden, which places unfair obstacles on women who seek abortions. Undue burden is a breakage of constitutional right, therefore it is the responsibility of the United States government to increase accessibility to abortion.

Through the ethical debate of abortion through the philosophical definition of life and the right to it as well as the complication of sociological factors such as race, education, and religious affinity, the legal access to abortion is necessary due to the evidence of maintained mental health, economic status, and continuation of education. Additionally, the federal government has an obligation to free women of obstacles set in place to effectively increase accessibility to abortions.

Legality

Access to legal abortion is crucial to providing safe and effective health care to women. Limitations to legal abortions mostly affect women in lower socioeconomic conditions (Warren). Therefore, the limitation to legal abortion is unjustifiable if it effects one population great than others. In 1977, the United States Court's decision in Harris v. McRae upheld the Hyde Amendment. This amendment prohibits the use of federal funding on abortions (Perry). Without federal funding, women living with government-mediated health care do not get access to insurance coverage of abortions. Therefore, these women must pay out of pocket for all of the expenses. In 1979, however, the United Nations Committee on Human Rights declared access to

family planning, including abortion, was included in fundamental human rights (Ely). Although abortion through self-determination is legal, access to abortion clinics limits this fundamental human right. Barriers in place to impede and discourage abortion directly go against this lawful right. According to Jones et al, Forty-two percent of abortion patients are poor and twenty-seven percent are low-income. In addition, seventy percent of patients that have received an abortion pay out-of-pocket for it (Ely). Although the cost of abortion varies dependent on gestation period, patients pay anywhere from \$495 to \$1,500 for an abortion. Additional expenses are associated with abortion due to potential costs of childcare, travel, and lodging (Ely). As mentioned, The Hyde amendment prevents spending of federal dollars on abortion procedures, which causes the high rate of patients paying out-of-pocket. Of the women on Medicaid, 18-37% of women who become pregnant could be forced into carrying a pregnancy to term due to lack of insurance coverage (Ely). For women of lower economic status, a lack of insurance coverage, as well as additional costs related to the procedure, can eliminate the option of an abortion entirely.

Due to the Hyde amendment, poor and low-income women are unfairly disadvantaged to receiving an abortion. For many of these women who become pregnant, abortion is not an option and they are forced to carry the fetus to term. These populations have unfairly limited access, which creates undue burden. The undue burden requires that any restrictions must be appealed at the state level which cause any delays of access to the procedure (Ely). Overall, it is unconstitutional to impose structural limitations of undue burden for women to have an abortion.

Instead, women with access to private insurance have access to coverage, however costs may remain. The Hyde Amendment unfairly holds women in low economic status to limits of abortion due to cost and accessibility. Limiting abortion effect women negatively and holds them to unjust terms of medical treatment.

Currently in the United States, abortion-specific limitations vary dependent on the state. The greatest influence on a woman's quality of abortion is where she lives (Calonge). The state in which a woman lives has individual enforces limitations that can decrease the quality and efficacy of legally accessible abortions (Calonge). States limit legal access to abortion by limiting the range of care for qualified providers, forcing these providers to provide women with preprocedural information regarding risks that are scientifically inaccurate, delay care, and also require medically unnecessary services (Calonge). These legal limitations, as well as lack of insurance coverage increase the accessibility and cost of abortions, which effect low-income women significantly more than women with higher economic status (Calogne). According to Bojanic et al, within the current legal state of Connecticut, the availability of abortion providers negatively influences the number of procedures taken place.

In the United States as of 2011, 1.06 million abortions took place, accounting for 21% of pregnancies nationwide, therefore making abortions not uncommon (Jones). Since 2011, however, the rate of abortions has declined steadily by 3-6% per year. According to Jones et al, there were 926,200 abortions in 2014 – marking the lowest abortion rate since its first legalization in 1973. Cumulatively, the abortion rate has decreased by 14% in the three years between 2011 and 2014. Although there was a decrease in rates nationwide, rates dropped more significantly in the West and South (Jones). Along with a decreased rate of abortion, the number of abortion clinics available to the public has declined since 2011. There was a 3% drop in available clinics from 2011 to 2014 and 6% fewer clinics that offered the procedure (Jones).

In order to consider the decriminalization of abortion, a case study of Canada is appropriate. Canada has completely decriminalized abortion for the past 30 years. This regulation of abortion has not led to higher rates of abortion; however, it has increased the

quality and access of abortion to women (Shaw). Canada provides abortions as a normal aspect of usual medical care, showing that abortion can be provided as universal. Within this case study, the effect of abortion has been positive rather than negative. Due to the success of Canada, the United States as well could see this positivity through the decriminalization of abortion. The case of legal access to abortion has beneficial effects to women in the country and fairly services all demographics of women through the addition of abortion in legal health care.

Sociological Factors: Influence on Abortion

Race

Sociologically, there are characteristics that can help to define the attitudes towards abortion. Specifically, race plays a significant role in determining opinions. Black and white attitudes differ regarding abortion (Combs). Whites typically express more positive opinions for abortion, while blacks tend to react negatively. This negative reaction can be partially attributed to religious beliefs (Combs). As discussed in the next subheading of this paper, religion is a major determinant of attitudes towards abortion, which could possibly be the major identification factor towards feelings about abortion.

Religious Affinity

There is evidence to show how religious affinity affects attitudes on abortion. Research from Peterson et al demonstrates that personal attitudes about abortion vary with level of spirituality, type, and frequency of attendance. The weakest attitudes show in conservative Catholic and Protestant groups (Peterson). Opinions that are strongest for access to legal abortions are seen in liberal Jews and Protestants (Peterson). When dealing with religion, education has an impact on attitude within some religious groups. Within Peterson's study, the effect of education was the weakest among frequent attenders. This was found in all groups

except Protestant and Jews, where education had a great effect on the resulting opinion (Peterson). Overall, there are varying levels of sociological influence that persuade one's attitudes towards or against abortion. This is, however, one factor among many sociological factors that take part in one's attitudes in abortion.

Pro-Life Activist Groups

The controversial topic of abortion has brought many activists to the stage. Both pro-life and pro-choice groups were founded to present their respective opinion and use it as justification for action. A specific example, Pro-Life Mississippi, is one of the most powerful pro-life organizations in the country as of 2005. Since their founding over 20 years ago, over four abortion clinics in the state of Mississippi have shut down; leaving only one clinic in the state. One leader of the group describes the rationale behind protesting outside clinics: "It makes it very uncomfortable; and I think it should be uncomfortable to go in some place and kill your unborn baby". Protesters commonly confront patients while walking into the doors, harassing them in an attempt to discourage their choice of abortion. This harassment can cause damaging psychological effects to women carrying the pregnancy. The harassing statement attempt to discourage and shame women from getting an abortion. In addition, generalized comments are made: "Mississippi is truly a pro-life state". The Lieutenant governor of Mississippi, Amy Tuck, made this statement, which is an unfair remark that disproportionately represents the opinion of pro-choice activists in the state. Danger resides when state legislature is coursed by these pro-life groups. Women in need of abortion, for medical, psychological, or other reasons could be in danger.

Pro-life activists existed as early as the 80's. During this time periods, however, their actions were known to be more extreme. It was common for extremists to bomb abortion clinics. Violent protests and even murder occurred during this time as an act of extreme pro-life.

Ethical Factors: Influence on Abortion

Moral status of fetus and the right to life

The moral status of an early fetus determines the right to life. A being that has the right to life cannot be justifiably murdered. However, something without the right to life does need justification to be destroyed. Determining when the right to life begins, and if an early fetus can obtain the right to life is ethically debated. Firstly, the moral status of the early fetus must be determined. According to Harman et al, an early fetus without an intent to life, does not possess intrinsic properties. Without intrinsic properties, the moral status of the early infant is nonexistent. According to Harman's Actual Future Principle, early fetuses who will become a person have moral status. Other early fetuses without an intent to life have no moral status. Without moral status and intrinsic properties, the destruction of an early fetus does not require justification. Through his explanation of the intent to life, Harman describes a situation where a couple who is pregnant with an early fetus begins to love the baby with thoughts of it becoming a person. Through this experience, the early fetus now possesses moral status – therefore creating a right to life. As a result, the abortion of this fetus would then require justification (Harman).

Beginning of Life – Philosophically

Philosophically, is it almost impossible to pinpoint the beginning of life (Warren). Where the beginning of life begins also indicates if fetuses have a right to life. Because there are differing attitudes regarding where the beginning of life occurs through science and religion, further research is required in order to create a common understanding of where this beginning

is. Once, or if, found, the beginning of life can dictate when moral status of an early fetus occurs, and when the right to life is established. Before the beginning of life and consequential attainment of the right to life, murder does not need any form of justification. After a fetus passes the beginning of life, and therefore the right to life has already begun, the abortion must be justified. Until the beginning of life has factual relevance and not just theoretical importance, abortion's need for justification cannot be in any way dependent on the beginning of life. Once factual evidence has been proved regarding the beginning of life, it can be used to help determine the ethical and moral debate of abortions. Legally, the United States determined, in the Roe v Wade decision, that in the first trimester, legal abortions cannot be limited by any state. In the second trimester, only individual states can impose regulatory limitations for the sake of the mother's health, in a way that does not discourage the procedure. Finally, the third trimester is where states can limit access to abortion for the reason of preserving the fetal life. In this case, the fetus is considered to be viable. The term viability in this case means that the fetus has the capabilities to survive outside of the womb. Viability in the Court's decision proves a right to life, which therefore requires justification of an abortion. The beginning and right to life occur as the fetus becomes an individual able to survive without the help of the mother (Cook). The beginning of self-surviving capability could possibly mark the beginning of life and the development of moral status. Due to the bias of individual thought and opinion, the beginning of life troubles to be scientific determined. Without the detailing of when this occurs in a lifetime, it will be difficult to define abortion based on this factor.

According to the basic definition of the right to life, an abortion should be allowed if the fetus is not viable, meaning that it cannot survive without help from the mother. During the viability state of fetal development, the abortion should require medical justification.

Post-Procedural Factors: Influence on Abortion

Emotional Stress Post-Procedure

Post-procedural well-being should be a significant determining factor in providing legal access to abortions. Ethically, it should be understood that if abortions cause negative stress post-operatively, abortions should not be provided for legal access. Otherwise, if abortions do not cause negativity, access should be granted. A study conducted by Kero et al found that in a group of women who have had abortions, the majority of them did not report any experiences of emotional distress within 4 months after the procedure. Similarly, following the same women 12 months post-operatively, the women reported coping well. The well-being of the women in this study show that abortion show little to no cause of emotional stress. Legal access to abortions then would not cause the emotional distress of the majority of women, therefore indicating that abortions are safe to administer within this category.

Mental Health

Mental health is considered to be an important factor of overall well-being. In the previous study, the women found that through the abortions, the women experience positive signs of mental health. Positive characteristics such as the feeling of taking responsibility, relief, mental growth, and maturity were felt after the procedure (Kero). Instead of negative reactions to abortion, these women reported positive feelings. Regarding anxiety and stress levels, adolescents who have undergone and abortion show average levels of this distress in comparison to other adolescents who have not gone through the procedure (Zabin). In addition, A majority of women who received an abortion do not experience any feelings of regret (Kero). This is important to understand when considering the implications of legal abortion. Showing the mental results of women who have undergone an abortion show that abortions do not damage the mental

health of a majority of individuals. Granting legal access to abortions for women would not cause an effect on mental illness or sickness. Legal-accessed medical procedures must improve the patient's life. Through the studies of resulting positive mental health outcomes in patients that have terminated a pregnancy, it is clear that there are not implications regarding mental health.

Social Outcomes

Social factors such as career and other family requirements may create the desire of an abortion. According to Kero, a majority of women choosing to have an abortion do so because they prioritize the attainment of professional careers and other lifestyle factors. Their other motives consist of work, education, and previously existing children (Kero). After choosing to have an abortion, these women obtain a higher economic status in comparison to women who did not terminate their pregnancies (Zabin). The study also reported that participants were not in any troubled or risk groups. Most of these women had educational, career, or family futures that would have been limited without their procedure. The consequence of limiting access to legal abortion is taking future away from women. Socially, the termination of a pregnancy allows women to continue freedom, whether that be financially or professionally. To take away the access to legal abortion could strip these women of their freedom to expand their wealth, career, and education. Expanding access to legal abortion would allow more women to further their futures in many ways.

Level of Education

During adolescence and young adulthood, pregnancy can limit education levels. Adolescent females who have had a legal abortion are much more likely to graduate from high school or still be in school (Zabin). These educational achievements such as higher education

and specialization are associated with higher wages. Overall greater socioeconomic status are associated with all of the above factors. Due to the importance of educational achievement later in life, it is crucial that women have the opportunity to attain their desired level of education. When an unexpected or unwanted pregnancy occurs, women are in jeopardy of their professional futures by sacrificing their education in order to have a child. It is unfair to women that they must sacrifice their education because an abortion is not legally accessible to them.

Legal Abortion – A Necessity

Women develop the pregnancy over a series of nine months. A woman's body is sacrificed for the development of the fetus. If this sacrifice is voluntary, then the pregnancy is justifiable. However, women should not be under an obligation to continue with a pregnancy that is unwanted due to their bodily sacrifices (Warren). Along with this theory, abortion can be considered to be self-defense as a woman defends her body from the pregnancy. In common law, self-defense can be used as justification of a murder, similarly how self-defense can justify an abortion (English).

An abortion is not covered by government-regulated insurance, therefore women on these health plans are required to pay out-of-pocket. Considering the demographic evidence that a majority of women on insurance like Medicaid are categorized as low-income and/or poor, the expectation of financing an abortion is unlikely and unfair. The additional costs of the abortion such as lodging, travel, and childcare can expel the option all together.

The principal of undue burden, which is a constitutional right, occurs when a state legislature has the purpose of making an abortion more difficult for a woman seeking one (Ely). Due to the obstacles set in place, such as the prohibition of federal spending, 24 hour waiting periods, psychological damage by pro-life groups, and other factors, the United States

government has a constitutional obligation to free these women of undue burden. Abortion is fundamental right according to the United Nations of Human Rights. This classification of abortion allots that the government is limiting women, specifically in low socioeconomic classes, from quality and safe abortions. Shown through the actions of state and federal legislature, the United States is violating the constitutional right of access to abortion through undue burden.

Access to legal abortion is necessary for all women. Not only is their body sacrificed for an unwanted pregnancy, but there are several studies proving the evidence of mental, social, and economic well-being after the procedure. Specifically, accessibility must be improved in order to allow all women equal opportunities. This can be achieved through additional abortion clinics, federal funding of abortion, and the limitation of state legislature creating unfair obstacles.

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